

## Secret Topics? Antitrust & FDI Outlook 2023

As the new year is kicking off, we lay out what is to be expected in antitrust & foreign investment control in the coming months. Natural choices are the Digital Markets Act and the presumably far-reaching amendments to German competition law. Yet, we decided to focus on **4 topics** and **3 numbers** that are not exactly secret, but might still be slightly below the usual radar:

- 1 Additional merger control regime, and more new rules.** With the Foreign Subsidies Regulation, the EU has effectively introduced a new merger control regime, covering deals where parties have benefitted from foreign “financial contributions”.

2023 is also set to bring other new/updated EU rules, including new guidelines for horizontal cooperations and a new market definition notice.

- 2 HR (stays) in the spotlight.** Antitrust in labour markets is still very much in the focus of regulators. 2022 brought new cases (e.g., a Swiss investigation into the exchange of salary information), and we expect more to come in 2023. Compliance trainings for HR professionals are highly advisable.

- 3 Financial investors under scrutiny.** Financial investors should expect increased (merger control) scrutiny for “add-on” strategies, in particular in healthcare and pharma. Germany is even considering to prohibit acquisitions of medical practices by financial investors.

- 4 Supply chain due diligence and antitrust.** Germany’s supply chain due diligence act is now in force and obliges companies to assess and sometimes audit their suppliers. However, companies are well-advised to take into account the antitrust implications and limitations of auditing suppliers which are also competitors.

**EU Phase 2 deals cleared unconditionally in 2022:**

**0**

**German Federal Cartel Office dawn raids in 2022:**

**18**

**Expected cases per year under the Foreign Subsidies Regulation:**

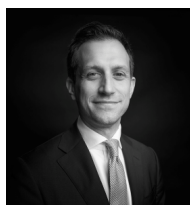
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