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ARTICLE

EU antitrust fines soar amid uncertain global enforcement outlook



PART OF OUR REPORT

Global antitrust enforcement report

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2024 saw a significant increase in overall global fines for antitrust enforcement, with total penalties for the jurisdictions surveyed in our report at USD6.7 billion, over double that of 2023 (USD2.9bn) and substantially higher than 2022 (USD3.5bn). Notably, this increase was largely due to a marked uptick in abuse of dominance fines (USD4.3bn in total), with the bulk of these coming from European Commission (EC) decisions (USD3.4bn). However, while vertical (and other non-cartel) conduct fines were also up year-on-year (USD1.8bn, up from USD195 million in 2023), fines for cartel enforcement saw a marked decrease (USD602.5m, compared to USD1.9bn in 2023), reflecting a continued downward trend.

Although we always caution against drawing significant inferences from year-on-year changes, the impact of the wider scrutiny of digital markets on this year's dataset is impossible to miss. Fines on Big Tech alone amounted to approximately USD3bn, nearly 50% of the overall fine total.

Contrary to initial expectations, the introduction of sweeping ex ante enforcement regimes in the digital sector has not dissuaded regulators from continuing to enforce against digital firms using their traditional antitrust armory—in fact, quite the opposite. Abuse of dominance cases against Big Tech in 2024 bucked a trend of recent decline, with the EC leading the charge in reaching several significant decisions notwithstanding the entry into force of its Digital Markets Regulation (DMA). In doing so, the EC has sent a clear signal that the old and new regimes are intended to sit alongside each other. It remains to be seen whether this approach is followed in other jurisdictions as regulators consider and implement their own ex ante digital regulation.

Relatedly, 2024 saw regulators continue to grapple with the risks posed by the meteoric rise of generative AI. Assessment and debate will no doubt continue apace in 2025, with regulators conscious in particular to prevent the entrenchment of AI strength with a small number of powerful firms. However, it may be some time before we see material enforcement activity in this space given the pace of change and the complexity of the assessment required.

In stark contrast to abuse of dominance enforcement, fines for cartel enforcement were the lowest recorded for several years, with no landmark decisions of note. With immunity and leniency applications remaining muted, reflecting an increased reluctance of businesses to come forward given the ever-growing threat of follow-on damages actions, regulators continued to focus on other parts of their detection toolkit to beef up enforcement. Dawn raid activity has been consistently high since the end of the pandemic; 2024 was no different, and we expect that trend to continue.

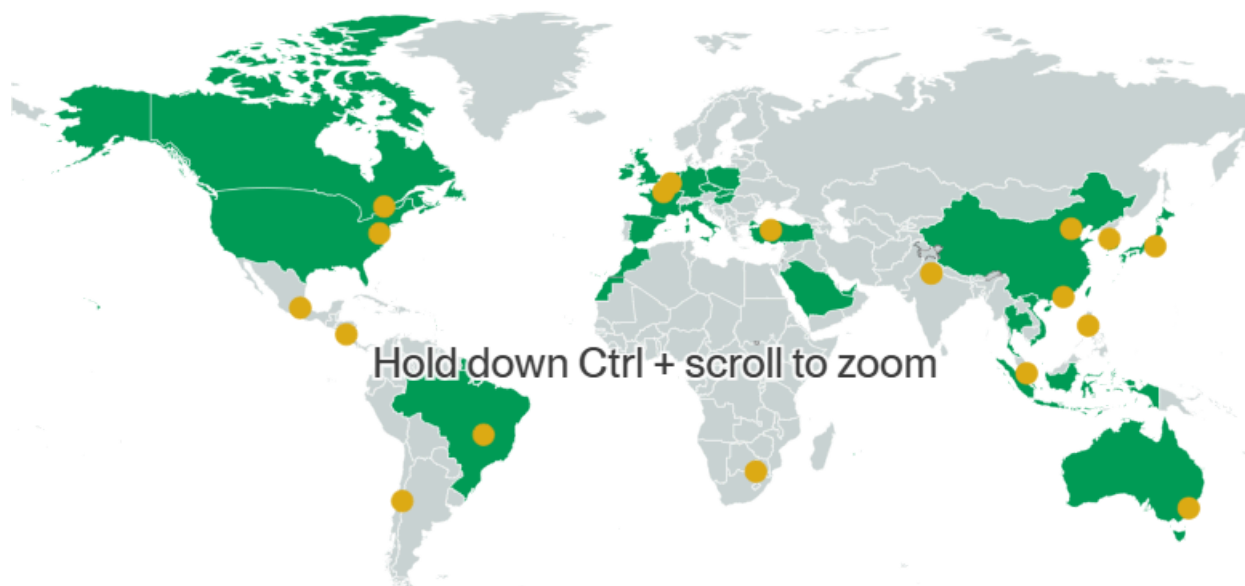
The proliferation of private enforcement activity that we have observed in recent years continued throughout 2024, most notably in the continued extraordinary rise of collective actions in the U.K. Consistent with public enforcement, abuse of dominance cases continued to make up the vast majority of recently-filed collective actions, with novel theories of harm articulated and Big Tech a focus for claimant firms and proposed class representatives. It will be interesting to see whether activity in this space is impacted by the dismissal of the first claim to reach trial (in December 2024), by the judgments in several other leading cases which are expected in 2025, or indeed by the ongoing wider review into the litigation funding market.

