

# Constitutional and legal aspects of improving the mechanism for countering monopolism and unfair competition

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## Abstract

The aim of the study was to identify areas for improving constitutional and legal mechanisms to countering monopolism and unfair competition. Formal-legal, comparative-legal, case-study, and legal modelling methods were used. The study demonstrated that the constitutional and legal model for regulating competition in the Republic of Azerbaijan is based on a combination of guarantees of freedom of entrepreneurship and the permissibility of state intervention to limit monopolistic activity. It was established that the previous antimonopoly regulation system, established between 1993 and 1998, was characterised by fragmented legal regulation, insufficient coordination of mechanisms for controlling economic concentration, dominant positions, and unfair competition, and was focused on suppressing existing violations. The study substantiated the need to improve legal mechanisms for preventing anticompetitive behaviour, strengthen controls over economic concentration, and adapt competition legislation to the conditions of the digital economy. A comparative-legal analysis of the current legislation of the Republic of Azerbaijan, European Union legislation, and international approaches to competition regulation demonstrated Azerbaijan's transition to a systemic model of competition control, which provides for the interrelated regulation of economic concentration, dominance, and unfair competition, as well as the partial implementation of international competition law standards. As a comparative context, it was established that international anti-monopoly mechanisms evolved from monitoring cartels and abuse of dominance to preventive regulation of digital markets and the platform economy. It was also revealed that the European Union developed a specific model for regulating digital platforms in 2020-2025, extending antimonopoly control to algorithmic governance, the use of user data, and digital infrastructure. The results of the study can be used by the legislature of the Republic of Azerbaijan, bodies implementing state competition policy and antimonopoly control, and academic institutions in improving competition legislation, developing mechanisms for regulating digital markets, and preparing proposals for harmonising the national antimonopoly control system with international competition law standards

## Keywords:

economic concentration; dominant position; market power; digital platforms; international standards

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## Introduction

The relevance of this study stems from the need to improve legal mechanisms for countering monopolism in the context of the digital transformation of the economy and the globalisation of economic relations. Despite the development of international and national competition legislation, current regulatory mechanisms remain insufficiently adapted to the cross-border nature of corporate activities, the proliferation of digital platforms, and new ways of restricting competition through the use of data and algorithmic technologies. Ensuring a balance between constitutional principles of freedom of economic activity and the permissible limits of government intervention in competitive relations is of additional scientific significance, requiring further research into international experience and the development of effective approaches to improving antitrust policy.

In the academic literature, issues of countering monopolism and unfair competition are considered in the context of the digital transformation of the economy, constitutional guarantees of economic freedom, and increased government regulation of markets. K. Abdullayev *et al.* (2024) found that the development of the digital economy in Azerbaijan is accompanied by the expansion of digital infrastructure, electronic services, and platform business models. The authors noted that the country is gradually strengthening its position in international digital development rankings; however, structural limitations to digital competitiveness persist. In particular, according to the data provided in the study, Azerbaijan ranked 87<sup>th</sup> in the Information and Communication Technologies Development Index, 83<sup>rd</sup> in the E-Government Development Index, and 75<sup>th</sup> in the Network Readiness Index, indicating a persistent gap with countries leading in digital transformation. Similar conclusions are presented in the study by T. Guluzade (2025), who links the prospects for Azerbaijan's digital development to the need for institutional strengthening of economic regulation mechanisms. The author demonstrated that the proliferation of digital platforms is accompanied by increasing economic dependence of industries such as e-commerce, digital advertising, online payments, and platform services on a limited number of major market participants, increasing the risk of market power concentration. The study also concludes that the insufficient adaptation of legal mechanisms to the conditions of digitalisation may contribute to a weakening of the competitive environment and limiting the economic freedom of business entities. The constitutional and legal aspects of competition policy are explored in the study by M. Bernatt (2025). The study demonstrates that the protection of competition is linked to the implementation of the principles of fairness, equality of

economic opportunity, and public welfare. The researcher concluded that constitutional norms are used as a guide in determining the permissible limits of market concentration and state intervention in the economy.

The problem of transforming European competition policy in the context of digitalisation is examined by M. Cini & P. Czulno (2022). The authors found that the formation of the European Union's single digital market necessitated a revision of the traditional approach to competition regulation, as traditional antitrust mechanisms did not provide sufficient oversight of large digital platforms. The study found that European Union policy is gradually shifting from responding to existing violations to preventing potential risks to the competitive environment. This development is also reflected in the work of E. Fazio (2022), who focuses on the challenges of the digital transition for competition law. The author substantiated that existing legal framework insufficiently account for the specific functioning of digital platforms based on the use of big data and network effects. Among the study's findings, the need to develop new criteria for assessing dominant market position is noted, as traditional indicators of market power do not fully reflect the influence of digital entities on the competitive environment. R. Podszun (2023) examined the transition from traditional antitrust regulation to specialised mechanisms for monitoring digital platforms. The author concludes that the adoption of Regulation (EU) No. 2022/1925 of the European Parliament and of the Council "On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)"<sup>1</sup> signals the emergence of a separate regulatory regime for large digital intermediaries. The study establishes that the European regulatory model is focused on preventing abuses by the largest digital platforms even before formal violations of antitrust laws arise.

The importance of public policy in ensuring conditions for the development of competition is explored in the work of A. Guliyeva (2025). The researcher found that between 2020 and 2025, the Republic of Azerbaijan expanded support programmes for small and medium-sized enterprises, financial instruments for stimulating business, and digital services for business entities. The results indicate that state support for entrepreneurship contributed to improved market access and increased economic activity, but also highlighted the need to ensure equal competitive conditions for all market participants. The author concludes that the effectiveness of economic reforms depends not only on the scale of state support but also on the functioning of legal mechanisms for the protection of competition,

<sup>1</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council "On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)". (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

which can prevent excessive market concentration and the creation of unjustified advantages for certain economic entities. The study by O. Bakalinska *et al.* (2022) focuses on the role of the state in ensuring a competitive environment. The authors conclude that the protection of competition is acquiring the character of a comprehensive public-law function associated with ensuring the economic security of the state. The paper notes that countering monopolism cannot be limited to private law mechanisms, as a significant portion of anticompetitive practices are shaped by institutional and administrative factors. A. Khalilov (2024) further elucidates the constitutional foundations of state regulation in Azerbaijan through the author's study of the principle of subsidiarity. The author found that the distribution of powers among state institutions should ensure a balance between centralised control and the autonomy of economic entities. The researcher also substantiated that the principle of subsidiarity can be used as a mechanism to prevent excessive state intervention in competitive relations while maintaining the ability to respond to threats of market monopolisation.

Despite a significant number of studies devoted to the digital transformation of competition law, the regulation of platform markets, and the modernisation of competition legislation, the scientific literature remains insufficiently developed on the relationship between constitutional principles, state regulation mechanisms, and modern forms of countering monopolism in the digital economy. Limited attention is given to a comprehensive analysis of the integration of constitutional and legal guarantees of economic freedom with administrative and antitrust mechanisms for regulating digital markets.

