

Editorial

ALEXANDER M. WAKSMAN

Editorial: Issue 1 1

Articles

LIESBET VAN ACKER

The French Apple products distribution decision: breathing life into vertical restraints enforcement? 3

The French Competition Authority fined Apple 1.1 billion euros for its distribution practices, such as resale price maintenance, customers and products allocation, and abuse of economic dependency. This article will provide a summary of the decision, analyze the decision and assess it in its broader French and European context.

WILL LESLIE

Brand bidding, search advertising and the quest to protect non-price parameters of competition 9

While the growth of e-commerce and associated vertical restrictions has been at the forefront of European competition authorities' enforcement agendas, online advertising restrictions had, until recently, been a comparative backwater. However, authorities' nascent hard-line approach to so-called brand bidding restrictions risks overturning the existing nuanced approach to advertising restrictions. Such an approach would prioritise often uncertain and limited restrictive effects on intra-brand price competition over potentially significant non-price pro-competitive effects, undermining incentives to invest in, and compete on, the quality of products and services. This article outlines why this would be a mistake.

JACOPO FIGUS DIAZ & EDWARD DEAN

Denigration and dissemination of misleading information under EU competition rules 16

This article appraises the treatment of denigration and the provision of misleading information under European competition law. It considers a line of EU and national jurisprudence, from the 2005 European Commission decision in *AstraZeneca* to the recent judgment of the Court of Justice in *Hoffmann-La Roche*. It identifies under which circumstances, denigration of a competitor's products and the dissemination of misleading information, including about one company's own products, can constitute an infringement of arts 101 and 102 TFEU.

CHIJIJOKE CHIJIJOKE-OFORJI

Director accountability for breach of competition law: important lessons from the CMA's increased use of disqualification powers 24

In recent times, the Competition and Markets Authority ("CMA"), the UK's Competition Regulator, has sought to disqualify Company Directors for breach of competition law using a little-known power in the Company Directors Disqualification Act 1986. This power, introduced in the early 2000s, has been invoked severally over the last four years. The practical effect of the CMA's disqualification regime is the prohibition of concerned persons from carrying out functions of the kind exercised by an ordinary company director. This article attempts to draw key lessons from the CMA's director disqualification regime. It also highlights practical difficulties for the regulator in maximising the deterrent potential of the regime.

LAWRENCE B. LANDMAN

From Innovation Markets to Innovation Spaces in Europe: a new phrase is not innovation 30

In *Dow/Dupont* the European Commission gave us a new concept, an Innovation Space. The Commission claims that by regulating competition in an Innovation Space it is directly regulating competition to innovate. However, as the author showed in "Innovation Markets in Europe", the Commission, like its American counterparts, are only able to regulate competition in future goods markets, markets for products which don't yet exist. This remains true.

PRAMOTHESH MUKHERJEE

Conundrum of the Single Economic Entity doctrine in India 41

The Single Economic Entity Doctrine has been judicially imported and applied in India. The tests enunciated for such application have varied and changed over time, reducing the certainty in the law. This article is intended to trace the development of the doctrine in India and to suggest an optimal standard for its application.

The Serbian competition authority between United Group and Telekom: not a political, but a commercial dispute? 50

The dispute between two largest operators of media distribution service in Serbia concerning the refusal of their affiliates to provide access to each other's TV channels, has raised dozens of accusations and movements regarding the right to information and violations of competition. This article determines mistakes made by the Serbian NCA in merger control procedures which led to a duopoly.

**National Reports
Czech Republic**

**GOVERNANCE
National Competition Authority N-1**

Denmark

**ANTI-COMPETITIVE PRACTICES
Digital economy N-1**

Ireland

**ANTI-COMPETITIVE PRACTICES
Price Signalling N-3**

Portugal

**MERGER
Gun-jumping N-5**

Portugal

**ANTI-COMPETITIVE PRACTICES
Non-compete agreement N-6**

Portugal

**MERGER
Prohibition N-7**