

Latham's Elisabetta Righini on Why Brussels Is a Must for a Career in Antitrust

By Linda A. Thompson

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Italian-born Elisabetta Righini joined Latham & Watkins' Brussels office in 2015 after a 15-year stint at the European Commission. In an interview with Law.com International, Righini reflected on that shift, as well as on the world's first AI law and the challenges and rewards of working in Europe's premier antitrust jurisdiction.

This interview has been edited for length and clarity.

Let's talk about the AI Act. Too strict, fairly well-balanced? Where do you come down?

It's detailed and long, but circumscribed in terms of what it covers, namely: it's a consumer protection piece of legislation. It only deals with managing the risks that are created by the use of AI models.

So, is it a stringent law or not?

These are new rules; they are the first worldwide, so they will have an impact. Now, are they putting a lot of pressure on developers of AI models? I don't think so. But it will on some of them because not all uses of AI models will be allowed in Europe after the Act comes into force. In that sense, yes, it is strict.

What about the compliance burden the AI Act will create?

Compliance with the AI Act will not be impossible. There are other recent regulations in the field of competition at large—we do a lot of work on the Foreign Subsidies Regulation (FSR), for instance, and that has created a lot of red tape—whose usefulness is frankly a bit doubtful. The DMA itself is a hard piece of legislation to comply with. It has 21 different legal obligations that in theory apply to all the business models; in practice, they don't. The DMA regulates complex factual situations and one has to understand these before being able to open investigations.



Courtesy photo

Elisabetta Righini of Latham & Watkins.

There is a bit of a myth that whenever you [introduce] a rule, it's self-executing and easy to apply. That's not how it works in reality. You need to understand what the rule means and how it will work in practice and, often, not even those who have written the rules can comprehend how they will play out in practice.

Why are you uncertain about the usefulness of the Foreign Subsidies Regulation filings?

There is a lot of data collection on the part of the companies, and I'm not sure the Commission can understand and assess whether all of the data submitted is complete, and hasn't even got the time to go through the hundreds of notifications that they are receiving.

Due to budget or staff constraints?

There is a conceptual problem with that legislation because [it introduces] the burden of policing

subsidies granted by third countries, which are sovereign entities independent from the [European] Union. It is difficult to [require] a private company to release information that is often located in different jurisdictions covered by different disclosure rules.

I've worked in state aid and on World Trade Organization subsidies my entire career. There have been so few subsidies cases at the WTO, and state aid cases take so long exactly because access to information is extremely difficult. On top of that, the Commission hasn't got many resources in this area, and even less so on the public procurement side.

How would you say that working as an antitrust lawyer in Brussels has changed since you began your career in 1997?

My career started a bit earlier, as a trainee lawyer at Clifford Chance in London. We had created a WTO team as part of the international public law group, and I was one of the first WTO litigators. That is what brought me to Brussels. The Commission offered me a contract to work in its WTO litigation team.

The Commission "poached" you from Clifford Chance?

Yes. It's funny because I read a few articles today where the wonderful [EU] Ombudsman was saying that there shouldn't be revolving doors. They use them a lot to bring people into the European Commission, and then they don't like when the reverse happens. This is a real pity because it's only through the dialogue between public and private that things progress, in my opinion. We routinely lose some of our associates to the [Directorate General for Competition], or other parts of the Commission.

You don't agree then that the Commission is out-gunned by big law firms when it comes to the war for talent?

No, they do win. They get excellent people, and that's healthy. Being able to appreciate both sides of the same coin helps a lot in creating bridges and finding solutions. Many of my former Commission colleagues

appreciate when we work together. Because they know that I understand what their challenges are, how the process works; and I can be an advocate for them, also with the clients.

I have great respect for that institution, which was my home for a long time. Even if I bring cases against them or if I am in administrative procedures representing clients against them, I still [maintain] a lot of respect for what they do.

Lawyers often mention Latham as an example of a U.S. firm whose Brussels launch has been very successful. Why do you think that is?

This combination of finding real experts in the different sectors but also ensuring that the chemistry between them works, is what has made us so successful. We have a global platform that works together; we are not a siloed firm. And the fact that we are very horizontal; each of us also has some management responsibilities. It is a very diffused kind of management that makes you feel that you are part of the firm and if you succeed the other succeeds and vice versa.

What are the challenges of working as an antitrust lawyer in Brussels in your view?

I am not your typical antitrust lawyer. I don't do "pure" antitrust. I don't do mergers; I do state aid, FSR, and regulation and litigation. But what I see with my colleagues and what I have experienced myself is that the richness and complexity of cases that you can have by practicing in Brussels is hard to get at the national level. So, from a professional point of view, it's almost a must.

The difficulty in Brussels is probably more on a personal [level]. If you come here only for work reasons, it's sometimes difficult to create a community, with the very intense hours. But I have found my village here. I've been here for 25 years and there have been tough moments personally and I have survived them thanks to my village. I could have left at many points in time and I decided not to. Notwithstanding the weather.