The purpose of the study was to identify the constitutional and legal aspects of improving the system for countering monopolism and unfair competition. The objectives of the study were to: explore international approaches to countering monopolism and unfair competition in the context of economic digitalisation; analyse the constitutional and legal framework for regulating competition and restricting monopolistic activity in the Republic of Azerbaijan; identify existing gaps in legal regulation in this area; and identify areas for improving competition legislation.

## Materials and Methods

The methodological design of the study was based on a combination of formal-legal, comparative-legal, and legal modelling methods. The Republic of Azerbaijan was chosen as the main object of the study due to the reform of national competition legislation, the adoption of the Competition Code of the Republic of Azerbaijan<sup>1</sup>, and the adaptation of antimonopoly control mechanisms to international standards. The formal-legal method was used in the study. The regulatory framework for the study was based on the Constitution of the Republic of Azerbaijan<sup>2</sup>, the Competition Code of the Republic of Azerbaijan<sup>3</sup>, and the Law of the Republic of Azerbaijan No. 526 "On Anti-Monopoly Activities"<sup>4</sup>. The provisions of these acts were used to study the constitutional guarantees of freedom of entrepreneurship, the legal basis for protecting competition, the regulation of dominant positions, economic concentration, and restrictions on monopolistic activity. To study the features of the previously existing system of competition regulation, the provisions of Law of the Republic of Azerbaijan No. 1049 "On Unfair Competition"<sup>5</sup> and the Law of the Republic of Azerbaijan No. 590-IQ "On Natural Monopolies"<sup>6</sup> were used.

A comparative-legal method was used to compare the antimonopoly control system of the Republic of Azerbaijan with international approaches to competition regulation. In examining international standards for preventing anticompetitive agreements and restricting monopolistic activity, the Recommendation of the Council concerning effective action against hard core cartels (Organisation for Economic Co-operation and Development, 2025), the United Nations Set of Principles and Rules on Competition (United Nations Conference on Trade and Development, 2000), and the Consolidated version of the Treaty on the Functioning of the European Union<sup>7</sup> were used. To analyse the international legal principles of non-discrimination, equal access to markets, and ensuring fair conditions for economic activity, the provisions of the General Agreement on Tariffs and Trade (GATT 1947)<sup>8</sup>, the General Agreement on Trade in Services (GATS)<sup>9</sup>, and the Agreement on Trade-Related Aspects of Intellectual Property Rights

<sup>1</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

<sup>2</sup> Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from <https://president.az/en/pages/view/azerbaijan/constitution>.

<sup>3</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

<sup>4</sup> Law of the Republic of Azerbaijan No. 526 "On Anti-Monopoly Activities". (1993, March). Retrieved from <https://wipolex-res.wipo.int/edocs/lexdocs/laws/az/az/az025az.pdf?last-modified=1305040098&>.

<sup>5</sup> Law of the Republic of Azerbaijan No. 1049 "On Unfair Competition". (1995, June). Retrieved from [https://wipolex-res.wipo.int/edocs/lexdocs/laws/az/az/az125az\\_1.pdf?last-modified=1765787537&Expires=1782371184&Signature=pEvv8vBGlx~](https://wipolex-res.wipo.int/edocs/lexdocs/laws/az/az/az125az_1.pdf?last-modified=1765787537&Expires=1782371184&Signature=pEvv8vBGlx~).

<sup>6</sup> Law of the Republic of Azerbaijan No. 590-IQ "On Natural Monopolies". (1998, December). Retrieved from [http://binegedi-ih.gov.az/storage/files/files/15\\_12\\_1998%20-%20T%C9%99bii%20inhisarlar%20%20haqq%C4%B1nda%20Az%C9%99rbaycan%20Respublikas%C4%B1n%C4%B1n%20Qanunu.pdf](http://binegedi-ih.gov.az/storage/files/files/15_12_1998%20-%20T%C9%99bii%20inhisarlar%20%20haqq%C4%B1nda%20Az%C9%99rbaycan%20Respublikas%C4%B1n%C4%B1n%20Qanunu.pdf).

<sup>7</sup> Consolidated version of the Treaty on the Functioning of the European Union. (2012, October). Retrieved from <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>.

<sup>8</sup> General Agreement on Tariffs and Trade (GATT 1947). (1947, October). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/downloads\\_e/GATT1947\\_en.pdf](https://www.wto.org/english/docs_e/legal_e/downloads_e/GATT1947_en.pdf).

<sup>9</sup> General Agreement on Trade in Services. (1994, April). Retrieved from <https://jusmundi.com/en/document/treaty/en-general-agreement-on-trade-in-services-1994-general-agreement-on-trade-in-services-1994-friday-15th-april-1994>.

(TRIPS)<sup>1</sup> were applied. A comparison of modern mechanisms for regulating digital markets was carried out on the basis of Regulation (EU) No. 2022/1925 of the European Parliament and of the Council “On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)”<sup>2</sup> and Regulation (EU) No. 2022/2065 of the European Parliament and of the Council “On a Single Market For Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA Relevance)”<sup>3</sup>. The comparison was carried out based on the criteria of regulating dominant positions, controlling economic concentration, preventing unfair competition, regulating digital platforms and applying preventive antimonopoly control mechanisms. The comparative-legal method was used to determine the extent of implementation of international competition law standards in the legislation of the Republic of Azerbaijan and to identify limitations in national regulation of digital markets.

The case-study method was used to examine decisions, investigations, and official communications of the European Commission regarding the digital platforms Google, Apple, Amazon, and Meta. Its application was aimed at identifying the specifics of the legal assessment of digital platforms’ behaviour, define criteria for assessing market power, and identify trends in the development of competition regulation mechanisms for digital markets in the European Union. The analysis included official antitrust decisions and procedural documents of the European Commission related to investigations against Google (Antitrust: Commission fines..., 2019), Amazon (Antitrust: Commission sends..., 2020), Apple (Antitrust: Commission sends..., 2021), and Alphabet, Apple, and Meta under the Digital Markets Act (Directorate-General for Competition & Directorate-General for Communications Networks, Content and Technology, 2024). These documents were selected as representative examples of the practical application of European competition law to major digital platforms and made it possible to trace the evolution of the European Union’s approaches to regulating market concentration and limiting anticompetitive behaviour in the digital economy. Legal modelling was used to develop proactive areas for improving the competition legislation of the Republic of Azerbaijan, including clarifying the criteria for determining a dominant position in digital markets, developing

mechanisms for preliminary control of economic concentration, regulating the activities of digital platforms, and introducing specialised tools for assessing the risks of restricting competition in the digital sector.

