

Articles

LAURA MELUSINE BAUDENBACHER
AND ANDREAS WEITBRECHT

Facilitation of infringements of EU competition law and the general principles common to the laws of Member States 1

According to the CJEU's judgment in *AC Treuhand II*, companies that facilitate others' cartel behaviour participate in a single, continuous and complex infringement of art.101 TFEU even where they are not active on the cartelised market. The authors argue that this scenario should rather be addressed based on general principles common to the laws of Member States which sanction aiding and abetting an infringement of others.

NICHOLAS LEVY AND VASSILENA
KARADAKOVA

The EC's increasing reliance on internal documents under the EU Merger Regulation: issues and implications 12

The European Commission's increasing reliance on internal documents in merger review has important legal and practical implications that should be addressed through clear guidelines capable of consistent application and effective internal procedures designed to ensure that the EU's administrative system of merger control remains effective, efficient, and fair.

PIETER HUIZING

The ECJ finally accepts the qualified effects test: now was that so hard? 24

After decades of reluctance to accept the qualified effects test for asserting jurisdiction over foreign anti-competitive conduct, the ECJ has finally adopted the test in its recent *Intel* judgment. This article describes the long journey travelled by the qualified effects test to reach this stage and discusses the implications of its acknowledgement by the ECJ for future competition enforcement.

DR LEELA CEJNAR AND ARLEN DUKE

Competition and fair trading practices in the higher education sector: a comparative review of the position in the UK and Australia 31

This article focuses on how competitive conduct and fair practices in the higher education sector are now regulated in the UK by the Consumer Rights Act 2015. The article commences with an overview of the EU's agenda and in particular, the *Europe 2020* strategic framework for education as well as the 1999 *Bologna Declaration*. The authors explore the relationship between tertiary institutions and students and particularly, the rights of students as "consumers" of learning (focusing on the undergraduate student). The findings of the UK Competition and Market Authority's 2016 report entitled, *Consumer law compliance review: Higher education undergraduate sector findings report* are also discussed. Comparisons are made between the position in the UK and Australia (given the authors' backgrounds), particularly with regard to the application of the Australian Competition and Consumer Act 2010 (especially Sch.2 of the Australian Consumer Law).

VLAD DAN ROMAN

Digital markets and pricing algorithms — a dynamic approach towards horizontal competition 37

Even though intrinsically linked in reaching new innovation frontiers (i.e. disruptive technology), the interplay between data and e-commerce is pushing boundaries of conventional collusion. In this resort, pricing algorithms are a good example for understanding the ambivalence in terms of consumer benefits and possible harm. As antitrust effects are triggered not only by human behaviour, testing concepts are shaping the policy agenda.

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