

# European Competition Law Review

2019 Volume 40 Issue 8

ISSN: 0144-3054

## Table of Contents

### Editorial

ALEXANDER M. WAKSMAN

**Editorial: Issue 8** 345

### Articles

AIDAN ROBERTSON

**Skanska Industrial Solutions: what does the Court of Justice's landmark judgment mean for cartel damages litigation?** 347

The Court of Justice held in *Skanska Industrial Solutions* that the essential conditions of liability in damages for breach of art.101 TFEU are to be determined as a matter of EU rather than national law. This article explores the implications for cartel damages litigation in national courts, particularly England.

KONSTANTINA SIDERI

**German Facebook Decision: the interplay of competition and data protection law** 354

On 6 February 2019, the German Federal Cartel Office ("FCO") issued a decision ordering Facebook to implement the necessary changes and to adapt its data and cookie policies accordingly within a period of 12 months. This article examines the legal tensions of the decision and especially the interplay of competition and data protection law.

WERNER BERG; SOPHIA REAL AND  
LUCA MONTANI

**Internal documents and new theories of harm—EU Merger Control 2018** 358

In 2018 the European Commission continued to focus on innovation, Big Data and how to access it. Internal documents played a prominent role in a number of high-profile cases, as confirmed by the attempt to publish Best Practices on internal documents. Procedural infringements remained high on the agenda.

TILMAN KUHN AND MATHIS RUST

**Between Coty, Guess and the new V-BER—where do we stand on e-commerce restrictions?** 376

The European Commission recently fined Guess €40 million for, inter alia, a ban to bid on Guess brand names and trademarks as keywords for online search advertising such as Google AdWords. The authors show how this decision adds a new facet to an already controversial post-*Coty* debate on vertical restrictions, and fits into the ongoing review of the Vertical Block Exemption Regulation.

CLARA MATRANGA

**Financial stability and competition rules in the banking crisis context: a real struggle** 383

The article examines the approach of the Bank Recovery and Resolution Directive ("BRRD") when related to competition law rules in the banking crisis context, in particular with State aid rules. The reform aims at finding a proper balance between the (apparently) opposite objectives of the banking sector, namely competition and financial stability, although facing the inevitability of a tailor-made application of certain rules.