## Results

**International approaches to countering monopolism and unfair competition.** Competition law regulates social relations related to ensuring the functioning of a market economy, implementing the principle of free entrepreneurial activity, and limiting monopolistic activities of economic entities. International practice views the protection of competition as a prerequisite for maintaining stable economic relations, developing entrepreneurship, preventing the abuse of market power, and ensuring a balance between private and public interests. Thus, in European Union law, the prohibition on the abuse of a dominant position, enshrined in Article 102 of the Consolidated version of the Treaty on the Functioning of the European Union<sup>4</sup>, aims to prevent situations in which large economic entities can restrict competitors’ access to the market, impose unfair business conditions, or create obstacles to innovation. In most countries, countering monopolism is associated not only with the need to maintain economic efficiency but also with ensuring equality among market participants, protecting consumer rights, and limiting excessive concentration of economic power. The United Nations Conference on Trade and Development (2024) emphasises that excessive concentration of market power can lead to the formation of structural barriers to entry, limited access of economic entities to key resources and distribution channels, and increased economic dependence of small and medium-sized enterprises on large corporate groups. Such processes can reduce the intensity of competition and limit the development opportunities of new market entrants. Consequently, competition law gradually came to be used not only as an instrument of economic regulation, but also as a legal mechanism for ensuring a level playing field for economic activity.

The development of international approaches to countering monopolism was accompanied by changes in the content of antitrust regulation (Kovacic & Shapiro, 2000). Initially, international antitrust regulation focused on preventing cartels, price fixing, and abuse of dominant positions by large industrial associations. Subsequently, the development of transnational

<sup>1</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights. (1994, April). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips.pdf](https://www.wto.org/english/docs_e/legal_e/27-trips.pdf).

<sup>2</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council “On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)”. (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

<sup>3</sup> Regulation (EU) No. 2022/2065 of the European Parliament and of the Council “On a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA Relevance)”. (2022, October). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/2065/oj>.

<sup>4</sup> Consolidated version of the Treaty on the Functioning of the European Union. (2012, October). Retrieved from <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>.

corporations, the globalisation of markets, and the changing structure of economic relations led to an expansion of the scope of competition regulation. International practice expanded the scope of competition regulation to include mechanisms for monitoring economic concentration, assessing the impact of cross-border mergers and acquisitions, and taking into account the impact of digital platforms on the competitive environment. At the same time, the scope of antimonopoly control expanded to include issues of access to digital infrastructure, data use, and limiting the market power of entities with significant economic

influence. As a result, competition law became comprehensive and includes both measures to prevent anticompetitive behaviour and preventive mechanisms for monitoring the market activities of economic entities. The development of international approaches to protecting competition was accompanied by the formation of a system of supranational competition policy standards developed by international organisations. The activities influenced the unification of antitrust regulation mechanisms, the development of fair competition principles, and the adaptation of national legislation to changes in the global economy (Table 1).

**Table 1.** International approaches to regulating competition and countering monopolism

International organisation	Main directions of competition policy	Mechanisms to countering monopolism	Approaches to preventing unfair competition	Significance for national legislation
Organisation for Economic Cooperation and Development	Development of recommendations for improving competition policy, ensuring market transparency and developing antimonopoly control mechanisms	Control of economic concentration, improvement of antitrust investigation procedures, development of mechanisms for preliminary assessment of market risks	Restricting anticompetitive agreements, preventing abuse of dominant positions, and regulating the activities of digital platforms	It is used by states when modernising competition legislation and reforming the antimonopoly control system
United Nations Conference on Trade and Development	Formation of approaches to ensuring a competitive environment as a condition for sustainable economic development	Support for mechanisms to limit market concentration and regulate the activities of transnational corporations	Preventing discriminatory market access conditions and protecting small and medium-sized businesses	It is used in the development of competition legislation in countries with developing and transforming economies
World Trade Organisation	Ensuring the principles of non-discriminatory international trade and equal access to markets	Formation of conditions for non-discriminatory access to markets that affect the competitive environment in international trade	Prevention of discriminatory trade practices and restrictions on access to foreign markets	Promotes the harmonisation of trade and competition laws of the participating states
European Union	Formation of a unified competition policy within the framework of a common market	Control of enterprise concentration, prevention of abuse of dominant position, antitrust investigations	Regulating the activities of digital platforms and limiting unfair practices in e-commerce	The European model is used in reforming national competition regulation systems

**Source:** compiled by the author based on United Nations Conference on Trade and Development (2000), Organisation for Economic Co-operation and Development (2025), Consolidated version of the Treaty on the Functioning of the European Union<sup>1</sup>, General Agreement on Tariffs and Trade (GATT 1947)<sup>2</sup>, General Agreement on Trade in Services<sup>3</sup>, Agreement on Trade-Related Aspects of Intellectual Property Rights<sup>4</sup>, Regulation (EU) No. 2022/1925 of the European Parliament and of the Council<sup>5</sup>, Regulation (EU) No. 2022/2065 of the European Parliament and of the Council<sup>6</sup>

The general approaches of international organisations to protecting competition are based on the recognition of the need to limit excessive concentration of economic power and ensure a level playing field for economic activity. However, the regulatory mechanisms for implementing competition policy vary depending on the legal nature of the international organisation and its area

of competence. Thus, the OECD's activities are aimed at developing recommendations and soft law standards used by states when reforming national competition legislation. In particular, the Recommendation of the Council concerning effective action against hard core cartels (Organisation for Economic Co-operation and Development, 2025) sets out approaches to suppressing

<sup>1</sup> Consolidated version of the Treaty on the Functioning of the European Union. (2012, October). Retrieved from <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>.

<sup>2</sup> General Agreement on Tariffs and Trade (GATT 1947). (1947, October). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/downloads\\_e/GATT1947\\_en.pdf](https://www.wto.org/english/docs_e/legal_e/downloads_e/GATT1947_en.pdf).

<sup>3</sup> General Agreement on Trade in Services. (1994, April). Retrieved from <https://jusmundi.com/en/document/treaty/en-general-agreement-on-trade-in-services-1994-general-agreement-on-trade-in-services-1994-friday-15th-april-1994>.

<sup>4</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights. (1994, April). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips.pdf](https://www.wto.org/english/docs_e/legal_e/27-trips.pdf).

<sup>5</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council "On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)". (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

<sup>6</sup> Regulation (EU) No. 2022/2065 of the European Parliament and of the Council "On a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA Relevance)". (2022, October). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/2065/oj>.

cartels, developing international cooperation between competition authorities, and improving procedures for investigating anticompetitive behaviour. Organisation for Economic Co-operation and Development (2024) documents substantiate the need to expand traditional antimonopoly control mechanisms by taking into account the network effects of digital platforms, the use of algorithmic pricing systems, and the concentration of data as a source of market power. Particular attention is paid to improving mechanisms for monitoring digital markets, increasing the transparency of algorithmic decisions, and developing tools for identifying anticompetitive practices in the digital environment.

