

Articles

MAX ENGELS, TOBIAS BRENNER,
AND ARNO RASEK

Evaluating the abolishment of MFN clauses in the online hotel booking sector: The drawbacks of using price comparison data from meta-search sites 483

Most-favoured-nation clauses used by online hotel booking platforms were challenged by competition authorities in recent years. Several studies based on pricing data retrieved automatically from meta-search sites evaluated the impact of these enforcement measures on the market outcome. This contribution finds that such data are typically unreliable due to the inability to distinguish between price differentiation and product differentiation.

DR CHRISPAS NYOMBI AND MOSES
ORUAZE DICKSON

Replacing lis pendens with forum non conveniens: A viable solution to tactical litigation in the EU? 491

This research explores the remnants of tactical litigation in the post-Recast Brussels Regulation 2012 era. The European Union (EU) Commission made recommendations to reform Brussels I Regulation 2001 following a public outcry over the manner in which unscrupulous defendants were relying on the lis pendens rule to frustrate innocent parties into settling out of court. Lis pendens is a first come/first served rule which regulates conflict of law situations within the EU, thus reducing the scope of parallel litigation. The goal of this article is to make recommendations on improving the operational effectiveness of the Recast Brussels Regulation or to completely replace it with forum non conveniens and/or antisuit injunctions in order to maximise the scope of intra-European tactical litigation.

NICOLAS PETIT

Implications of the Competitive Neutrality Principle for competition agencies: a process perspective 501

State-related firms should not be unduly advantaged in proceedings taking place before a national competition agency. The competitive neutrality principle commands that agencies should not demonstrate any bias when State-related firms are party to competition proceedings, be it as a defendant, a complainant or a third party. However, a strict interpretation of the competitive neutrality principle in competition proceedings could limit agency discretion and divorce their work from the big economic picture.

MARIANNA MERIANI

The inextricable saga of “pay for delay” cases: the EU versus the US approach 506

The article focuses on the complex relations between IP and antitrust in the pharma industry. Recent proceedings against *pay for delay* practices testify to the difficult balance between legitimate business strategies and anti-competitive practices. In this framework, a cautious approach in the form of the US *rule of reason* and the EU *by effects* analyses will be proposed to avoid prejudicial effects on R&Ds.

LÉOPOLDINE MINEO

The European Union treatment of minority shareholdings acquisitions 517

This article deals with the effects of minority shareholdings on the market and the impact of such acquisitions in order to evaluate the proposals of the Commission in comparison with what already exists in the EU and its Member States.

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