



# Digital Markets Brought Verticals Back? - some system considerations

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*The views expressed are not necessarily  
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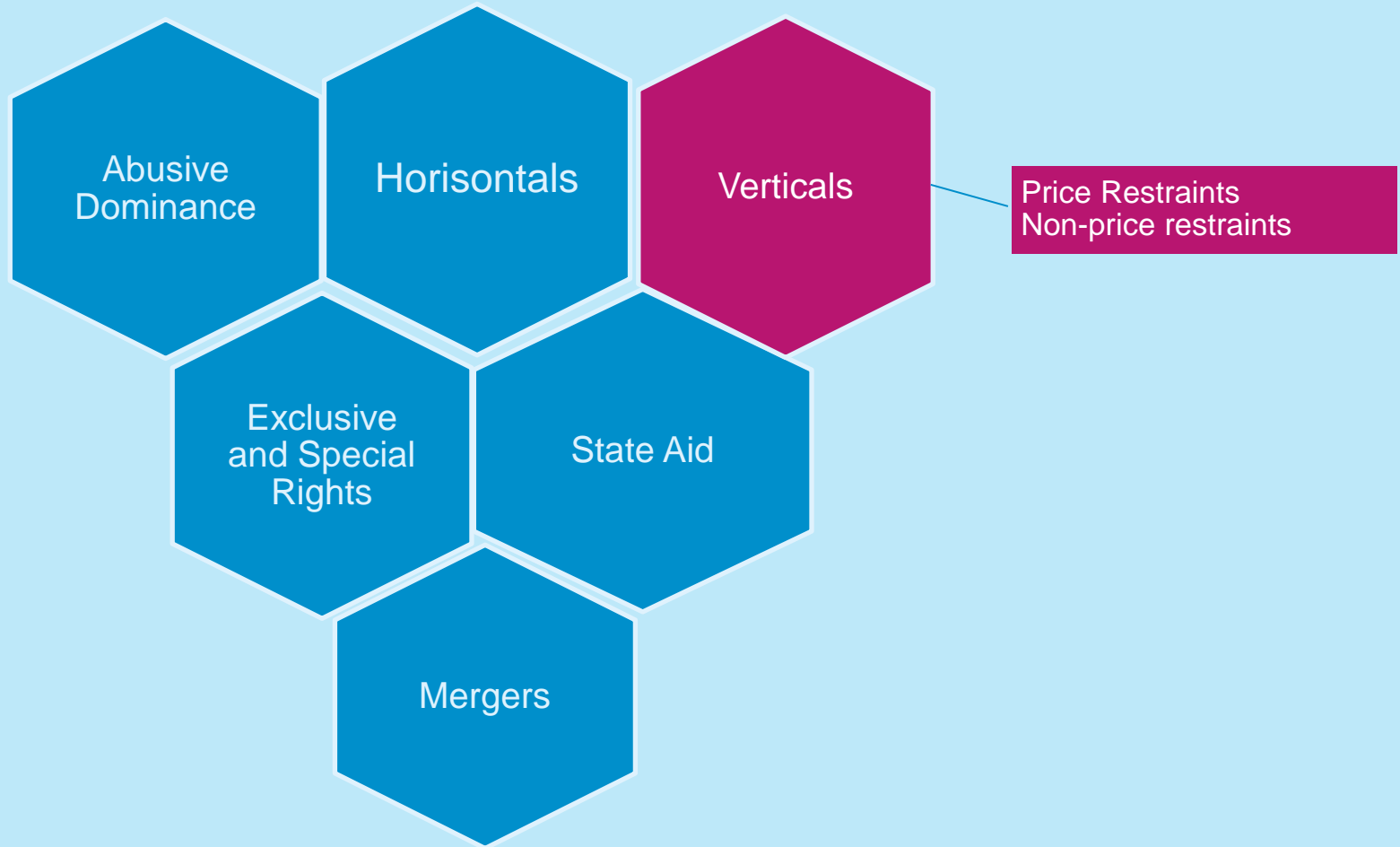
 Finnish Competition  
and Consumer Authority

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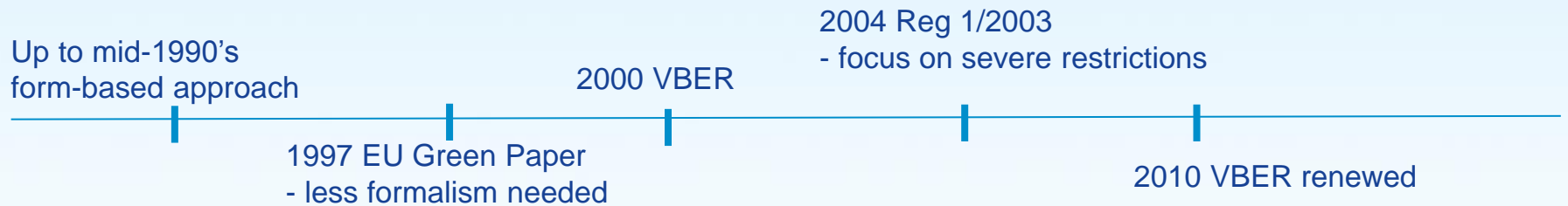