The United Nations Conference on Trade and Development (2000) approach has a different legal focus and is associated with ensuring the balanced economic development of states. The provisions of the United Nations Set of Multilaterally Agreed Equitable Principles and Rules for the Control of Restrictive Business Practices, which stipulate the need to prevent the abuse of market power, limit anticompetitive agreements, and ensure fair conditions for economic entities' access to markets, are of significance for international practice. In contrast to the Recommendation of the Council concerning effective action against hard core cartels (Organisation for Economic Co-operation and Development, 2025), which is focused primarily on improving mechanisms for identifying and suppressing cartels, the provisions of the United Nations Set of Principles and Rules on Competition provide for a broader approach to competition regulation. The UNCTAD Set views competition law as a tool for creating conditions for the development of small and medium-sized businesses, preventing excessive economic concentration, expanding access for new entrants to markets, and reducing the dependence of the national economy on a limited number of large economic entities. The World Trade Organisation (WTO) regulatory approach is based on regulating international trade and ensuring non-discriminatory market access. While the WTO lacks a single, codified antitrust act, certain competition-related provisions are contained in the General Agreement on Tariffs and Trade<sup>1</sup>, General Agreement on Trade in

Services<sup>2</sup>, and Agreement on Trade-Related Aspects of Intellectual Property Rights<sup>3</sup>. These instruments enshrine the principles of non-discrimination, transparency, and equal access to international trade, which influence the formation of a competitive environment in cross-border economic relations. As a result, competition policy within the WTO is implemented through limiting trade barriers and preventing practices that could create unfair advantages for certain international market participants.

The European Union developed a comprehensive system of competition regulation, which includes mechanisms for monitoring economic concentration, limiting abuse of dominance, and preventing anticompetitive agreements<sup>4</sup>. It is considered one of the most developed regional competition protection regimes. The legal basis for European Union competition policy is Articles 101-109 of the Consolidated version of the Treaty on the Functioning of the European Union, which prohibit anticompetitive agreements, abuse of a dominant position, and anticompetitive state aid. Unlike the advisory nature of OECD and UNCTAD acts, EU law is legally binding on Member States and is accompanied by a developed system of supranational oversight.

The development of the digital economy and increasing market concentration in digital services led to reforms of European competition law in 2020-2025. These changes were associated with the adoption of the Regulation (EU) No. 2022/1925 of the European Parliament and of the Council<sup>5</sup> and the Regulation (EU) No. 2022/2065 of the European Parliament and of the Council<sup>6</sup>. The adoption of these acts was the European Union's response to the growing economic influence of large digital platforms capable of controlling the access of economic entities to digital markets, online advertising, search engines, mobile operating platforms and e-commerce services (Bergkamp, 2021).

The legal framework established by the Digital Markets Act is based on the special status of large digital platforms, designated as "gatekeepers". According to Article 3 of the Regulation (EU) No. 2022/1925 of the European Parliament and of the Council<sup>7</sup>, such entities are defined as companies that exert influence on

<sup>1</sup> General Agreement on Tariffs and Trade (GATT 1947). (1947, October). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/downloads\\_e/GATT1947\\_en.pdf](https://www.wto.org/english/docs_e/legal_e/downloads_e/GATT1947_en.pdf).

<sup>2</sup> General Agreement on Trade in Services. (1994, April). Retrieved from <https://jusmundi.com/en/document/treaty/en-general-agreement-on-trade-in-services-1994-general-agreement-on-trade-in-services-1994-friday-15th-april-1994>.

<sup>3</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights. (1994, April). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips.pdf](https://www.wto.org/english/docs_e/legal_e/27-trips.pdf).

<sup>4</sup> Consolidated version of the Treaty on the Functioning of the European Union. (2012, October). Retrieved from <https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12012E/TXT:en:PDF>.

<sup>5</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council "On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)". (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

<sup>6</sup> Regulation (EU) No. 2022/2065 of the European Parliament and of the Council "On a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA Relevance)". (2022, October). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/2065/oj>.

<sup>7</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council "On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)". (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

the internal market of the European Union, ensure the functioning of core platform services, and have an established market position. The criteria for determining “gatekeepers” include the company’s annual turnover, market capitalisation, number of platform users, and the scale of digital service provision in EU Member States. Thus, European law links the application of special regulatory mechanisms not only to the fact of violation of competition law, but also to the entity’s sustained ability to exert structural influence on the functioning of the digital market (Skara *et al.*, 2024).

Unlike the Regulation (EU) No. 2022/1925 of the European Parliament and of the Council<sup>1</sup>, which focuses on regulating the market power of large platforms, the Regulation (EU) No. 2022/2065 of the European Parliament and of the Council<sup>2</sup> aims to ensure the transparency of digital services and limit the spread of illegal content in the digital environment. This act establishes obligations for digital platforms to ensure the transparency of recommendation algorithms, disclose information about advertising

mechanisms, and remove illegal content. At the same time, the Digital Services Act strengthens requirements for managing systemic risks associated with the operation of large online platforms, including the risks of information manipulation, restrictions on economic entities’ access to digital services, and the unfair use of algorithms.

As a result, the application of European Union competition law began to cover not only classic forms of abuse of dominance, but also the use of digital infrastructure to create structural advantages for the platforms’ own services. Antimonopoly control focused on mechanisms for providing priority access to platform services, the use of user data to enhance market power, limiting the compatibility of digital applications, and creating a dependent position of economic entities on the platform ecosystem. It is in this context that the European Commission initiated investigations against Google LLC, Apple Inc., Amazon.com, Inc., and Meta Platforms, Inc., considering the activities as potentially restricting competition in digital markets (Table 2).

**Table 2.** The European Commission’s antitrust enforcement practices in relation to digital platforms in 2019-2024

Company	Object of antimonopoly control	Subject of legal assessment by the European Commission	Normative and legal significance for the development of competition law
Google	Search engines, Android, digital advertising	Using ranking algorithms to favour proprietary services; restricting competitors’ access to the advertising infrastructure and Android mobile ecosystem	Expanding the category of abuse of a dominant position to the sphere of algorithmic governance of digital markets; developing an approach to regulating platform ecosystems
Apple	App Store and the iOS operating system	Restricting the use of alternative payment systems and distribution of applications outside the App Store	Developing an approach to ensuring non-discriminatory access of business entities to digital infrastructure and limiting closed digital ecosystems
Amazon	E-commerce and marketplaces	Using third-party merchant data to gain competitive advantages for its own services	Expanding the scope of competition law to regulate the use of commercial data and control of platform infrastructure
Meta	Social media and digital advertising	Pooling user data across platforms and leveraging digital infrastructure to enhance market concentration	Forming a link between competition regulation, personal data protection and limiting digital concentration

**Source:** compiled by the author based on Antitrust: Commission fines Google €1.49 billion for abusive practices in online advertising (2019), Antitrust: Commission sends Statement of Objections to Amazon for the use of non-public independent seller data and opens second investigation into its e-commerce business practices (2020), Antitrust: Commission sends Statement of Objections to Apple on App Store rules for music streaming providers (2021), Directorate-General for Competition & Directorate-General for Communications Networks, Content and Technology (2024)

An analysis of the investigations presented in the table shows that the European Commission’s practice shifted in its approach to determining the market power of economic entities. Under classical competition law, dominant position was associated with market share, price control, and the ability to restrict competition by changing the conditions of circulation of goods or services. In the digital economy, the ability of

platforms to control digital infrastructure, manage ranking algorithms, accumulate user data, and determine the conditions of market participants’ access to digital services became the object of legal assessment (Podszun *et al.*, 2021). This demonstrates the expansion of the concept of dominant position and the adaptation of competition law to the platform economic model. The European Commission’s practice also

<sup>1</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council “On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)”. (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

<sup>2</sup> Regulation (EU) No. 2022/2065 of the European Parliament and of the Council “On a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA Relevance)”. (2022, October). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/2065/oj>.

demonstrates a shift in approaches to understanding anticompetitive behaviour. While previously, violations of competition law were associated with the actual restriction of competition, in the modern environment, the very ability of a digital platform to create structural advantages for its own services even before negative market consequences arise is becoming the subject of legal analysis (Crémer *et al.*, 2019). As a result, the modern European model of competition regulation is shifting from reactive antimonopoly control to preventive regulation of digital markets, based on preventing the risks of monopolisation of digital infrastructure.

