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It seemed like a good idea at the time: The application of competition law to the health sector in England 419

Advocating competition in a £100bn plus taxpayer-funded sector with tariffs fixed by the UK government may seem like a non sequitur. Indeed, in late 2013, the outgoing head of NHS England told the UK Parliament's Health Select Committee that the NHS was "getting bogged down in a morass of competition law." However, research has shown that choice and competition within the NHS can lead to better patient outcomes, with higher quality care; lower waiting times, mortality and lengths of stay; unchanged or lower expenditure; better focused investment; and targeted marketing of successful services to family doctors. Given the benefits, we fully support the role of competition and the relevant regulators as one of several quality drivers in the overall UK healthcare sector. Inevitably, arguments as to sector suitability will always arise whenever a new sector is opened up to competition law. Rather than dismissing such arguments, this article seeks to explain some of the current issues being faced by the NHS and competition authorities and puts forward some suggestions as to how the issues can be addressed.

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Companies are entering into joint ventures and strategic alliances to expand their businesses in new geographical territories. They are growing by entering into various forms of strategic alliances. These alliances bring lots of advantages to their organisations in the form of various economies. In their pursuit of growth, they enter into arrangements which distort the existing competition in the market. This benefits the allies immensely but is not advantageous to customers and non-allies. Such arrangements fall into the larger purview of anti-competition laws. American courts and the European Commission have been very strict against this kind of arrangement. The aim of this article is to study which types of arrangements are dangerous for competition and how they are being treated in the eyes of law, with special reference to the competition laws of the European Union. The article provides a cursory view of the restraint to trade with special reference to the non-competition clause in the case of a transfer of share in joint venture, post-termination. The article analyses and interprets the decisions of various courts with regard to validity of the non-competition clause in the context of the sale of a business, provided the business is a pre-existing joint venture. The author proposes a model for testing the reasonableness of a non-compete clause in the case of sale of joint venture or post-termination of joint venture. The article also discusses the reasonableness test of the non-competition clause.

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Challenging the need for a “Global” Competition Law 461

The rapid globalisation of businesses in the last few decades has reinvigorated debate on the need for a global competition law, yet little real progress has been made. A joint survey of the Organization for Economic Co-operation and Development (OECD) and the International Competition Network (ICN), conducted in 2013, has confirmed that there is an increasing need for co-operation between competition authorities on an international level. This article considers whether a global competition law can ever be agreed on and whether, instead, efforts should be directed at increased international or regional co-operation.

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