European Competition Law Review

2017 Volume 38 Issue 3 ISSN: 0144-3054

Table of Contents

Articles

FRIEDRICH PREETZ

Does the notion of legal certainty prohibit an effects-based approach to rebates? 99

The author analyses whether the "more-economic approach" to rebates laid down in the EU Commission's Guidance on enforcement priorities, as an example of an effects-based approach, jeopardises the principle of legal certainty under EU law. He concludes that the case law of the EU courts already reflects an economic as well as effects-based approach that provides a high degree of legal certainty. He argues that a "more-economic approach" to rebates, especially the application of the as-efficient-competitor-test, would lead to intolerable legal uncertainty. In a concluding remark, the author argues that the as-efficient-competitor-test could nevertheless be integrated into the efficiency defence that already forms part of the case law on art.102 TFEU.

IVÁN PICO AND JAIME RODRIGUEZ-TOQUERO AYMERICH

Towards a higher degree of independence of competition authorities: Lessons learned from Spain's institutional reform 115

This article assesses the ECJ's judgment *Ormaetxea Garai and Lorenzo Almendros* (19 October 2016) regarding the independence requirement of National Regulatory Authorities, particularly in the context of institutional reform. The judgment comes at a crucial time, considering the ECN+ initiative empowering NCAs to be more effective enforcers and the Commission's recent announcements for legislation in this area.

HANNA STAKHEYEVA AND CHARLOTTE HEILMANN

Distributor's right to compensation after distribution agreement has terminated under laws of Turkey and Germany 119

This article analyses the legal framework and practice for the goodwill compensation in Turkey with a high-level overview of the situation prevailing in the EU/Germany. It concludes that a general trend nowadays—in Turkey, as well as in the EU—is to provide distributors, upon termination of the distribution agreement, with the rights similar to those which agents benefit from under the agency agreements, particularly where the distributor has helped the principal to generate customers, from which the principal continues to benefit even after the termination of the agreement.

MOHAMED ELFAR AND MAHMOUD A. MOMTAZ

Assessing the enforcement of intra-brand competition in developing countries: the case of Egypt 124

There are differences between developing and developed countries' market structures. This may presuppose differences in enforcement policies and priorities. While giving priority to inter-brand competition, intra-brand competition should not be undermined. The article explores the case of Egypt, as a representative of developing countries, by assessing its enforcement policy of intra-brand competition. The article also recommends a way forward in light of international best practices.

SOLOMON MENABDISHVILI

State aid control in Georgia (law review and case study) 131

The Law on Competition of Georgia covers state aid rules, among others. The procedures for granting state aid must be non-discriminatory and transparent. However, according to the one case on which state aid was provided to the newly established company, the government can grant state aid under the title of a significant state project and ignore the principles.

DANISH KHAN AND ANAND SREE

India: Competition Commission's myopic pursuit of direct consumer welfare 135

The Competition Commission of India's recent approach widens the scope of anti-competitive agreements in India beyond the strict classification of horizontal and vertical agreements in the Competition Act, 2002. The Competition Appellate Tribunal has largely rejected this approach. This article argues that such widening of the scope is both undesirable as well as unwarranted in light of the legislative intention behind it, as well as economic theory.

Comment

SWARNIM R. SHRIVASTAVA

Currency reforms in India and competition concerns of the digital wallet

sector 140

Currency reforms in the form of demonetization of 500 and 1,000 rupees currency notes in India pose competition law concerns in a pre-mature cashless economy. The digital wallet firms operating in a concentrated Indian market are looking to capitalize over the sovereign action. Firms like PayTM have increased market power which poses some serious antitrust risks as well as being detrimental to consumer protection.

Book Reviews

DR VINCENT J.G. POWER

Competition and State Aid: An Analysis of the EU Practice, 2nd edn 143

MARK FURSE

European Competition Policy and Globalization 143

DR CARLO PETRUCCI

Regulating Competition in the EU 144

National Reports

Canada ABUSE OF DOMINANCE

Financial market data N-23

Denmark

PROCEDURE
Bid-rigging N-23

Greece

MERGERS

Port services N-24

Italy

ANTI-COMPETITIVE AGREEMENTS
Fashion model management services N-26

Poland

MERGERS

Gas delivery infrastructure N-27

Poland

GENERAL

Annual Report N-27

Romania

ANTI-COMPETITIVE AGREEMENTS

LPG N-28

Slovenia

PROCEDURE

Investigation N-29

Spain

ANTI-COMPETITIVE PRACTICES

Abuse of dominance N-30

Spain

ANTI-COMPETITIVE AGREEMENTS

Travel agents N-31

Spain

ANTI-COMPETITIVE AGREEMENTS

Motor car distribution N-31

Spain

ANTI-COMPETITIVE AGREEMENTS

Sports broadcasting rights N-32

Spain

PROCEDURE

Investigations N-32

Spain

ANTI-COMPETITIVE AGREEMENTS

Cartel N-33

LEGISLATION Spain Unitary competition and regulatory agency N-34 **MERGERS** Sweden Pre-insulated district heating pipes N-35 **GENERAL** Sweden **Competition Authority** N-35 Sweden **MERGERS** Heat pumps N-35 ANTI-COMPETITIVE AGREEMENTS Turkey Computer and console games N-36 US **PROCEDURE** Bid rigging N-37

US MERGERS
Healthcare insurance N-38

US MERGERS

Bus tour operators N-39

US ANTI-COMPETITIVE AGREEMENTS

Criminal procedures N-40