**Constitutional and legal framework for regulating competition and restricting monopolistic activity in the Republic of Azerbaijan.** The constitutional and legal framework for regulating competition in the Republic of Azerbaijan evolved amid the transformation of the economic system, the transition to market-based economic mechanisms, and the development of the private sector after independence. The changing structure of economic relations necessitated the normative consolidation of the principles of free entrepreneurship, equality of ownership, and the restriction of monopolistic activity as elements of a functioning market economy. These processes influenced the formation of the constitutional and legal framework for regulating competition and the development of state control mechanisms to limit monopolisation in individual sectors of the economy (Aghayev, 2023).

The legal framework for regulating economic relations in the Republic of Azerbaijan is the Constitution of the Republic of Azerbaijan<sup>1</sup>, which enshrines the principles of economic freedom, diversity of ownership, and state guarantees for entrepreneurial activity. In accordance with Article 15 of the Constitution, economic development is based on various forms of ownership and serves to improve the well-being of the people. At the same time, Article 59 enshrines the right of everyone to freely use the resources and property to conduct entrepreneurial activity in accordance with the procedure established by law. These provisions form the constitutional basis for the functioning of a market economy and define the limits of state intervention in economic activity. Constitutional guarantees of freedom of economic activity in Azerbaijan are interrelated with the principle of equal protection of all forms of ownership and the need to ensure fair conditions for economic activity. In this context, constitutional and legal regulation of competition is aimed not only at ensuring freedom of entrepreneurship, but also at preventing the abuse of

economic freedom through market monopolisation and restrictions on competition. Thus, the constitutional norms of the Republic of Azerbaijan provide for a combination of two interrelated elements: guarantees of economic initiative for business entities and the permissibility of state regulation to protect the competitive environment. This approach is consistent with modern trends in the constitutionalisation of competition law, in which the protection of competition is viewed as one of the mechanisms for ensuring economic balance and limiting the excessive concentration of economic power (OECD-GVH Regional Centre for Competition in Budapest, 2024).

It should be noted that the constitutional provisions of the Republic of Azerbaijan are not limited to enshrining freedom of entrepreneurship. In accordance with Article 15 of the Constitution of the Republic of Azerbaijan<sup>2</sup>, the state guarantees economic development based on various forms of ownership and free enterprise, while simultaneously taking measures to prevent monopoly and unfair competition in economic relations. In this context, the provisions of the Competition Code of the Republic of Azerbaijan<sup>3</sup> serve as a normative mechanism for implementing constitutional provisions, specifying procedures for preventing monopolistic activity, controlling economic concentration, limiting the abuse of a dominant position, and combating unfair competition. Thus, the Code ensures the practical implementation of the constitutional principle of combining freedom of entrepreneurship with the state's obligation to maintain a competitive environment and prevent excessive concentration of economic power.

In the system of previously existing legislation, Law of the Republic of Azerbaijan No. 526 "On Anti-Monopoly Activities"<sup>4</sup> was adopted. The law regulated issues related to the abuse of a dominant position, price-fixing agreements, and other forms of anticompetitive behaviour. However, the law's content was based on approaches characteristic of the early stages of post-Soviet economic transformation, when competition regulation was viewed as a mechanism for administratively limiting the monopolisation of individual product markets. As a result, legal regulation focused on curbing existing violations, while mechanisms for preventive control of economic concentration and the prevention of structural restrictions on competition remained limited. Additional regulation was implemented through Law of the Republic of Azerbaijan No. 1049 "On Unfair Competition"<sup>5</sup>, which prohibited the dissemination of false information, unfair advertising, misuse of business reputation, and other forms of unfair behaviour by business entities.

<sup>1</sup> Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from <https://president.az/en/pages/view/azerbaijan/constitution>.

<sup>2</sup> *Ibidem*, 1995.

<sup>3</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

<sup>4</sup> Law of the Republic of Azerbaijan No. 526 "On Anti-Monopoly Activities". (1993, March). Retrieved from <https://wipolex-res.wipo.int/edocs/lexdocs/laws/az/az/az025az.pdf?last-modified=1305040098&>.

<sup>5</sup> Law of the Republic of Azerbaijan No. 1049 "On Unfair Competition". (1995, June). Retrieved from [https://wipolex-res.wipo.int/edocs/lexdocs/laws/az/az/az125az\\_1.pdf?last-modified=1765787537&Expires=1782371184&Signature=pEvv8vBGlx~](https://wipolex-res.wipo.int/edocs/lexdocs/laws/az/az/az125az_1.pdf?last-modified=1765787537&Expires=1782371184&Signature=pEvv8vBGlx~).

Unfair competition occupied a distinct place in the system of competition legislation in the Republic of Azerbaijan, as it was aimed not so much at limiting the market power of individual business entities as at ensuring fair conditions for conducting business activities. Manifestations of unfair competition included the dissemination of false information about competitors, misleading consumers about the characteristics of goods and services, the misuse of the goodwill of other business entities, and the creation of unjustified competitive advantages. The legal significance of regulating unfair competition lay in protecting both the interests of bona fide market participants and the interests of consumers, as such actions can distort the conditions of competition even in the absence of a dominant market position. Unlike mechanisms for combating monopolistic activity, which focused on controlling economic concentration and abuse of market power, unfair competition regulations were aimed at preventing unlawful competitive practices and restoring a level playing field.

At the same time, the Law of the Republic of Azerbaijan No. 590-IQ "On Natural Monopolies"<sup>1</sup> established the specifics of state regulation in areas where objective economic conditions limited the formation of a competitive environment. However, these legal acts functioned largely autonomously, leading to the fragmentation of competition regulation and the absence of a unified mechanism for the legal assessment of anticompetitive behaviour. In practice, this created difficulties in delineating the competence of antimonopoly authorities, defining the criteria for a dominant position, and applying mechanisms for controlling economic concentration.

The adoption of the Competition Code of the Republic of Azerbaijan<sup>2</sup> became one of the instruments for implementing the constitutional requirement to prevent monopoly and unfair competition, enshrined

in Article 15 of the Constitution of the Republic of Azerbaijan<sup>3</sup>. Unlike the previous regulatory system, which relied on the autonomous regulation of individual areas of competition policy, the new Code created a unified system of legal regulation of competition, including mechanisms for controlling economic concentration, limiting monopolistic activity, and preventing unfair competition.

