

Editorial

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Legal nature of cartel damages claims in the EU 2

In its 2019 *Otis* ruling (*Otis GmbH v Land Oberösterreich* (C-435/18) EU:C:2019:1069) the European Court of Justice (ECJ) did again not explicitly rule on the legal nature of the cartel damages claim following a breach of arts 101, 102 TFEU. An understanding of the legal nature is, however, a prerequisite to apply the principles set out in *Otis* and ECJ case law since *Courage*. This article argues that the cartel damages claim is of Member State's law nature. However, the ECJ has developed specific Union law requirements for the right to cartel damages based on infringements of arts 101, 102 TFEU, that go beyond the requirements of the Union law principles of equivalence and effectiveness which remain applicable still. By both means Union law influences national law, but it is only binding as to the result to be achieved.

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Absolute limitation periods and decentralised enforcement of articles 101 and 102 TFEU: what about Regulation 1/2003's effectiveness requirement? 13

A detailed and critical analysis of the recent *Whiteland* judgment offers a new perspective on how misinterpreting Regulation 1/2003 in its entirety resulted in a controversial analogy with *Cogeco* and a missed opportunity to clarify the landmark ruling in *VEBIC* on the relationship between the general principle of effectiveness and the specific effectiveness requirement in art.35(1) of Regulation 1/2003.

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Pricing algorithms: thoughts on a framework for competition law analysis 28

Competition authorities around the world report vigilance toward the use of pricing algorithms. This article discusses how price algorithms operate, outlines the benefits and risks of price algorithms, and offers a framework for the assessment of price algorithms under existing antitrust rules. This article also offers guidelines for companies to mitigate potential antitrust risks that may stem from the use of pricing algorithms.

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According to arts 102 and 101 of the TFEU, European competition law—and European competition law only—applies when a conduct may affect trade between Member States (Inter-state clause). In all other cases, i.e. cases at a regional and local level, (only) national competition law applies. Despite this clear dividing line, the discussion on the scope of national competition law is still going on.

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On 21 May 2021, the CAT unanimously dismissed Sabre's appeal against the CMA's prohibition in April 2020 of the planned merger between Sabre and Farelogix. The CAT's judgment contains a number of important statements and guidance regarding the CMA's jurisdictional powers. This article summarises the CAT's findings and analyses its potential implications, given recent UK policy developments.

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