

# European Competition Law Review

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## Table of Contents

### Articles

DAVID L. MEYER AND ANDREW  
LLOYD MEYER

#### **Key takeaways from the FTC's new Section 5 Statement: the Federal Trade Commission's new Section 5 Statement preserves the agency's "doctrinal flexibility" but fails to provide meaningful concrete guidance 497**

The US Federal Trade Commission's new "Statement of Enforcement Principles Regarding 'Unfair Methods of Competition' Under Section 5 of the FTC Act" preserves the agency's flexibility to act against any conduct it views as anti-competitive, but provides little guidance to parties concerning the agency's actual likely use of this power.

ROGER GAMBLE

#### **The Parliament, the Commission and the Court — three European institutions and their effect on private enforcement of anti-competitive conduct in the EU 501**

The EU Directive on Damages came into force on December 27, 2014. It has the potential to transform private enforcement of competition law in the EU, described in the Ashurst Report in 2004 as being in a state of "total underdevelopment" and "astonishing diversity". For the first time the European Parliament has put in place a set of rules designed to increase legal certainty and reduce the differences that exist in the national rules governing private enforcement actions for damages for breaches of competition law. At the same time, the European Commission has sent a very clear signal that public enforcement and its most potent enforcement weapons, the leniency and settlement programmes, will not be compromised by the private enforcement initiatives. It is in this context that the European Court of Justice is set to play a pivotal role in determining the extent to which the Directive's primary objective—to ensure that anyone who has suffered harm caused by an infringement of competition law can effectively exercise the right to claim follow-on damages in individual national courts in the EU—is realised.

MAXWELL BREANA OBESI AND  
CHRISPAS NYOMBI

#### **Enforcement of anti-suit injunctions 513**

This article relies on a comparative approach to analyse the role of anti-suit injunctions in enforcing court decisions, contractual terms and avoiding parallel litigation. It is argued in this article that, although civil law jurisdictions have historically opposed anti-suit injunctions, by erecting legal and institutional barriers they form part of an international legal architecture for securing and promoting justice. To illustrate that anti-suit injunctions are a force for good, their role in matrimonial causes and insolvency proceedings is evaluated. The article concludes that anti-suit injunctions are commonly used in both common and civil law jurisdictions as an effective means of achieving justice.

MOHAMED ELFAR & MAHMOUD  
MOMTAZ

#### **Challenging anti-competitive governmental decisions under the Egyptian competition regime 526**

It has been noted that at some points, market players are able to influence governmental bodies to issue administrative decisions in their favour. This article is intended to address this concern. As will be shown, the ECA tried to overcome this challenge by various methodologies. Nonetheless, the hurdle remained. This article explores an alternative route to address those anti-competitive administrative decisions by revoking them directly before administrative courts.

### Analysis

TIMOTHY MCIVER, DR ANDREA  
POMANA AND JUDITH SCHMIDT

#### **Between patent protection and abuse of dominance: Highest EU court issues landmark decision on standard-essential patents 533**

In July, the European Court of Justice clarified for the first time at which point the holder of a Standard Essential Patent violates EU antitrust law by seeking a prohibitory injunction against an infringer of its intellectual property (IP). As one of Europe's most important venues for IP disputes, Germany is particularly affected.

### Book Reviews

DR DELROY S. BECKFORD

#### **Competition Law in the CARICOM Single Market and Economy 536**

VIKTORIA H.S.E. ROBERTSON

#### **The Interface between Competition Law, Patents and Technical Standards 539**

## **National Reports**

**Germany**

### **ANTI-COMPETITIVE AGREEMENTS**

**Athletics shoes N-143**

**Hong Kong**

### **LEGISLATION**

**Competition Ordinance N-144**

**Netherlands**

### **PROCEDURE**

**Sodium chlorate N-145**

**Spain**

### **ANTI-COMPETITIVE AGREEMENTS**

**Automobile manufacturers and distributors N-146**

**Spain**

### **ANTI-COMPETITIVE AGREEMENTS**

**Sports broadcasting rights N-146**

**Spain**

### **MERGERS**

**Notification N-147**

**Spain**

### **LEGISLATION**

**Sports broadcasting rights N-147**

**Sweden**

### **GENERAL**

**Competition Authority N-148**

**UK**

### **ANTI-COMPETITIVE AGREEMENTS**

**Ophthalmologists N-149**