The inclusion of provisions on unfair competition in the Competition Code of the Republic of Azerbaijan<sup>4</sup> demonstrates the integration of this institution into a unified system of competition regulation. While these relations were previously regulated by a separate legislative act, unfair competition is now considered an independent form of disruption of the competitive environment, along with abuse of a dominant position and anticompetitive agreements. This approach ensures the application of unified mechanisms for the legal assessment of anticompetitive behaviour and allows for the consideration of the impact of unfair competitive practices on the competitive environment. The Code provides for a set of measures aimed at ending violations of competition law, preventing restrictions on competition, and protecting the legitimate interests of market participants. In order to compare the provisions of the Competition Code of the Republic of Azerbaijan with international and supranational approaches to competition regulation, the provisions governing the definition of a dominant position and abuse of market power (Articles 15-16 of the Code), economic concentration and the procedure for its state control (Articles 26-31 of the Code), unfair competition (Articles 18-22 of the Code), the powers of the competition authority and control procedures (Articles 43-61 of the Code), as well as measures of liability for violation of competition legislation (Articles 74-84 of the Code) were analysed (Table 3).

**Table 3.** Comparison of the provisions of the Competition Code of the Republic of Azerbaijan with international and supranational approaches to competition regulation

Element of international standards	Implementation in the Competition Code of Azerbaijan	Existing limitations and problems
Comprehensive regulation of competitive relations	The Code combined the regulation of monopolistic activity, unfair competition and economic concentration	The mechanisms of interaction between individual competition law institutions require further detailing
Preventive control of economic concentration	Preliminary review procedures for mergers and acquisitions were introduced.	There are no detailed criteria for assessing the permissibility of concentration
Expanded understanding of dominant position	The possibility of the subject's influence on the conditions of circulation of goods and access to markets is taken into account	The level of evaluation categories in determining market power remains high
Integration of unfair competition into the antimonopoly control system	Unfair competition is considered as an element of restricting the competitive environment	Mechanisms for combating digital forms of unfair competition are insufficiently regulated
Strengthening the powers of the antimonopoly authority	Expanded powers to conduct investigations and control concentrations	The risk of excessive discretion on the part of the antimonopoly authority remains

<sup>1</sup> Law of the Republic of Azerbaijan No. 590-IQ "On Natural Monopolies". (1998, December). Retrieved from [http://binegedi-ih.gov.az/storage/files/files/15\\_12\\_1998%20-%20T%C9%99bii%20inhisarlar%20%20haqq%C4%B1nda%20Az%C9%99rbycan%20Respublikas%C4%B1n%C4%B1n%20Qanunu.pdf](http://binegedi-ih.gov.az/storage/files/files/15_12_1998%20-%20T%C9%99bii%20inhisarlar%20%20haqq%C4%B1nda%20Az%C9%99rbycan%20Respublikas%C4%B1n%C4%B1n%20Qanunu.pdf).

<sup>2</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

<sup>3</sup> Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from <https://president.az/en/pages/view/azerbaijan/constitution>.

<sup>4</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

Table 3, Continued

Element of international standards	Implementation in the Competition Code of Azerbaijan	Existing limitations and problems
Adaptation to the digital economy	The Code contains general mechanisms for assessing market power and economic concentration that could potentially be applied to digital markets, but does not provide for specific rules on digital platforms	There are no special mechanisms for regulating digital platforms under the Digital Markets Act model/Digital Services Act model
Harmonisation with international standards	Separate approaches of the OECD and the European Union are used	The implementation of international standards remains incomplete and depends on law enforcement practices

**Source:** compiled by the author based on General Agreement on Tariffs and Trade (GATT 1947)<sup>1</sup>; General Agreement on Trade in Services<sup>2</sup>; Agreement on Trade-Related Aspects of Intellectual Property Rights<sup>3</sup>; Regulation (EU) No. 2022/1925 of the European Parliament and of the Council<sup>4</sup>; Regulation (EU) No. 2022/2065 of the European Parliament and of the Council<sup>5</sup>; Competition Code of the Republic of Azerbaijan<sup>6</sup>

A comparison of the provisions of the Competition Code of the Republic of Azerbaijan<sup>7</sup> with international approaches to competition regulation reveals a change in the structure of national competition legislation. While antitrust regulation was previously focused primarily on preventing individual violations of competition law, the Competition Code provides for the interrelated regulation of economic concentration, dominant position, and unfair competition within a unified system of antimonopoly control. As a result, the scope of legal regulation was expanded to include mechanisms for preventing restrictions on competition and assessing the impact of economic entities on the competitive environment.

A comparative analysis of the Code's provisions reveals that certain competition regulation mechanisms were developed taking into account the approaches of the OECD and the European Union. This is reflected in the expansion of the criteria for determining a dominant position, the use of mechanisms for preliminary control of economic concentration, and the integration of unfair competition regulation into the antimonopoly control system. In contrast to the Law of the Republic of Azerbaijan No. 526<sup>8</sup>, which primarily linked a dominant position to an economic entity's share of the relevant product market, the Competition Code of the Republic of Azerbaijan<sup>9</sup> provides for a broader approach to assessing market power. In addition to quantitative indicators, the Code takes into account an economic entity's

ability to influence the conditions of product circulation, market access, and the state of the competitive environment, which is consistent with modern OECD and European Union approaches to assessing companies' market power.

At the same time, an analysis of the Competition Code reveals the persistence of a number of problems related to the level of legal certainty within certain competition regulation mechanisms. Specifically, the Code's provisions governing the control of economic concentration stipulate the need to assess the impact of relevant transactions on competition and the potential for significant restrictions on market competition. However, these provisions do not contain detailed criteria for determining the permissible level of concentration or a methodology for assessing its consequences for individual product markets. Similarly, the Code's provisions devoted to defining a dominant position allow for the consideration of a business entity's ability to influence the conditions of product circulation and market access. However, specific indicators of such market power are formulated primarily through evaluative categories. Some provisions of the Code rely on the concepts of "significant restriction of competition", "market influence", and "dominant position", the meaning of which is subject to interpretation by the competent competition authority. As a result, a significant amount of authority to assess the consequences of economic concentration, determine the presence of a

<sup>1</sup> General Agreement on Tariffs and Trade (GATT 1947). (1947, October). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/downloads\\_e/GATT1947\\_en.pdf](https://www.wto.org/english/docs_e/legal_e/downloads_e/GATT1947_en.pdf).

<sup>2</sup> General Agreement on Trade in Services. (1994, April). Retrieved from <https://jusmundi.com/en/document/treaty/en-general-agreement-on-trade-in-services-1994-general-agreement-on-trade-in-services-1994-friday-15th-april-1994>.

<sup>3</sup> Agreement on Trade-Related Aspects of Intellectual Property Rights. (1994, April). Retrieved from [https://www.wto.org/english/docs\\_e/legal\\_e/27-trips.pdf](https://www.wto.org/english/docs_e/legal_e/27-trips.pdf).

<sup>4</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council "On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)". (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

<sup>5</sup> Regulation (EU) No. 2022/2065 of the European Parliament and of the Council "On a Single Market for Digital Services and amending Directive 2000/31/EC (Digital Services Act) (Text with EEA Relevance)". (2022, October). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/2065/oj>.