Looking ahead more generally, 2025 may mark a significant turning point in the directional travel of antitrust enforcement globally. The recent shifts in political power have the potential to have significant repercussions, with newly appointed leaders and regulator heads in both the U.S. and the U.K. already seeking to redefine the approach to antitrust enforcement strategies. While the renewed focus on “economic growth” arguably has a more immediate connection to regulators’ enforcement of the merger control rules, it will be interesting to see the extent to which policy shifts also filter through into the behavioral antitrust enforcement environment. We may

see a more lenient approach in the digital sector where new powers have only recently come into force. Conversely, consumer-facing and public sector industries are likely to come under greater scrutiny. Similarly, the start of 2025 has already seen the potential for antitrust investigations to be used as a tool in the context of rising geopolitical trade tensions—although it remains to be seen the extent to which those will be followed through in practice.

Global antitrust enforcement fines in 2024 were USD6.7bn

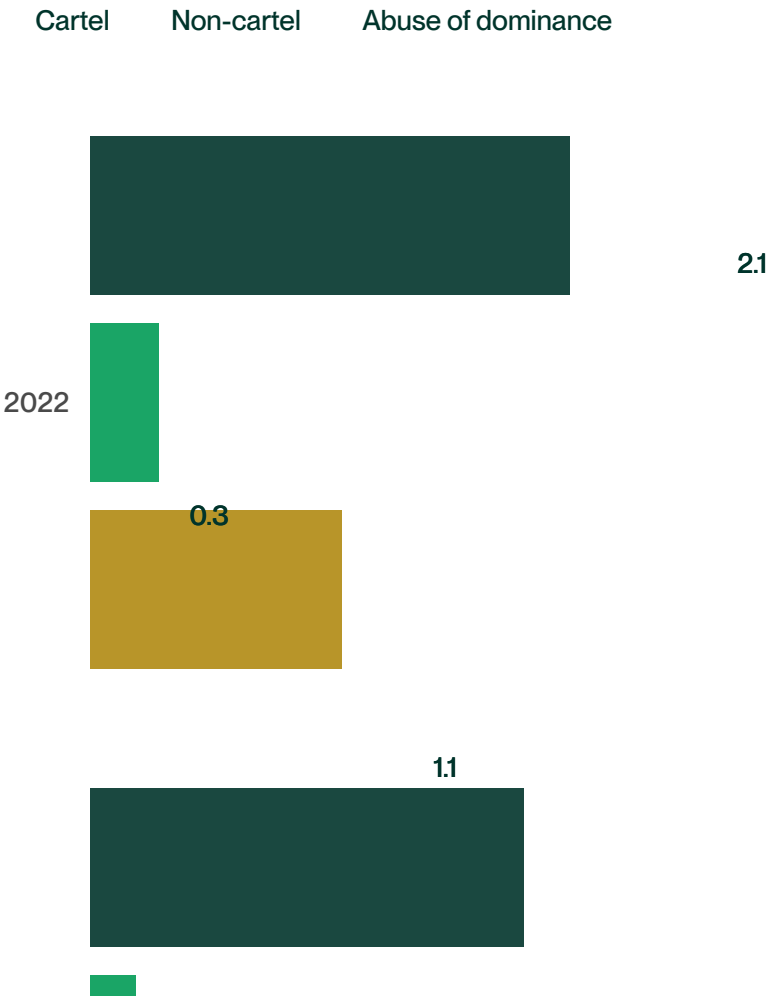
A notable increase from 2023

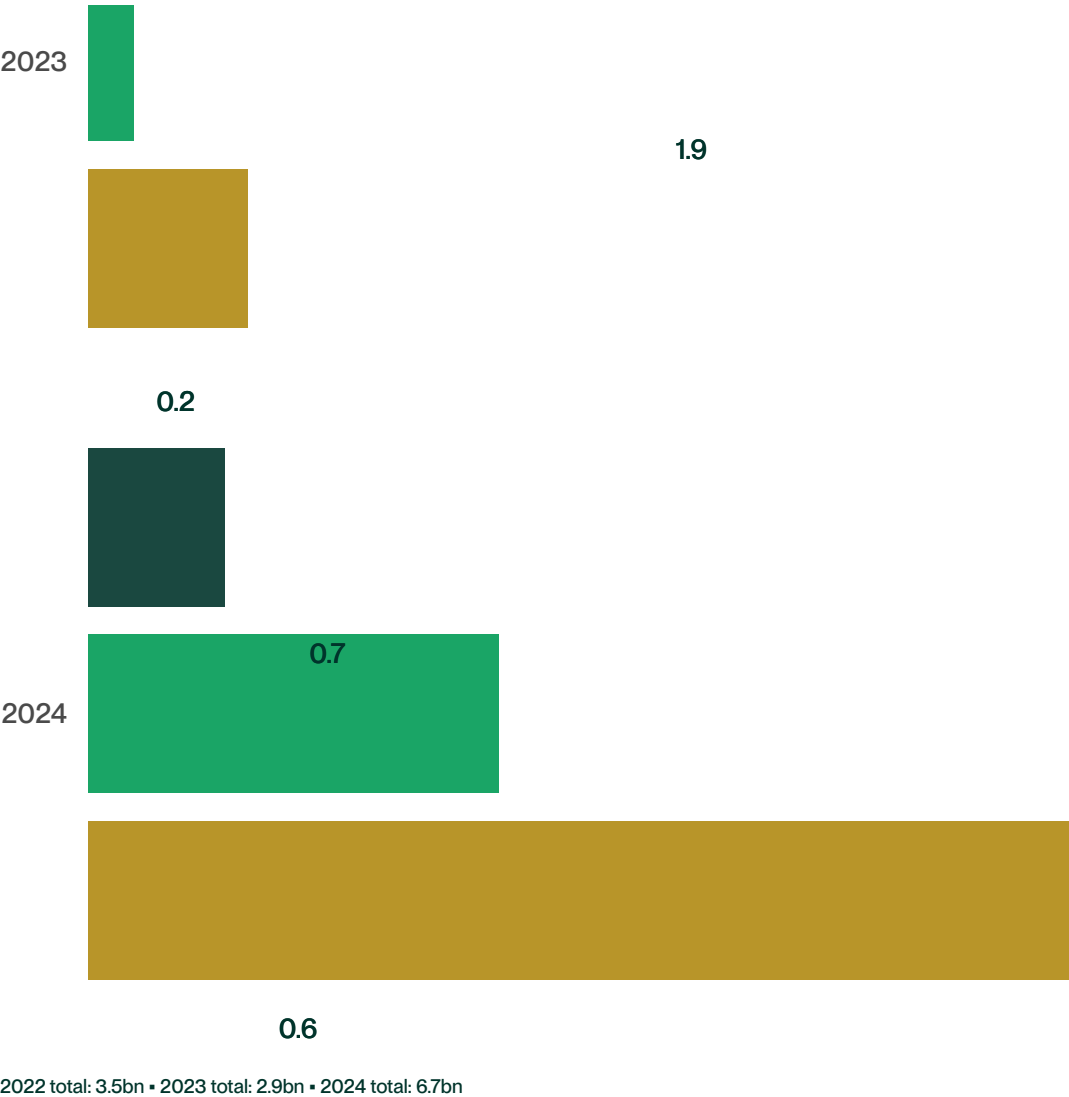


All figures are in U.S. dollars (USD) • Not shown - Taiwan: 0.2m (▼) • Thailand: 0m (no change) • U.K.: 0m (▼). Statistics relate to the 2024 calendar year and reflect levels calculated using an average exchange rate for 2024. Statistics are approximate and may not be exhaustive. Shaded areas denote A&O Shearman office locations.

Total global fines by conduct type

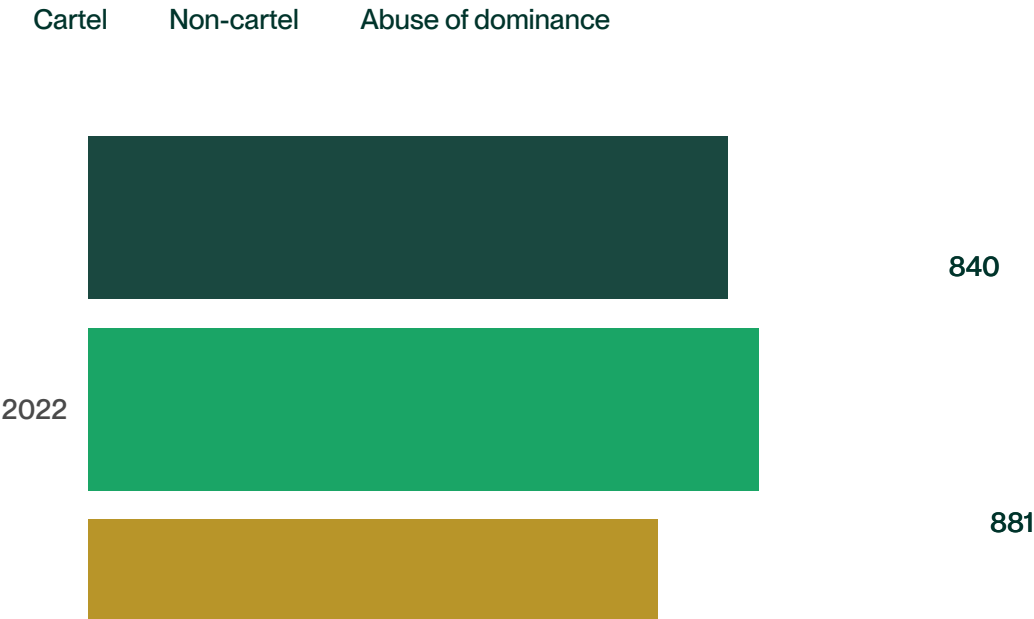
2022-2024 (USDbn)

