

Editorial

ALEXANDER M. WAKSMAN

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Articles

NIKOLAOS E. ZEYGOLIS

Temporary dominant position during the Covid-19 crisis: thoughts and proposals in search of theories 590

The Covid-19 crisis is in itself a sufficient and necessary condition for certain companies to acquire a temporary dominant position, since the specific crisis enables these firms to operate in the relevant market(s) in which they are activated, without regard to any market player; either it is about a competitor, or it is about a customer or a consumer.

RICCARDO TREMOLADA

Interim measures in digital markets: an enforcement tool rediscovered? 598

Wide-ranging criticism of the length of antitrust investigations has raised the question of whether EU competition authorities are equipped with the right tools. It has also increased calls for the revival of interim measures to ensure the maintenance of effective competition. This article takes the recent European Commission decision in *Broadcom* as a starting point that signals a renewed appetite for interim measures, particularly in digital markets.

FRANCESCO RIZZUTO & MONIKA LYNCH

On the continued inadmissibility of preliminary references from national competition authorities—time for a change? 611

This article considers the recent attempt by a National Competition Authority to overcome the admissibility hurdles put in place by the CJEU since the seminal *Syfait* ruling. The article assesses the possible impact on the admissibility of future requests for preliminary rulings from such bodies as presently organised and operating in the Member States given the very prescriptive requirements of independence in Directive 2019/1.

RICHARD BUNWORTH

A presumption of harm in innovation merger cases—creating an unfair barrier? 622

The last decade has witnessed a noticeable shift in approach by the European Commission, whereby innovation competition has gained increasing prominence in merger assessments, particularly in the pharmaceutical, agrochemical, and digital industries. In addition, the Commission is taking a more interventionist and aggressive approach, leading some to question whether there will be a growing number of prohibition decisions based on innovation competition concerns. The article analyses whether the Commission's approach in recent cases is leading to the gradual introduction of a presumption that mergers in highly concentrated innovation markets will result in harm to consumers, thereby shifting the burden back onto merging parties to establish that the impact of the merger will be neutral from the perspective of consumer welfare. The article then proceeds to assess the merits of a presumption in considering whether it would be a preferable development in assisting the Commission to establish harm, or alternatively, whether a fact-sensitive approach should be maintained due to the complexity of innovation harm assessments. Finally, the author evaluates the recent suggestion that large technology companies should in fact be required to demonstrate the benefits to consumers of any acquisition they make, as opposed to merely establishing that they will not cause harm.

APURV PRATAP SINGH & HRISHAV KUMAR

Incorporating collective dominance within the Indian competition law framework: the time is ripe 631

The article makes a case for the incorporation of the concept of joint dominance within the Indian Competition Law framework. It also outlines the competition-related concerns in an oligopoly, with specific reference to the Indian position on collective dominance. The article sums up with a critical analysis of the Report of the Competition Law Review Committee and further suggests the manner in which joint dominance may be incorporated within the Act.

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