<sup>6</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

<sup>7</sup> Ibidem, 2023.

<sup>8</sup> Law of the Republic of Azerbaijan No. 526 "On Anti-Monopoly Activities". (1993, March). Retrieved from <https://wipolex-res.wipo.int/edocs/lexdocs/laws/az/az/az025az.pdf?last-modified=1305040098&>.

<sup>9</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

dominant position, and qualify restrictions on competition is concentrated within the purview of the antimonopoly authority. In this regard, procedural guarantees for market participants require further improvement, including more detailed regulatory codification of decision-making criteria, unification of investigation procedures, and the development of mechanisms for judicial review of decisions by the competition regulator. As a result, the practical application of individual provisions of the Code will depend on the development of uniform administrative and judicial practice.

The adoption of the Competition Code of the Republic of Azerbaijan is associated with a transition to a more systemic model of competition regulation and the expansion of antimonopoly control mechanisms. At the same time, an analysis of the provisions of the Code and international competition regulation practices makes it possible to identify several areas for further improvement of the competition legislation of the Republic of Azerbaijan. Taking into account the approaches of the OECD and the European Union, it seems appropriate to develop more detailed criteria for assessing a dominant position and the permissibility of economic concentration, including methodologies for analysing the influence of economic entities on digital markets, platform infrastructure, and access to user data. Mechanisms for monitoring the activities of digital platforms require additional regulatory oversight, as Azerbaijan's current legislation is primarily focused on traditional commodity markets and does not provide for specific mechanisms for regulating platform dependence and algorithmic market governance. A comparative analysis also demonstrates the feasibility of further harmonising the competition legislation of the Republic of Azerbaijan with the preventive antimonopoly control mechanisms used in the European Union. In particular, a prospective direction could be the development of mechanisms for preliminary assessment of competition risks in the digital sector, as well as the introduction of special regulations for entities with significant infrastructural influence on digital markets. These measures will allow national competition legislation to adapt to changes in the structure of economic relations and increasing digital concentration.

## Discussion

The results of the study demonstrate that the modern international anti-monopoly model is gradually shifting from a predominantly reactive approach to suppressing competition law violations to the use of preventive mechanisms for controlling restrictions on competition. This conclusion aligns with the position of J. Tirole (2023), who noted the transformation of traditional

notions of market power and the need to adapt competition regulation to new economic conditions. At the same time, the study also demonstrated that the development of international competition protection mechanisms is associated not only with the refinement of tools for controlling individual violations but also with the expansion of opportunities to prevent competition restrictions at the early stages of the emergence. This makes it possible to consider modern antitrust mechanisms as an element of ensuring a balanced relationship between freedom of entrepreneurship and public interests in the protection of competition.

The analysis also revealed that the development of competition law is characterised by a strengthening of the role of preventive control and an expansion of the powers of competition regulators. Similar conclusions are presented in the work of V.H.S.E. Robertson (2024), who demonstrates that modern competition regulation mechanisms are aimed at preventing the risks of restricting competition before significant negative consequences for the market arise. The results of this study further demonstrate that the expansion of supervisory powers requires maintaining a balance between the effectiveness of antitrust regulation and compliance with the principles of legal certainty, particularly when using the assessment criteria for determining market power and restricting competition.

The results of the study indicate that the development of the Digital Markets Act<sup>1</sup> is associated with a change in the approach to determining the dominant position of economic entities in the digital economy. This conclusion partially coincides with the findings of I. Daems (2022), who concluded that the practical implementation of the new digital regulation of the European Union is highly complex due to the combination of antitrust and administrative control mechanisms. The study confirms that the criteria for defining “gatekeepers”, including the size of the user base, the scale of digital services, and the sustainability of infrastructural influence, expand the scope of the category of market power compared to traditional competition law. At the same time, the results of the analysis suggest that the main challenge in applying the Digital Markets Act is related not only to the technical complexity of implementing new regulatory mechanisms, as emphasised by I. Daems, but also to the lack of unified international approaches to assessing digital concentration and the business entities' dependence on platforms.

The study demonstrated that the constitutional and legal model for regulating competition in the Republic of Azerbaijan is based on a combination of freedom of entrepreneurship and the permissibility of state intervention to prevent monopoly and unfair

<sup>1</sup> Regulation (EU) No. 2022/1925 of the European Parliament and of the Council “On Contestable and Fair Markets in the Digital Sector and Amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act) (Text with EEA Relevance)”. (2022, September). Retrieved from <https://eur-lex.europa.eu/eli/reg/2022/1925/oj>.

competition. An analysis of Article 15 of the Constitution of the Republic of Azerbaijan<sup>1</sup> and the provisions of the Competition Code of the Republic of Azerbaijan<sup>2</sup> make it possible to consider the protection of competition as one of the mechanisms for implementing constitutional guarantees of economic freedom. The obtained results are consistent with the findings of U. Aydin (2026), according to which, in states undergoing processes of political and economic transformation, competition law performs not only a regulatory function, but also helps to limit the excessive concentration of economic power and maintain an institutional balance between the state and business entities.

The results of the study demonstrate that constitutional and legal regulation of competition in the Republic of Azerbaijan is gradually shifting from formal restrictions on monopolistic activity to more comprehensive control of market concentration and the influence of economic entities on the competitive environment. Similar conclusions are presented in the work of A. Gawer & C. Bonina (2024), which found that the development of digital platforms in countries with transition and developing economies is accompanied by increasing market infrastructural dependence on a limited number of large digital intermediaries. At the same time, the study additionally revealed that for the Republic of Azerbaijan, the problem lies not only in the growth of digital concentration but also in the preservation of the regulatory orientation of competition law primarily toward traditional product markets. In contrast to the position of A. Gawer & C. Bonina, which focused primarily on the economic consequences of platform dominance, the results of the study also made it possible to identify constitutional and legal limitations on the adaptation of antitrust regulation to the digital economy. A comparative analysis revealed that Azerbaijan's current competition regulation system includes certain elements of preventive antimonopoly control, but maintains a high level of administrative discretion in determining market power criteria. A similar trend is also evident in the study by K.J. Cseres (2021), who substantiated that the interaction between competition regulation and administrative mechanisms for controlling dominance is accompanied by an expansion of the discretionary powers of competition oversight bodies. The study confirmed that the use of evaluative categories in determining "significant restriction of competition" or "market influence" can complicate the development of uniform enforcement practice. However, in contrast to the findings of K.J. Cseres, the study found that in the Republic of Azerbaijan, this problem is further exacerbated by the lack of detailed methodologies for assessing digital market concentration and business entities' dependence on platforms.

