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Why competition commissioners should be cautious in commenting publicly on active antitrust cases 1

This article examines the duty on EU Competition Commissioners to act impartially in discharging their functions as investigators, prosecutors, and decision-makers in EU antitrust cases and explains why application of that duty counsels in favour of exercising caution in commenting publicly on active cases where the companies under investigation are still exercising their rights of defence.

MAREK MARTYNISZYN AND MACIEJ BERNATT

On Convergence with Hiccups: Recent amendments to Poland's Competition Law $\ 8$

January 2015 marks entry into force of the 2014 Amendment Act, reforming Poland's competition law. This article outlines the main changes and analyses four of them in detail: fines for individuals, leniency plus, settlements, and changes to the Authority's inspection powers. It addresses the question of to what extent the reform achieves its aim of increasing the effectiveness of enforcement.

STEPHEN LEWIS, PAUL HUTCHINSON AND ADRIAN MAJUMDAR

Drink deriving: estimating substitution patterns for hard and soft drinks 15 In this article we discuss how the UK authorities employed demand estimation in two recent drinks mergers and explore some of the controversies that arose. We highlight the importance of ensuring that econometricians not only ask the right questions, but also critically evaluate the answers obtained – particularly if primary reliance is to be placed on the results when analysing mergers.

BARBORA JEDLIČKOVÁ

Vertical issues arising from conduct between large supermarkets and small suppliers in the grocery market: Law and Industry Codes of Conduct 19

Many countries across Europe and the world, including the United Kingdom and Australia, have been facing vertical-chain issues in the grocery retail sector, arising from an unequal bargaining power between large retailers and their suppliers. This article analyses these issues and identifies the reasons for tackling them. By placing the primary focus on the UK and Australian codes of conduct and limits of Australian law, it explores whether a specific regulation for the grocery retail market in the form of an industry code is or would be beneficial, and whether a code of conduct is or could be an effective tool for dealing with these issues.

GYÖNGYI DAVID AND URSULA SCHLIESSNER REACH joint authorization scenarios — when does competition law limit information exchange? 30

This article proposes criteria for lawful exchange of information for purposes of REACH authorization. REACH encourages co-operation that may go beyond what has traditionally been considered as acceptable under competition law. The restrictive effects of information exchange must therefore be assessed on a case-by-case basis. Such exercise creates considerable uncertainty in the market today.

Comment

JULIAN NOWAG

Wouters, when the condemned live longer: A comment on OTOC and CNC 30

The article highlights how the two recent judgments in OTOC and CNG have revived the *Wouters* exception in art.101(1) TFEU. The article briefly recapitulates the *Wouters* decision and its balancing test. It explains the two recent judgments and highlights how OTOC and CNG have broadened the scope of the *Wouters* exception by applying it to horizontal situations and to hard-core restrictions.

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