

Articles

PAUL K. GORECKI

Merger control in Ireland after Uniphar/NaviCorp merger: improved procedures, better outcomes? 471

On 15 December 2022 the Competition and Consumer Protection Commission (CCPC) prohibited the acquisition by Uniphar Plc of NaviCorp Ltd; the first merger prohibition since 2008 and the first where remedies were proposed since the CCPC was given responsibility for merger control in 1 January 2003. CCPC procedures in *Uniphar/NaviCorp* unnecessarily restricted the options of the parties in developing remedies and/or withdrawing the notification, biasing the outcome of the CCPC's merger investigation towards prohibition. The CCPC should reform certain aspects of its merger procedures so that they are consistent with the timely and transparent processes employed in international best practice. Resources—both private and public—would be used more effectively. Transparency, accountability and predictability would be increased.

JULIAN NOWAG AND FLEUR WESTENEND

State of play in sports and competition law: AG Rantos' pass to the court in ISU and ESL and the challenges to scoring right 478

This article looks at the state of play in competition law regarding sports in the European Union (EU). It tracks the development of the interaction between sports and competition law while exploring the Opinions provided by AG Rantos in *International Skating Union* and *European Super League*. It sets out five challenges for the CJEU when delivering its judgments in these cases.

DR LUKAS SOLEK

Avoiding gun jumping when structuring options 488

Options are important tools in the mergers and acquisitions (M&A) arsenal. Depending on their structure and other factors, options may result in full or partial implementation of the underlying concentration. This might expose the parties to the risk of negative consequences, not least the imposition of very high fines. This article deals with the factors to be considered when structuring an option.

DR ANDREAS GEIGER

The revision of EU competition law under the EU strategic autonomy 494

European Union (EU) competition law was created to avoid dominant positions of certain national champions in the EU Single Market, prevent cartels amongst companies in the Member States and avoid industrial policy of Member States providing state aid to win the competitive race. Those times are over. The new focus of EU competition law is directed to the outside. It is about what China and the United States might do to the EU. It is de facto an EU industrial policy.

SVEN GALLASCH

Quo Vadis—Australian merger reform and the choice between mandatory pre-notification and ex post administrative powers 500

The current Australian merger reform proposal provides the unique opportunity to discuss, challenge and consider the very foundation of Australian merger control and its voluntary notification system. This article discusses the costs and benefits associated with the choice between the move to a mandatory and suspensory system and the retention of the voluntary system coupled with strong administrative powers. It highlights the ACCC's procedural concerns with the current system against the backdrop of the CMA's recent enforcement actions and transnational concerns raised by several merger investigations in the ASEAN region.

Never call the Chinese competition law enforcement agency “antitrust watchdog” 509

There is a trend that the term “Antitrust Watchdog” is increasingly used within the European Union (EU) and United States (US) news and academia. Although antitrust is well accepted in China and Chinese legal system, the term “Antitrust Watchdog” is not the case and is now perplexing the Chinese audience. There are differences between the understanding of the word “Watchdog” in Chinese and in the Western culture, so does its rhetoric. The word “dog” is rarely used in describing people in either ancient or modern China, nor is it used to refer to government departments. “Watchdog” may incur conflicts when used outside of its traditional safe zone in English or Western culture, which is strongly associated with a cultural attribute. “Antitrust watchdog” isn’t an appropriate appellation for the Chinese competition law agency, a better reference for it is to use either its full name or its abbreviation.

Case Note

JUSTINE HAEKENS

Mergers as an abuse of dominance: insights from the Towercast judgment 513

In *Towercast*, the Court of Justice confirmed that mergers that were not subject to ex ante control can be reviewed ex post by national competition authorities and courts under art.102 Treaty on the Functioning of the European Union (TFEU). This judgment reintroduces mergers as a form of abuse. Unfortunately, certain issues remain unanswered. This case note discusses the application of art.102 TFEU to mergers, the judgment and its wider repercussions.

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