The study concluded that Azerbaijan's current competition legislation is partially guided by international standards for protecting economic freedom, limiting monopolistic activity, and ensuring fair competition. At the same time, problems remain related to the level of legal certainty of individual mechanisms for controlling economic concentration, determining a dominant position, and exercising the powers of the antimonopoly authority. Similar results are presented in the work of B.N.P. Panda (2025), which establishes that the effective protection of economic freedom requires the formation of transparent legal mechanisms for competition regulation and the prevention of excessive concentration of market power. At the same time, the conducted study showed that for the Republic of Azerbaijan, the improvement of competition legislation is associated not only with the further harmonisation of national norms with international approaches, but also with the need to strengthen institutional guarantees for the protection of competition in the context of economic transformation. In contrast to the approach of B.N.P. Panda, which focuses primarily on certain areas of competition regulation development, the results of the study make it possible to consider the protection of the competitive environment as an element of the implementation of constitutional guarantees of freedom of entrepreneurship and ensuring a balance between the economic freedom of business entities and the permissible limits of state intervention in economic relations.

The study's findings also demonstrate that the effectiveness of antitrust regulation is determined not only by the content of specific competition law provisions but also by the compliance with constitutional guarantees of economic freedom and legal certainty. It was established that the development of mechanisms to control economic concentration and dominant positions should be accompanied by ensuring the predictability of state regulation and procedural guarantees for market participants. Similar patterns were identified by E. Carbonara & E. Santarelli (2023), who concluded that there is a stable relationship between the level of constitutional protection of economic rights, the development of entrepreneurial activity, and the quality of the competitive environment. The findings are consistent with those of A. Huseynov *et al.* (2025), who found that the development of Azerbaijan's digital economy is accompanied by persistent structural limitations to digital competitiveness and requires further improvement of state regulation mechanisms. The authors noted the need to leverage advanced international practices to improve the effectiveness of the digital transformation of the economy. E.R. Banalieva & C. Dhanaraj (2019) argued that the digital economy challenged traditional assumptions of internalisation theory, as digital

<sup>1</sup> Constitution of the Republic of Azerbaijan. (1995, November). Retrieved from <https://president.az/en/pages/view/azerbaijan/constitution>.

<sup>2</sup> Competition Code of the Republic of Azerbaijan. (2023, December). Retrieved from <https://e-qanun.az/framework/56187>.

platforms, data flows, and network effects transformed the way companies organise the international operations. The authors demonstrated that digitalisation reduced certain transaction costs but simultaneously created new strategic challenges related to control, scalability, data ownership, and coordination across markets.

Thus, the results of this study demonstrate the development of international and national competition regulation mechanisms toward strengthening preventive antimonopoly control, improving mechanisms for preventing economic concentration, and ensuring a balance between freedom of entrepreneurship and public interests in protecting competition. A comparison of the obtained results with scientific research confirmed the need to further refine the competition legislation of the Republic of Azerbaijan, enhance the legal certainty of antimonopoly control mechanisms, and strengthen constitutional guarantees for protecting the competitive environment.

## Conclusions

The study revealed that countering monopolism in the Republic of Azerbaijan has constitutional and legal significance and is linked to the implementation of the principles of freedom of entrepreneurship, fair competition, and equality of economic participants. An analysis of the Constitution of the Republic of Azerbaijan revealed that the protection of competition is viewed not only as a direction of state economic policy, but also as a mechanism for ensuring the effective functioning of a market economy.

It was established that the adoption of the Competition Code of the Republic of Azerbaijan marked a stage in the modernisation of national competition legislation. Unlike the previously existing regulations, the Code established a comprehensive system of legal regulation covering issues of dominance, economic concentration, and unfair competition. A comparative-legal analysis revealed the expansion of mechanisms for preliminary control of economic concentration and the use of a broader approach to assessing the market power of business entities.

The results of the study indicate partial implementation of international standards of competition

regulation. At the same time, the national model retains its own characteristics, determined by the specifics of the legal system and the objectives of economic development in the Republic of Azerbaijan. It was established that current legislation creates the legal preconditions for preventing anticompetitive behaviour and limiting excessive concentration of economic power; however, certain mechanisms require further improvement.

Prospective areas for the development of competition law include clarifying the criteria for assessing dominant positions and economic concentration, improving the regulation of digital markets and platforms, specifying the assessment categories of competition law, and strengthening procedural guarantees for business entities and mechanisms for judicial review of decisions of the antimonopoly authority. Implementation of these measures will ensure a more consistent implementation of the constitutional principles of freedom of entrepreneurship, fair competition, and the prevention of monopolistic activity in law enforcement practice in the Republic of Azerbaijan.

The limitations of the study are related to the regulatory nature of the analysis conducted. The study was based on an analysis of constitutional provisions, national competition legislation of the Republic of Azerbaijan, and international legal acts, without conducting an independent empirical analysis of statistical data on the state of the competitive environment and market concentration. Prospects for further research include studying the practice of applying the Competition Code of the Republic of Azerbaijan, analysing the formation of administrative and judicial practice in the field of competition protection, and assessing the effectiveness of legal mechanisms for controlling economic concentration and limiting the abuse of market power.

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None.

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## Конституційно-правові аспекти вдосконалення механізму протидії монополізму та недобросовісній конкуренції

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### Анотація

Метою дослідження було визначення напрямів удосконалення конституційно-правових механізмів протидії монополізму та недобросовісній конкуренції. Були використані формально-правові, порівняльно-правові, тематичні дослідження та методи правового моделювання. Дослідження продемонструвало, що конституційно-правова модель регулювання конкуренції в Азербайджанській Республіці базується на поєднанні гарантій свободи підприємництва та допустимості державного втручання для обмеження монополістичної діяльності. Встановлено, що попередня система антимонопольного регулювання, створена між 1993 і 1998 роками, характеризувалася фрагментарним правовим регулюванням, недостатньою координацією механізмів контролю за економічною концентрацією, домінуючим становищем та недобросовісною конкуренцією, а також була спрямована на припинення наявних порушень. У дослідженні обґрунтовано необхідність удосконалення правових механізмів запобігання антиконкурентній поведінці, посилення контролю за економічною концентрацією та адаптації конкурентного законодавства до умов цифрової економіки. Порівняльно-правовий аналіз чинного законодавства Азербайджанської Республіки, законодавства Європейського Союзу та міжнародних підходів до регулювання конкуренції продемонстрував перехід Азербайджану до системної моделі контролю конкуренції, яка передбачає взаємопов'язане регулювання економічної концентрації, домінування та недобросовісної конкуренції, а також часткове впровадження стандартів міжнародного конкурентного права. У порівняльному контексті встановлено, що міжнародні антимонопольні механізми еволюціонували від моніторингу картелів та зловживання домінуючим становищем до превентивного регулювання цифрових ринків та платформної економіки. З'ясовано, що Європейський Союз розробив специфічну модель регулювання цифрових платформ у 2020–2025 роках, поширивши антимонопольний контроль на алгоритмічне управління, використання даних користувачів та цифрову інфраструктуру. Результати дослідження можуть бути використані законодавчим органом Азербайджанської Республіки, органами, що реалізують державну конкурентну політику та антимонопольний контроль, та академічними установами для вдосконалення конкурентного законодавства, розробки механізмів регулювання цифрових ринків та підготовки пропозицій щодо гармонізації національної системи антимонопольного контролю з міжнародними стандартами конкурентного права.

### Ключові слова:

економічна концентрація; домінуюче становище; ринкова влада; цифрові платформи; міжнародні стандарти