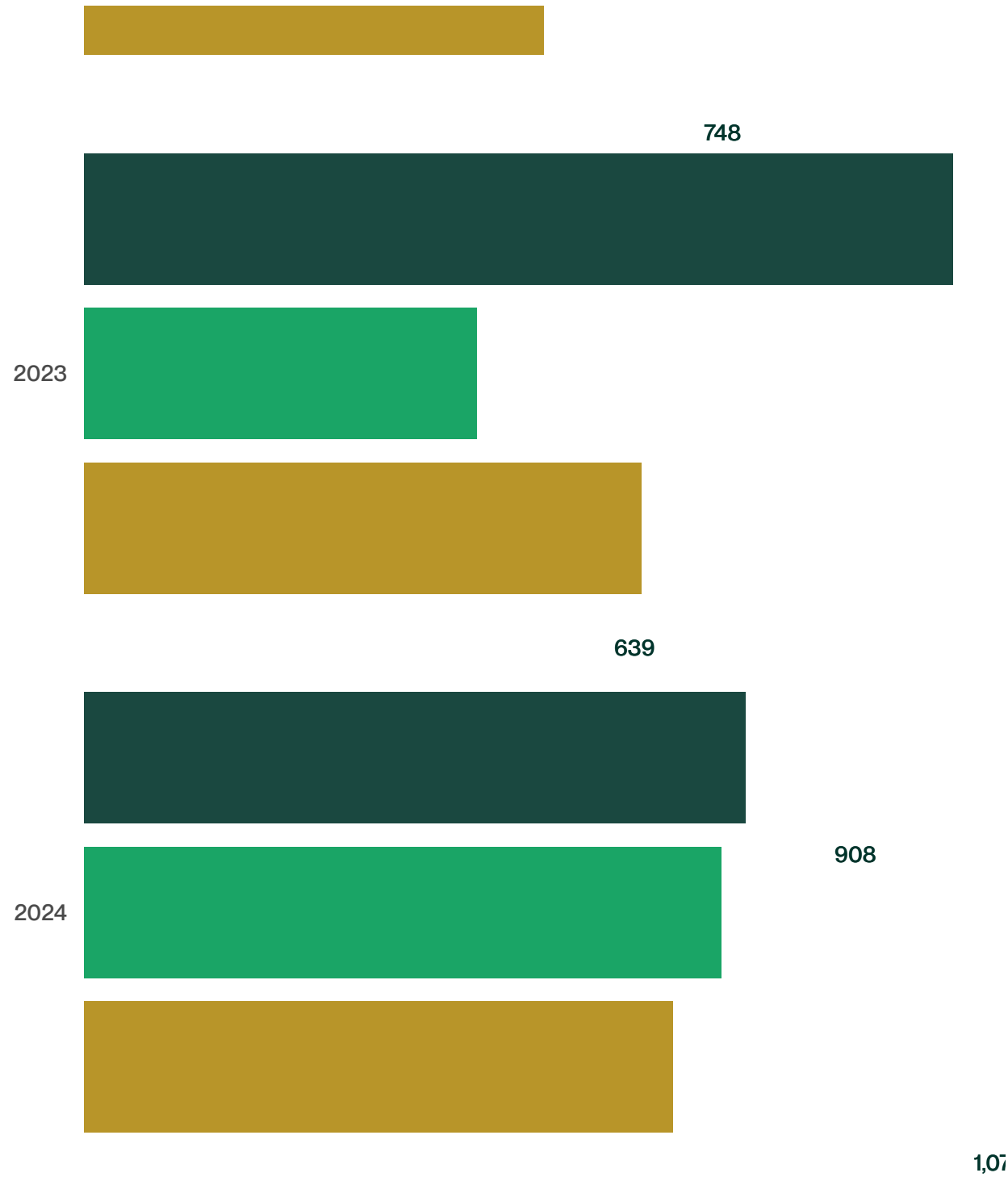




Average length of investigation

Calendar days, 2022-2024

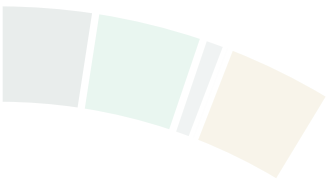




Mode of initiation of enforcement action

2024

Authority's own initiative Complaint Immunity/leniency applicant Whistleblower
Initiation method not known



Related capabilities

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Disputes

Technology

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