

**Articles**

PAUL K. GORECKI

**Proposals to reform non-notifiable mergers in Ireland: a step in the right direction? 484**

In January 2021, the government in Ireland proposed that for mergers notified to the national competition agency on a voluntarily (as opposed to mandatory) basis that the agency be empowered: (i) to make interim orders preventing the implementation of the transaction; and (ii) to unwind a completed merger so as to restore pre-merger status quo. No rationale was offered. This article examines the proposed powers in relation to: the record of the competition agency's long-standing procedure for dealing with non-notifiable mergers; and the possible hypothetical use of the powers in a two-to-one merger notified on a voluntary basis in 2017. The competition agency procedure has worked well. The case study reinforces this conclusion. The government needs to furnish a compelling rationale for the proposals to go forward.

INGRID VANDENBORRE AND  
AMAURY SIBON**Antitrust and Fintech M&A 494**

Antitrust regulators around the world have increasingly scrutinised deals involving providers of fintech services, in particular in the payments space where fintech companies are often considered to be disruptors, competing against traditional financial services providers. This article focuses on some of the competition concerns examined in recent fintech transactions and the role of antitrust review in shaping an evolving space.

PROF. CHRISTIAN BERGQVIST

**What does an appreciable negative effect on competition mean? 501**

While much energy has been invested into the line between being anti-competitive by *object* or by *effect*, that this must also be appreciable has largely been ignored. This is most likely based on the presumption of not being a separate requirement. However, case law does not allow for this, calling for a revisit of the concept of being appreciable under art.101.

LAWRENCE B. LANDMAN

**The Future Markets Model: how antitrust authorities really regulate innovation 505**

Practitioners need a methodology they can use to determine whether a competition authority will claim that firms compete in innovation. The European Commission in particular has issued very confusing decisions and reports in this area. This article provides the methodology both American and European practitioners need.

BLANKA BARTOS

**Is \$2.1 million a fair price for a medicine? The most expensive drug in the world – Zolgensma 515**

Zolgensma is a new, innovative, almost life-saving drug on the market for SMA disease. Infants under two years of age can apply for it, with the chance for a full life after treatment, instead of dying of muscle atrophy. The price hit records, \$2.1 million, so not many can afford it. The Hungarian baby Zente was lucky to have enough donors in time to buy this medication, but the public are unable to donate regularly to every sick child. The laboratory claims that they did not set an excessive price, and they did not violate competition law rules, even if they did have a dominant position on the market. Zolgensma is an orphan drug: its price will never be able to cover its R&D. However, charities donated money to develop this medication to make it available for the public. There is no alternative drug available, so the patients do not have a choice.

MAXWELL GREENHALGH

**Keeping up with computers: a review of art.101 TFEU's prohibition of collusive pricing agreements in the algorithmic age 520**

Living and legislating through a digital renaissance poses trials for the modern-day lawmaker, and "algorithmic collusion" is no different. With a critical lens, art.101 will be scrutinised in the context of this fresh computerised threat to competition; a consumer-focused analysis and a critique of the contemporary antitrust doctrine will offer support for explicit and vigorous engagement with algorithmic collusion.

# **National Reports**

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**ANTI-COMPETITIVE PRACTICES  
Infringement N-145**

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