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- Antitrust
- Mergers
- State Aid
- Energy
- Electronic communications
- Transport
- Pharmaceuticals

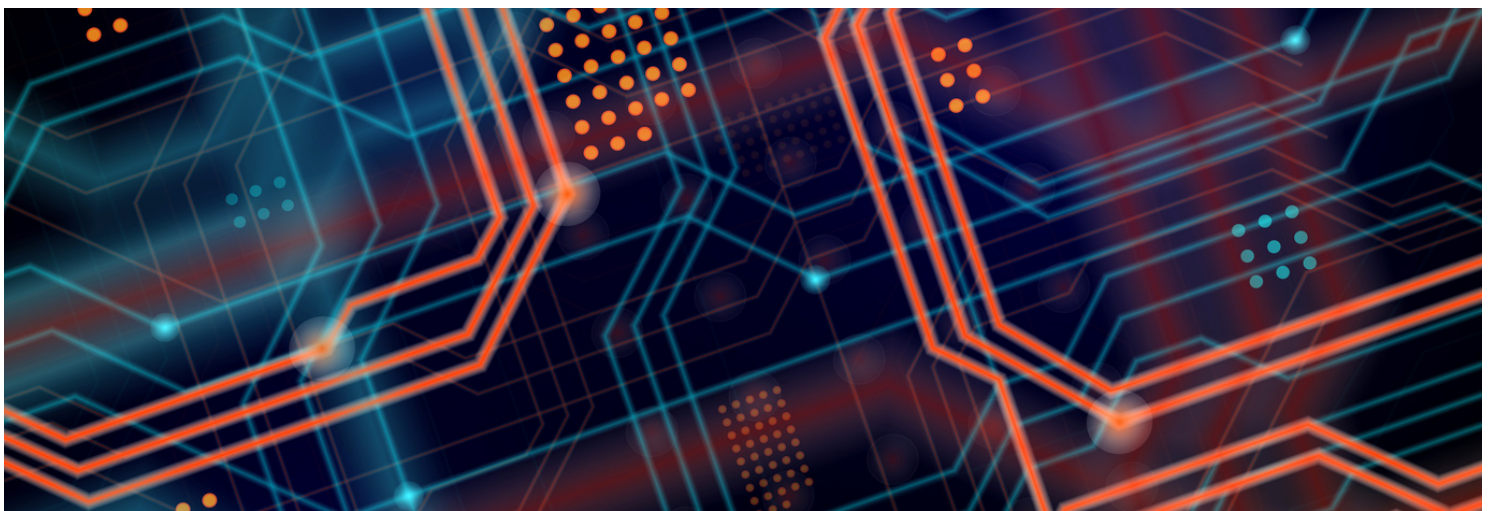
- Commission reacts to consequences and takes actions in order to support companies in the context of Russia's invasion to Ukraine
- Commission approves acquisition of MGM by Amazon
- HCC : Clearance of the proposed acquisition of sole control, over the Merchant Acquiring Business Unit of Alpha Bank SA by Nexi SpA
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- CJEU: C-429/20 P Solar Ileias Bompaina S.A. vs European Commission

Editorial

Digital Markets Act (DMA) : a political agreement between the co-legislators has been achieved on 25 March 2022.

Although over recent years the Commission is very active in terms of ex post implementation of EU competition rules to techno giants, the overall sentiment prevailed that these colossal companies are undercontrolled as far as the fairness of their commercial practices. Thus, the Commission took several initiatives within the broader context of the Commission's digital priorities and ongoing policy and legislative initiatives that also concern the area of Internet of Things (IoT). In recent years, the Commission has adopted a set of policy actions to accelerate the take-up of IoT in the EU, including launching the Alliance for Internet of Things Innovation (AIOTI) in March 2015, to support the creation of an innovative and industry-driven European IoT sector. This was followed in April 2016 by the publication of the European Commission staff working document "Advancing the Internet of Things in Europe", which sets out the EU's IoT vision, and by the "European data economy" initiative, launched in January 2017, which proposes policy and legal solutions aimed at contributing to the creation of a European single market for IoT. On 16 July 2020, the Commission launched a sector inquiry into consumer IoT in the EU. The sector inquiry, which was carried out on the basis of the EU competition rules, pursuant to Article 17 of Regulation 1/2003, focuses on gathering information on companies active in various areas of the consumer IoT sector. Concomitantly the Commission presented a proposal of Regulation (Digital Markets Act – DMA) aiming at regulating ex ante the sensible space of IoT (see [here](#)).

