

European Competition Law Review

2014 Volume 35 Issue 2
ISSN: 0144-3054

Table of Contents

Articles

ANNELI HOWARD

The Draft Directive on Competition Law Damages—What does it mean for infringers and victims? 51

In June 2013, the European Commission issued a package of draft legislation governing procedural rules for private damages actions across the 28 Member States of the European Union. This article investigates what the new draft proposals could mean for defendants and for victims, and wonders whether they will achieve the Commission's stated policy of creating a new "internal market" for competition law litigation across the entire European Union.

MANUEL KELLERBAUER

The recent case law on the disclosure of information regarding EU competition law infringements to private damages claimants 56

The General Court, in its judgment *Netherlands v Commission*, finds that the addressees of a Commission decision establishing a cartel can oppose the disclosure of certain details of the infringement whilst the decision is being challenged before the EU Courts. Furthermore, the Commission could be obliged to restrict the immediate disclosure of cartel-related information to the public in view of the findings made by the Vice-President of the Court of Justice in his order in *Commission v Pilkington*. The judge hearing an application for interim measures against the publication of allegedly confidential information will suspend the intended divulgation where the Commission is unable to demonstrate that the information at stake is obviously not confidential. Consequently, private damages claimants who want to obtain timely information on infringements of EU competition rules will need to rely more frequently on art. 15 of Regulation 1/2003. The provision allows national courts of the Member States to request the Commission to transmit cartel-related information needed for private damages proceedings. If the Commission verifies that adequate confidentiality safeguards exist at the level of the national courts, the case law in *Netherlands v Commission* and *Commission v Pilkington* should not prevent it from adhering to such requests.

ALEKSANDER MAZIARZ

Block exemption for sale of new motor vehicles: A major change ahead? 63

The article analyses the new legal framework for vertical agreements concerning the sale of new vehicles. Entry into force of Regulation 461/2010 meant that such agreements are not covered by a specific regulation and are regulated in the same way as the majority of vertical agreements. The aim of this article is to assess the changes introduced by the new regulation, in comparison with previous legal system.

PAUL HUGHES

Competition Law Enforcement and Corporate Group Liability—Adjusting the veil 68

This article analyses the increasing erosion of the protection afforded by limited liability in the context of the public and private enforcement of EU competition law. It considers how ineffective group-wide attempts at compliance may further expose parent companies (and how overt non-compliance may expose directors) to tortious claims under English common law. Finally, it examines how an increasingly aggressive enforcement of EU competition law may promote the consideration of a wider range of stakeholders' interests as part of corporate governance.

PRESLAVA DILKOVA

The New Procedural Regulation in State Aid—Whether "Modernisation" is in the right direction? 88

This article discusses the new Procedural Regulation in state aid. The first part describes the use of market investigation tools in state aid proceedings. Next, we look at the revised complaint-handling mechanism with which the Commission intends to make a better prioritisation of its cases. The last section analyses the newly codified co-operation between the Commission and national courts in the enforcement of state aid law.

IAN THOMPSON AND JAMES HARVEY

When to pop the question(s)? The use of surveys in merger control 92

With surveys taking an important role in merger cases, this article looks at characteristics of the product and environment that give rise to the most accurate results. Consumer surveys are used as a substitute for actual, real market data and as such their accuracy depends on how closely they can mimic the real buying environment and convey the products of focus.

Book Review

DR ALBERT SANCHEZ GRAELLS

Cartels, Competition and Public Procurement: Law and Economics Approaches to Bid Rigging 96

National Reports

Czech Republic

ANTI-COMPETITIVE PRACTICES

Economic Dependence Act N-5

Denmark

ANTI-COMPETITIVE AGREEMENTS

Distribution agreements N-6

Germany

ANTI-COMPETITIVE AGREEMENTS

Selective distribution systems N-6

Greece

MERGERS

Aquaculture N-8

Romania

MERGERS

Retail outlets N-9

Slovenia

ANTI-COMPETITIVE AGREEMENTS

Driving schools N-12

Spain

ANTI-COMPETITIVE PRACTICES

Unfair trading practices N-13

Spain'

MERGERS

Mobile telephony N-13

Spain

STATE AID

Annual report N-13

Spain

ANTI-COMPETITIVE AGREEMENTS

Price fixing N-14

Spain

GENERAL

Annual Report of activity N-14

Turkey

MERGERS

Guidelines N-15

Turkey

ANTI-COMPETITIVE AGREEMENTS

Snack foods N-15