

Competition

&

Regulation Report

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EDITORIAL: Antitrust and Actions for damages

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Editorial: Anti-trust and Actions for damages

Infringements of competition and especially cartels and some serious exclusionary practices of dominant firms can cause significant financial harm to competitors and indirectly to consumers. Fines and other administrative measures imposed to infringers from the Commission and the National Competition Authorities (NCAs) are not always sufficient for fully reestablishing the competitive equilibrium, notably because these sanctions are inadequate to deal with the harm already suffered (past harm) by competitors. Thus, actions for damages play a key role for implementing efficiently competition policy by coupling the action of the authorities of protection of competition.

Nevertheless, actions for damages within the member states do not always meet this important role as additional tool for safeguarding undistorted competition in the markets. This is due to various reasons: lack of approximation of the applicable legislations of the Member States, inherent difficulties such as standards of proof, establishment of the necessary causal link between the infringement and the prejudice suffered, quantification of the damage suffered and insufficient technical expertise of the ordinary national courts called upon to deal with actions for damages.

The European Commission follows an active policy for promoting actions for damages on grounds of competition

infringements. In that respect, the Commission has adopted a proposal of directive. The main issues addressed by the proposal are the following:

- ✓ Parties will have easier access to evidence necessary in actions for damages.
- ✓ Commission's Decisions and Decisions of NCAs, will constitute full proof before civil courts that the infringement occurred.
- ✓ Clear limitation period rules are established, so that parties have sufficient time to bring an action.
- ✓ The principle of full compensation (actual loss suffered but also for lost profits) is established as minimal.
- ✓ The proposal clarifies the legal consequences of the so-called "passing on". Direct customers of an infringer sometime offset the increased price they paid by raising the prices they charge to their own customers (indirect customers). When this occurs, the infringer can reduce compensation to direct customers by the amount they passed on to indirect customers. Compensation for that amount is in fact owed to indirect customers, who in the end suffered from the price increase. However, since it is difficult for indirect customers to prove that they suffered this pass-on, the proposed Directive facilitates their claims by establishing a rebuttable presumption that they suffered a part of the price increase, to be estimated by the judge.

✓ The proposal establishes a rebuttable presumption that cartels cause harm. This will facilitate compensation, given that victims often have difficulty in proving the harm they have suffered.

✓ Any participant in an infringement should be responsible towards the victims for the whole harm caused by the infringement, (principle of joint and several liability). However, this principle should not apply to infringers who cooperated with an investigation and obtained immunity from fines before a competition authority (leniency).

On 2 December 2013 the Council adopted its general approach on the Commission's proposal, which gives the Council Presidency the mandate to start negotiations with the European Parliament and the European Commission with a view to reaching an agreement in the first reading. Actually, the proposal is on elaboration in the respective committees (Legal Affairs and Economic and Monetary) of the European Parliament.

In the same framework, the Commission has adopted a Communication and a Practical Guide on the quantification of harm caused by infringements of the EU antitrust rules.

As the above described framework lays down minimal rules, further legislative action will be necessary on behalf of the Member States. Full and correct transposition of the directive when adopted will be of vital importance. Furthermore, the Regulation 1/2003

provides for the possibility of a closer cooperation of the national courts with the Commission in anti-trust cases without prejudice of the possibility of the national courts to refer a preliminary ruling to the Court of Justice. All these legal tools and procedures could substantially help to improve the effectiveness of actions for damages in anti-trust cases to the final benefit of competitors and consumers.

The relevant documentation can be consulted in the [website of the Commission \(DG Comp\)](#).

Anti-trust

Commission obtains from Google comparable display of specialized search rivals

The European Commission has obtained an improved commitments proposal from Google in the context of the ongoing antitrust investigation on online search and search advertising. To read the full Press Release (IP/14/116) of the Commission click [here](#). A Memo (MEMO/14/87) on the Frequently Asked Questions was also released by the Commission and is available [here](#).

The Court of Justice dismisses the appeals brought by Siemens, Mitsubishi and Toshiba concerning a cartel on the market for gas insulated switchgear

The fine of €396.56 million imposed on Siemens and the finding that Mitsubishi and Toshiba participated in

the cartel thus become final. To read the full Press Release of the Court (PRESS RELEASE No 161/13), click [here](#).

