Editorial

JAMES HARVEY

Articles

PAUL GILBERT AND RICCARDO TREMOLADA

Developments in AI have rapidly gained prominence. The most high-profile of these have been innovations in the field of generative AI ("GenAI"). This article provides an overview of the initiatives adopted by competition authorities regarding GenAI, explores potential antitrust issues associated with GenAI, and critically examines the concerns raised by competition authorities. It concludes that the uncertainty surrounding GenAI calls for a cautious approach to antitrust enforcement, allowing this technology room to develop.

ANDRÁS TÓTH

The European Court of Justice's sport case trilogy provides valuable insights into both the specific considerations of sports law and the general principles of competition law in the EU. The trilogy emphasized that sport is not a general policy of the EU and is subject to competition law if it involves economic activities. The Court also highlighted the applicability of art.106 TFEU in sports cases, stressing the need for a transparent and non-discriminatory framework. Additionally, the Court clarified the Meca-Medina and Wouters case-law, stating that not every agreement or decision that restricts the freedom of action of undertakings falls under the prohibition of art.101 TFEU. Overall, the trilogy provides important guidance for the application of competition law in the sports sector and highlights the need for transparent and fair practices in the sports industry.

PROF. DR. CHRISTIAN KERSTING

Undertakings themselves are the addressees of the prohibitions under competition law and are therefore themselves liable for competition law damages in the event of an infringement. This also applies if an undertaking is an economic unit, consisting of a parent company and (some of) its subsidiaries. But can the undertaking itself also be a creditor (and not only a debtor) of claims for damages? This question has been answered affirmatively elsewhere with detailed reasoning. Now the CJEU has ruled in MOL that a parent company cannot bring an action for damages at its place of registered office on the grounds that its subsidiary has suffered harm as a result of anticompetitive conduct. The CJEU expressly states that the parent company cannot invoke the concept of the economic unit to claim damages from its subsidiary at its own place of registered office. Is this a rejection of the possibility of an undertaking being a creditor in competition law? Why this is not the case, but on the contrary, why a door has been opened to consider undertakings as creditors will be explained in the following.

XIAOYE WANG AND YAJIE GAO

It is a general trend that jurisdictions around the world have been strengthening the regulation of the online platforms due to obvious monopoly or oligopoly, under the influence of network effects, economies of scale and big data. The EU Digital Markets Act is the first of this kind regulatory tool to rein in big online platforms through explicitly listing prohibited conducts, among others. With the Digital Markets Act coming into effect, while the public observes Brussels effects, if any, some in China also wonder whether we should transplant this mechanism. One should always take the national status quo into account. Before determining whether China should follow EU's step, we should not only evaluate the efficiency and prospects of anti-monopoly regulation of online platforms, but also assess whether prohibition of series of conducts would benefit the development and innovation of China's digital economy.

JACOPO FIGUS DIAZ AND GIULIA SCRIVANTI

Italian Antitrust Law was recently amended to allow the Italian Competition Authority ("ICA") to call in below-the-threshold concentrations. This article illustrates ICA's new power and the conditions under which the ICA can call in a transaction. It also provides an overview of ICA's application of the call-in power since it came into force.

DIARMUID RYAN, TATIANA SIAKKA AND JAMES MOSLEY

National Reports