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European Competition Law Review

Table of Contents

Articles

DR ALAN RILEY

Nuking misconceptions: Hinkley Point, Chinese SOEs and EU merger law 301
As Chinese outbound investment and acquisitions of European and other western assets reach hitherto unseen dimensions, the European Commission and other antitrust regulators are being called upon to assess the competitive impact of acquisitions by Chinese SOEs. A critical threshold issue, with both jurisdictional and substantive implications, is whether Chinese SOEs have a power of decision independent of the Chinese state. The EU Merger Regulation provides a clear framework for examining the independence of SOEs, regardless of their nationality. But the Commission's case law as it pertains to Chinese SOE acquirers, up until very recently, failed to come to terms with the extensive evidence of multifaceted state control exercised by Beijing over its SOEs. In its March 2016 decision in the *Hinkley Point* case, the Commission has begun to take the bull by the horns. It is submitted, however, that the European antitrust regulator still has some way to go: evidence of the deeply pervasive nature of Communist Party and Chinese State influence over SOEs in the Middle Kingdom is extensive and can no longer be ignored.

NIENKE DE JONG AND REIN WESSELING

EU competition authorities' powers to gather and inspect digital evidence — striking a new balance 325
When structuring inspections at company premises NCAs can opt for a selection of relevant digital data on the premises during the inspection or they can seize a broader dataset and make a selection after the inspections. Against the background of the EU Commission's review of NCA's inspection powers in the context of its review of Regulation 1/2003, this article examines the legal and practical aspects of both models. Any model should strike a balance between the effectiveness and efficiency of inspections in an increasingly digital era with ever more data and the respect for due process and fundamental rights of the undertakings and individuals concerned.

CHARLOTTE JANSSEN AND ERIK KLOOSTERHUIS

The Wouters case law, special for a different reason? 335
The *Wouters* case law is a source of debate. What types of objectives may be balanced against restrictions of competition and under what circumstances? We try to unravel some of the mystery surrounding *Wouters* by using an economic perspective. We find that, in the majority of cases, the interests of the consumers have played an essential role in the assessment. This being said, we opine that the relatively lenient approach can only be explained by the involvement of the legislature in the regulations that were assessed under the *Wouters* doctrine.

Comment

MATTHEW COLE

Google's sent objections for Android abuses: Microsoft all over again? 340
This comment considers the recent EU Commission preliminary finding that Google has breached EU competition law. It explains that this is based on the desire to protect customer freedom and prevent the evasion of the customer's choice by restricting the manufacturers' freedom to choose the combination of software they consider best.

National Reports

CJEU

STATE AID
Article 108 TFEU N-99

Czech Republic

ANTI-COMPETITIVE PRACTICES
Retail supplies N-102

Germany

ANTI-COMPETITIVE AGREEMENTS
Selective distribution systems N-103

Ireland

MERGERS
Foodstuffs N-105

Latvia	**LEGISLATION** **Competition law** N-106
Netherlands	**PROCEDURE** **Calculation of fines** N-108
Sweden	**GENERAL** **Enforcement priorities** N-109
Sweden	**MERGERS** **Business application software** N-109