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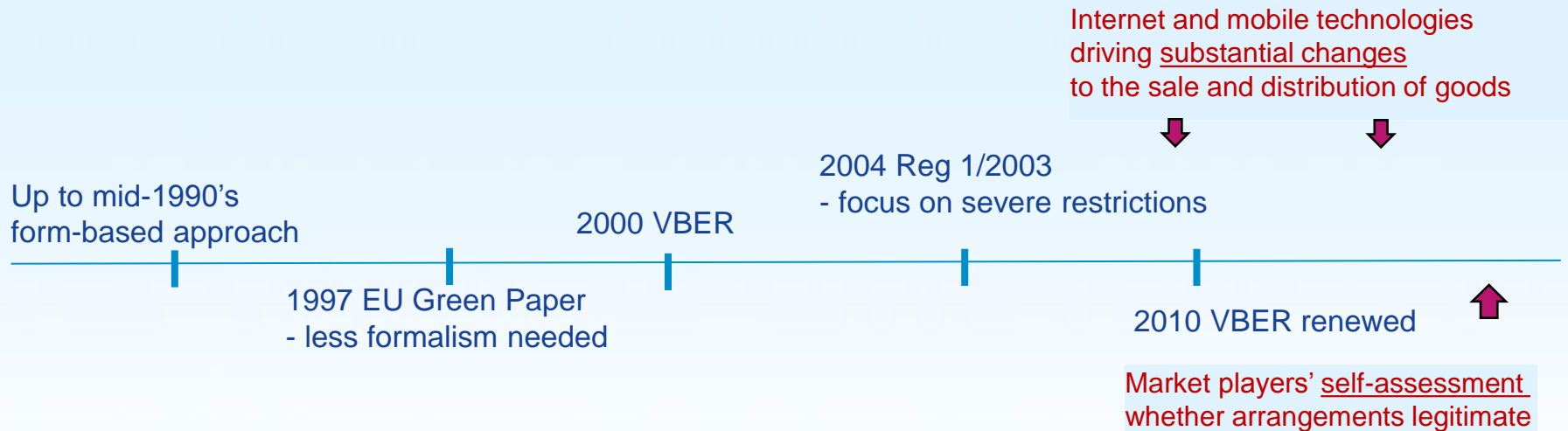
- Digital market issues basically everywhere. Here scope on verticals. **Are they back now ?**



# Some Milestones of Vertical Restraints (in European Approach)



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# Change in Competition Enforcers' Priorities ? **Case Finland.**

## Competition Authority in Finland

- as of 2004, strong emphasis on hard core cartels

Since 2004 (cartels, abuse of dominance)

- fines prosecuted approx. 7 billion CZK (280 m€)

- half legally binding, others still pending

Role of verticals in new enforcement environment?



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## Role of verticals in new enforcement environment?

## Online Case 1

- outdoor equipments
- online maverick entering markets
- pricing restriction (RPM)
- online vs. brick-and-mortar shop
- no fines, short duration, minor effects



## Online Case 2

- baby stroller equipments
- authorized retailer starts online
- pricing restriction (RPM)
- active and passive sales ban
- importer vs. retailers
- fines 375.000 CZK (15.000€)



# Enforcement System Considerations 1/2

- vertical restraints been there all the time
- enforcement priorities changed
- digital markets seem to bring them back

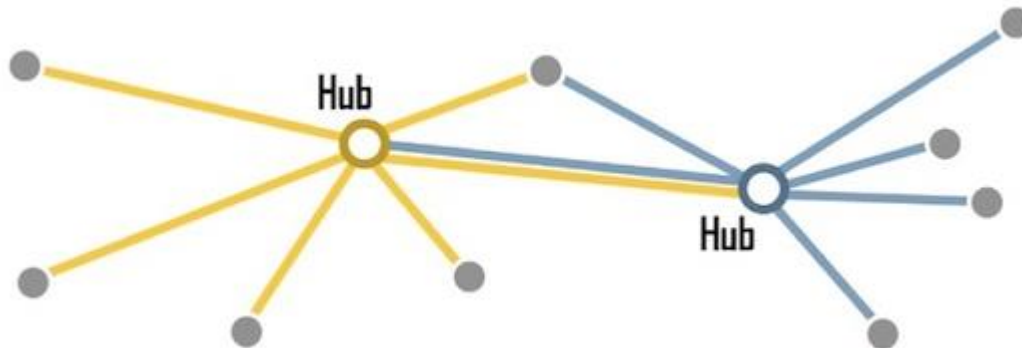
Facts

- should welcome the come-back
- sign of market dynamism
- entry of new market players and business models

Positives

- verticals can also be 'corridor-to-collusion'
- hub-and-spoke cases

Link to Cartels



# Enforcement System Considerations 2/2

- main theories of economic harm of vertical restraints
  - foreclosure of rivals (detering entry, promoting exit)
  - softening of competition
  - facilitation of collusion
- overall trend - more economic approach (price based / non-price based)
- challenge - theory of harm below dominance
- market power / market shares in digital markets
  
- short-term market power
- notion of fading dominance (Breshanan)
- art 101.3 efficiencies in fast moving markets
  
- object or effect debate : constant monitoring required
  
- commitments – a policy solution ?
  - no guidance
  - no fines
  - no compensation
  
- avoiding conflicting regulatory and competition law obligations
  - draft geo-blocking regulation art 6 vs. Matra Hachette T-17/93
- issue of 'competition neutrality' / traditional vs. new players
- retail awareness of no-RPM rights

Still work to do



# How to (try to) Stay Ahead?

Digital evolution is here to stay. Will continue and gather pace in the future

Most (if not all) traditional enforcement tools workable

Speed may matter, to end harm more quickly

Need to improve forethought skills

- right momentum when to intervene, not to intervene

Markets with 'no borders' – importance of international and EU cooperation

Link to general competitiveness of the economy

- political endorsement, if needed

# Thanks for your attention

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