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Table of Contents

Articles

PIETER VAN CLEYNENBREUGEL

Associations of undertakings and their decisions in the wake of MasterCard 283

In its September 2014 *MasterCard* judgment, the Court of Justice relied on freshly refined benchmarks to classify market behaviour under the “decisions by associations of undertakings” banner. This contribution conceptualises those benchmarks and assesses their impact on and practical relevance for future art.101 TFEU analysis.

MAREK MARTYNISZYN

On extraterritoriality and the Gazprom case 291

The European Commission’s (EC) investigation of Gazprom’s business practices in the EU raises a number of questions. This article comments on the issue of the EC’s jurisdiction in transnational cases in general and in particular—in the context of the *Gazprom* case, in light of another contribution dealing with this matter. It also sheds some light on the considerations which might have informed Russia’s legislative response to the EC’s investigation.

ANDREAS KAFETZOPOULOS

European Commission policy on publication of cartel decisions: the latest victory of damage claimants against leniency applicants 295

This article discusses the General Court’s *Akzo Nobel* judgment of January 28, 2015 regarding the information that may be included in the public version of the European Commission’s cartel decisions. It assesses the impact that the judgment could have on leniency and follow-on actions for damages in the EU.

AHMET FATIH ÖZKAN

Blu-Ray region code protection and EU competition law 298

This article sheds light on the technical functioning of Blu-Ray region codes, outlines the legal concerns associated with Blu-Ray region coding and provides an analysis of this practice under EU competition law rules. It argues that the design and enforcement of Blu-Ray region coding seems to be in compliance with EU competition law rules.

LUKE DANAGHER

The convergence of past and present challenges to the criminal cartel law of the UK 305

The article discusses the criminal cartel law of the UK by analysing the Enterprise Act 2002 and the Enterprise and Regulatory Reform Act 2013. It is argued that neither provision is conducive to the effective prosecution of hard core cartel conduct. Furthermore, the importance of the CMA’s ability to prosecute under both variations of the Act is called into question.

DANISH KHAN

Collective dominance: acceptance, approach and application for India 310

Collective or Joint Dominance has become the subject of intense debate in India, emanating from the proposed inclusion of the concept within the Indian Competition Act 2002 through the Competition (Amendment) Bill, 2012. The standing committee report on the proposed amendment revealed sharp reservations from stake-holders against inclusion of the concept in the law in India. The present article deals with the rules of collective dominance, as recognised and enforced in various jurisdictions throughout the world. Given the nascent understanding of competition law in India, one cannot expect the concept to be applied in India verbatim. However, as the report emphasises, the concept has vital utility for the Indian economy. The fact that the concept has evolved through precedents of the courts around the world entails that the rules are complex, scattered and, often, contradictory. The present article aims to prepare an exhaustive collection of rules on collective dominance in a single place. It makes an attempt to analyse the desirability and difficulties in the practical application of the concept and possible solutions thereof.

Despite ever-growing popularity among competition agencies of impact assessment exercises, where the agencies evaluate expected benefits to consumers as a result of their actions against anti-competitive practices, impact assessment in misleading and prohibited comparative advertising cases, on the contrary, is almost not known. No country seems to be calculating the benefits to consumers in such cases, the exception being the UK, which relies on the complaints statistics in their calculation methodology. This article describes the alternative methodology developed for calculating consumer benefits, and which does not rely on the complaints statistics. The proposed methodology splits the analysis into two interlinked parts—direct benefits estimation and indirect benefits estimation—for each case having been found to violate the law.

Book Review

DR ALEXANDR SVETLICINII

Competition Law in Asia-Pacific: A Practical Guide 322**National Reports****Canada****MERGERS****Anti-competitive effects N-75****Canada****MERGERS****Newspapers N-76****Croatia****ANTI-COMPETITIVE AGREEMENTS****Grocery retail N-77****Czech Republic****LEGISLATION****Market Power Act N-78****Germany****ANTI-COMPETITIVE AGREEMENTS****Online hotel bookings N-80****Italy****ANTI-COMPETITIVE AGREEMENTS****Concrete N-82****Latvia****MERGERS****Failure to notify N-83****Poland****ANTI-COMPETITIVE AGREEMENTS****Road passenger transport N-83****Romania****ANTI-COMPETITIVE AGREEMENTS****Bid-rigging N-84****Slovenia****PROCEDURE****Investigations N-85****UK****MERGERS****“Enterprise” N-86****US****MERGERS****Primary health care N-88****US****ANTI-COMPETITIVE PRACTICES****Health care N-88****US****PROCEDURE****Private litigation N-90****US****ANTI-COMPETITIVE AGREEMENTS****E-commerce N-91**