The main idea of the DMA is to impose certain specific obligations to identified powerful undertakings (the so defined Gatekeepers) active in the IoT sector. The purpose is to ensure ex ante non-discriminatory access to platforms, the fairness and contestability of the markets (see articles 5 and 6 of the proposal). A mechanism of compliance is introduced by the DMA proposal. The Commission will have investigation powers and the competence to impose fines and / or periodic penalties to gatekeepers that breach one or more of their specific obligations according to the DMA. The whole mechanism of jurisdictional control is alike to the ordinary jurisdictional control in the field of ex post antitrust enforcement. However, it must be stressed that DMA applies without prejudice of the ordinary antitrust rules (101-102 TFEU).



Antitrust

C-151/20 Nordzucker , C-117/20, Bpost.

CJEU: ON MARCH 22 THE CJEU DELIVERED TWO JUDGMENTS PROVIDING GUIDANCE AND CLARIFYING THE SCOPE OF PROTECTION AGAINST DOUBLE JEOPARDY (THE NE BIS IN IDEM PRINCIPLE).

In **bpost** (C-117/20) the Court ruled that the protection against the ne bis in idem principle does not inhibit an undertaking from being penalized for an infringement of competition law where it has already been fined in a terminal decision for failing to comply with sectoral regulations based on the same facts.

In **Nordzucker**, (C-151/20) the court held that the ne bis in idem principle did not preclude proceedings from being brought against the same undertaking by the NCA of a different Member State, on the basis that the proceedings aim complementary purposes relating to different aspects of the same unlawful conduct of issue.

To read the full judgments, [click here](#).

Commission opens investigation into possible anticompetitive conduct by Google and Meta, in online display advertising

The Commission opened an in-depth investigation to assess whether the agreement between Meta and Google for online display advertising services breaches the EU competition rules. In particular, the Commission is concerned that the agreement under the name “Jedi Blue” may exclude ad tech services and therefore restrict competition in markets for online display advertising, to the detriment of publishers, and consumers.

To read the full press release, [click here](#).

HCC : Ex officio investigation in the market for the installation and maintenance of elevators for possible violation of Article 1 Law 3959/2011

The HCC adopted the Decision no 758/2021 according to which an association of professionals active in the installation and maintenance business of elevators infringed article 101 TFEU. The infringement concerned a clause which allowed the Board of Directors to set minimum remuneration rates for its members. The HCC has imposed several behavioral remedies on the association.

To read the full press release of HCC, [click here](#).

HCC : Settlement Procedure: Decision on the ex officio investigation into the market for the supply of impregnated wooden poles (772/2022)

The HCC under the settlement procedure accepted the settlement submissions of the four companies. The HCC imposed reduced fines up to € 316.798 for the infringement of Article 1 of Law no. 3959/2011. According to the investigation it was established that the above companies participated in a horizontal anti-competitive cartel in the form of an agreement between undertakings within the meaning of art. 1(1) of Law 3959/2011 and 10(1) TFEU. The companies entered to (a) an agreement aiming at fixing prices and quantities and (b) an exchange of competitors' sensitive commercial information, on prices and quantities

To read the full press release of the HCC, [click here](#).

HCC: Unannounced inspections in the construction sector

The HCC conducts ex officio investigations in the construction sector. The HCC examines the effects which will arise from common participation/ ownership of companies active in the construction sector in the light of the competition rules

To read the full press release of HCC, click [here](#).

Merger

The European Commission has approved the proposed acquisition of MGM Holdings Inc. by Amazon.com Inc.

To read the full press release, [click here](#).

HCC : Clearance of the proposed acquisition of sole control, over the Merchant Acquiring Business Unit of Alpha Bank SA by Nexi Sp.

The HCC under decision No. 773/2022 approved the acquisition of sole control by Nexi Spa over the Merchant Acquiring Business Unit of Alpha Bank SA. The decision ruled that although Alpha Bank has a dynamic presence in the market of payment card acceptance services and Nexi is active in the data processing services market related to the acceptance of cards. Alpha Bank is the sole customer of Nexi and thus, the acquirer won't be able to exclude other Customers in this market. This merger despite falling within its scope of paragraph 1 of article 6 of law 3959/2011, does not cause serious concerns, as to its suitability with the requirements of competition in the related markets of payment services in Greece.

To read the full press release of HCC, [click here](#).

HCC : Objections regarding the proposed acquisition by "DELIVERY HERO SE" over companies "ALPHA DISTRIBUTIONS SA", "INKAT SA", "DELIVERY IKE" and "E-TABLE IKE".

