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This article considers whether the increasing use of algorithms to set prices means that competition law or practice on anti-competitive agreements needs to change.

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Filling Huawei's gaps: the recent German case law on Standard Essential Patents 538

The *Huawei* ruling identified the steps that owners and users of SEPs will have to follow in negotiating a FRAND royalty. Compliance with the code of conduct will shield patent holders from the gaze of competition law and, at the same time, will protect implementers from the threat of an injunction. The licensing framework provided by the CJEU is aimed at increasing legal certainty and predictability for the whole standardisation environment. Nevertheless, the judgment has been criticised because a relevant number of issues are left unresolved. In this scenario the activities of national courts in filling the gaps left by the CJEU deserve the utmost consideration. This article will seek to explore the approach developed at national level post *Huawei*, focusing on the German judicial experience.

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Access to cloud distribution platforms and software safety 547

The increasing importance of cloud services over recent years within the current socio-economic climate and its peculiar competitiveness, which is becoming more and more clear, inspired this analysis, with the purpose of identifying the legal tools to boost its development. Getting interoperability through standardisation leads to identifying a technological basis from where to develop the market, allowing the operators to invest in research and development in a more focused way. From this perspective, the article shows that the use of open source licences for the computing codes used to access the distribution platforms appears to be the most suitable solution to safeguard the author's creative work and, all the while, to support the increased offer of contents accessible through cloud platforms.

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Recent case law on concerted practices (art.101 TFEU) and especially the "E-TURAS" case show an increasing interpretative attitude to also include in this concept cases where one enterprise has unilaterally transmitted "strategic information" and the addressee enterprises have not formally "distanced" from it. In the first place, insights on the evolution of this concept throughout the decades and on the widening thereof are provided. Such an interpretative path is contested, showing that such an approach is aimed at challenging infringements that are structurally different from those referred to by art.101 TFEU (as shown by the express provision on s.5 of the Federal Trade Commission Act in US legal system). Contradictions between relevant case law and general principles of EU competition law are laid down. At the end, some conclusive proposals are formulated.

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Sentencing in Ireland's first bid-rigging cartel case: serious under enforcement? 567

The article argues that the sentences imposed on 31 May 2017 by the Central Criminal Court in the commercial flooring bid-rigging cartel case and the methodology used in setting those sentences seriously under-enforces competition law in Ireland. The sentence imposed on the individual responsible for initiating and participating in the bid-rigging cartel was only three weeks wages or €7,500. No gaol sentence was imposed. The undertaking was fined €10,000; the value of the rigged tenders it won totalled €556,000. The Court's reasoning does not justify such low sanctions. Increased legislative fines and prison terms suggest an increase, not a decrease, in sanctions compared with earlier cartels. Recent case law indicates a custodial sentence. If the Court had put greater emphasis on general as compared to specific deterrence the sanctions would have been substantially greater. If the sentences imposed by the Central Criminal Court are not successfully appealed as being unduly lenient and appropriate sentencing guidelines developed, then the prospect for competition law enforcement in Ireland is grim. In particular, the effectiveness of the Cartel Immunity Programme, a vital tool for cartel detection and prosecution, will be severely damaged.

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