The HCC will meet to examine the merger, concerning the acquisition of four companies by "DELIVERY HERO SE". "DELIVERY HERO SE" is a parent company of a group which is active on food distribution and online ordering services. In Greece its subsidiary company "Online Delivery SA" operates the online platforms "e-food" and "e-food market". According to the statement of objections after the acquisition of Delivery Hero with the e-food.gr and delivery.gr online platforms it will hold a dominant market share which is not expected to change dramatically in the future. However, due to the bargaining power of the supermarkets whose sales are mostly achieved thorough their online sites, it is estimated that the merged entity won't restrict the competition in the market compared to the situation before the merger. To read the full press release of the HCC, [click here](#).

HCC : Examination of the commitments proposal by the supermarket buying alliance ELOMAS

Following the statement of objections, on 8th of June the "HCC" will meet up with the purpose of examining the commitments proposed by the ELOMAS group, regarding the possible infringement of Articles 1 Law 3959/2011 and Article 101 TFEU.

To read the full press release [click here](#).

HCC : Clearance of the proposed acquisition of sole control, over the Merchant Acquiring Business Unit of Eurobank SA by "Worldline SA".

To read the full press release of HCC, [click here](#).



State Aid

C-167/19 and C-171/19

CJEU: JUDGMENT ISSUED IN JOINED CASES C – 167/19 AND C 171/19 – EUROPEAN COMMISSION VS FREISTAAT BAYERN(GERMANY) AND OTHERS

In Joined Cases C 167/19 and C 171/19 the CJEU dismissed the two appeals filed by the European Commission against the judgments of the GC which partially annulled the decision that the declared State aid related to milk-quality tests is incompatible with the internal market. According to CJEU, the GC was not in error when it found that the rights of participation of third parties are essential procedural requirements according to 263 TFEU. Furthermore, by not allowing the parties to comment the Commission breached that requirement. The GC correctly concluded that observations of interested parties on the question as to whether budgetary financing constitutes State resources could have influenced the outcome of the proceedings.

To read the full judgments, [click here](#).

T - 508/19 European Commission vs Mead Johnson Nutrition (Asia Pacific) and Others

In April 2022 the General Court delivered a judgment regarding the non-taxation of royalty income in Gibraltar. It partially annulled the decision of the Commission under no.2019/700 based on procedural deficiencies of the Commission.

To read the full judgment, [click here](#).

Commission approves €95 million Polish Aid for expansion of LG Chem's electric vehicles battery plant

To read the full press release, [click here](#).

Commission approves €209 million Hungarian Aid for construction of SK on Hungary's electric vehicle battery plant.

To read the full press release, [click here](#).

Commission opens in-depth investigation into Greek support measures in favor of postal operator Hellenic Posts (ELTA)

The Commission is concerned, if the Greek support measures in favor of ELTA are compatible with the State Aid rules of EU. In 2020 the Commission received several complaints regarding the measures taken to benefit ELTA. These measures include a) payment by the Greek State as well as additional compensation for the period of 2013-2018, b) a capital injection by Greece into ELTA's share capital (December 2020), c) granting VAT exemption to all postal services of ELTA since 2000.

To read the full press release, [click here](#).

Commission approves €2 billion Hungarian investment support scheme towards a sustainable recovery

To read the full press release, [click here](#).

Commission approves €250 million Portuguese measure under the Recovery and Resilience Facility to further capitalise Banco Português de Fomento

To read the full press release, [click here](#).

Commission approves €7 billion French scheme to support investment towards a sustainable recovery

To read the full press release, [click here](#).

Commission reacts to consequences and takes actions in order to support companies in the context of Russia's invasion to Ukraine

The European Commission has responded to the consequences of the Russian invasion and has adopted a Temporary Crisis Framework with the purpose of providing State Aid and support to companies operating in Ukraine. Many Member States such as France, German, Poland, Spain, and Ireland enforced schemes in order to assist companies operating in this country. Commission has approved a French scheme that enables up to €155 billion in liquidity support for companies across all sectors, a German scheme that enables up to €20 billion, a Polish scheme allowing € 836 million to support businesses in the agricultural sector, an Irish scheme giving € 18 million to support the road haulage sector and a Spanish scheme providing € 169 million to support milk producers in the context of Russia's invasion.

- To read about the Commission's Adaptation of the Temporary Crisis Framework click [here](#).
- To read about the French Scheme, [click here](#).
- To read about the German Scheme, [click here](#).
- To read about the Polish Scheme, [click here](#).
- To read about the Irish Scheme, [click here](#).
- To read about the Spanish Scheme, [click here](#).



Energy

C-429/20 P Solar Ileias Bompaina v Commission

CJEU: On April 2022 the CJEU issued a judgment rejecting Solar Ileias appeal and condemned the company to pay the legal costs for both parties in a seven-year dispute deriving from the former Greek government's action to reduce solar feed-in tariffs and gain back previous payments. When Solar Ileias tried to annul the European Commission's findings of December 2018, it was not permitted to do it because he was not considered as an interested party. Even though the developer appealed for the lack of interested party status the Court ruled that the appeal has been rejected.

To read the full judgment, [click here](#).

C-102/21 and C-103/21

CJEU: JUDGMENT ISSUED IN JOINED CASES C – 102/21 AND C 103/21 – KW, SG vs AUTONOME PROVINZ BOZEN.

The CJEU on 7th of April in the joined cases, ruled that measures granted after the expiry of an aid scheme must be regarded as new aid which constitutes unlawful aid, the provisional recovery of which the EU Commission may order until it has ruled on its compatibility.

To read the full judgments, [click here](#).

Commission approves €2.9 billion Spanish scheme to compensate energy-intensive companies for indirect emission costs

To read the full press release, [click here](#).

Commission confirms unannounced inspections in the natural gas sector in Germany

The Commission carried out inspections at several companies which have a dynamic presence in the sector of supply, transmission, and storage of natural gas. The Commission concerns that there is a violation of Article 102 TFEU.

To read the full press release, [click here](#).

HCC : Clearance of the proposed acquisition of sole control over DEPA INFRASTRUCTURE SA

To read the full press release of HCC, [click here](#).

HCC : Approval of the notified merger concerning the acquisition by the company SIEMENS ENERGY AG

The HCC approved the suggested acquisition by "SIEMENS ENERGY AG", through its subsidiary under the name "SIEMENS GAS AND POWER HOLDING B.V.", member of the "SIEMENS ENERGY" group. The HCC approved the concentration notified in January 2022, considering that, although it falls within the scope of article 6(1) of L. 3959/2011, it does not raise any serious concerns as to its compatibility with competition rules in the individual markets concerned.

To read the full press release of HCC, [click here](#)

Electronic Communications

Commission approves €2 billion Austrian scheme under Recovery and Resilience Facility to support roll out of broadband networks

To read the full press release, [click here](#).

Commission approves €2 billion Italian scheme under the Recovery and Resilience Facility to support roll out of 5G mobile networks

To read the full press release, [click here](#).

Transport

T-324/17 SAS Cargo Group and Others v Commission

T-340/17 Japan Airlines v Commission,

T- 341/17 British Airways v Commission,

T-350/17 Singapore Airlines and Singapore Airlines Cargo v Commission

Cartel on the airfreight market: the General Court rules on actions brought by multiple airlines

In March 2022 the General Court ruled on actions brought by multiple airlines. In 2010 the Commission adopted a decision against multiple undertakings operating on the airfreight market which had participated in a pricing cartel between 1999 - 2006 and imposed a fine in a total amount of € 790 million. Lufthansa and two of its subsidiaries were granted immunity from fines. The Commission found that the carriers had infringed certain provisions of TFEU. In 2015 the GC upheld actions brought against that decision and annulled it. On 17 March 2017, the Commission adopted a new decision. The carriers brought new actions seeking annulment of the decision or a reduction of the amount of the fines imposed on them. Eventually, the GC dismisses the actions brought by Singapore Airlines and Singapore Airlines Cargo. It annuls the Commission decision in part, in so far as it concerns Japan Airlines, Air Canada, British Airways. In SAS Cargo Group and Others, the GC concluded that those carriers did not infringe the provisions of EU law and the EEA Agreement relating to cartels on routes from Thailand to the European Union for part of the period of the infringement as regards the element relating to the fuel surcharge. However, to ensure equal treatment the GC increases part of the amount of the fines imposed.

To read the full judgments, [click here](#).

Commission carries out unannounced inspections in the automotive sector

To read the full press release, [click here](#).

Commission approves €120 million Spanish scheme under Recovery and Resilience Facility to support sustainable rail freight transport

To read the full judgments, [click here](#).

Pharmaceuticals

Commission partially refers acquisition of a part of McKesson by Phoenix to France's competition authority and clears proposed merger outside France

Phoenix and McKesson have an active presence in the wholesale and retail distribution of pharmaceutical products in EU. The Commission concerned that the proposed acquisition threatened to significantly affect the competition in the markets for wholesale pharmaceutical distribution in France, where McKesson and Phoenix have dominant power. The Commission assessed in detail, the aforementioned markets and concluded that, besides France, the proposed transaction would not raise competition concerns.

To read the full press release, [click here](#).

HCC carries out unannounced inspections for the supply of medical products through a public tender

To read the full press release of HCC, [click here](#).



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