Vice President of the European Commission, responsible for Competition Policy, Joaquin Almunia, gives a speech entitled “Competition policy for the post-crisis world: A perspective”.

On 17.01.2014, the Vice President of the European Commission, responsible for Competition Policy, Joaquin Almunia, attended the celebrations for the first ten years of the College of Europe’s Global Competition Law Centre and gave a speech regarding the perspectives of the competition policy for the post-crisis world, underlining that Europe needs *“a pro-active approach, not a defensive one, to reinforce the foundations of a credible and sound EU strategy for growth”*. The best and most powerful asset to achieve growth is, according to the Vice President, the realization of the full potential of the Single Market, which is interpreted as breaking the remaining national barriers and ensuring effective competition within and cross Member States. In particular, the Vice President referred to three key areas where national barriers still remain, hindering competitiveness and growth possibilities: Telecommunications and online markets; Energy market; Banking and financial sectors.

Within this context, Joaquin Almunia discussed in more detail how the different instruments of competition

policy contribute to the ultimate goal of enhancing growth across the EU, dividing the work of DG Competition in three kinds of action: corrective action for antitrust including cartels, preventive action with reference to the review of proposed mergers and policy action in the State aid domain. The full text of the speech is available in the [Website of the Commission \(DG Comp\)](#).

HCC Sectorial Inquiry for fresh fruits and vegetables

The Hellenic Competition Commission (HCC) has conducted a sector inquiry into the production, marketing, distribution and retail of fresh fruits and vegetables, covering the period from 2005 to 2011. The sector inquiry examined the structure of the supply chain for fresh fruits and vegetables and the regulatory framework governing its operation, the formation and variation of prices, costs and profit margins in the different stages of the supply chain, as well as the degree and speed of price transmission from the level of producers to that of end-consumers. The inquiry focused on seven (7) selected fruits and vegetables, namely Apples, Oranges, Peaches, Potatoes, Tomatoes Cucumbers and Lettuce. The [summary](#), [annex I](#) and [annex II](#) of the Inquiry are publicly available in the website of the HCC.

“Pari Mutuel Urbain” (PMU) undertakes to separate the activity of online horse betting from its monopolized network of mortar shops.

The French Competition Authority (“Autorité de la concurrence”) accepted on 25.02.2014 the commitments undertaken by PMU in relation to the separation of its activity of online horse betting from its monopolized network of mortar shops. To read the full press release of “Autorité de la concurrence” click [here](#). The full text of the decision is also available [here](#).

Commission makes Visa Europe's commitments to cut inter-bank fees and to facilitate cross-border competition legally binding

The European Commission has rendered legally binding the commitments offered by Visa Europe to significantly cut its multilateral interchange fees (MIFs) for credit card payments to a level of 0.3% of the value of the transaction (a reduction of about 40 to 60%) and to reform its rules in order to facilitate cross-border competition. To read the full press release of the Commission (IP/14/197) click [here](#). The Commission also published a relative Memo on the Frequently Asked Questions. To read the Commission's Memo (MEMO/14/138) click [here](#).

United Kingdom: OFT clears Way for Discounts on Hotel Rooms

On 31 January 2014, the Office of Fair Trading (OFT) accepted formal

commitments from two of the UK's largest online travel agents, Booking.com and Expedia, together with InterContinental Hotels Group, which will enable them and their contractual partners to offer, by end April 2014, discounts on rates for hotel rooms located in the UK.

[Read more](#)

Sweden: Competition Authority's new Responsibility for providing Support to contracting Authorities and Economic Operators in Area of Public Procurement

As of 1 January 2014, the Swedish Competition Authority has been tasked with providing general support to contracting authorities and economic operators in the field of public procurement, including specific fields such as innovation and sustainability. This will result in changes within the Authority in terms of both responsibilities and resources.

Read the ECN publication [here](#).

Commission consults on prolongation of special competition regime for liner shipping consortia

The European Commission is inviting comments on a proposal to prolong an exemption of liner shipping consortia from the application of EU antitrust rules that prohibit certain agreements between companies. Interested parties are invited to submit their views before 31 March 2014. To read the full press release of the Commission (IP/14/196) click [here](#).

Mergers

Commission clears acquisition of Nokia's mobile device business by Microsoft

The European Commission has cleared under the EU Merger Regulation the proposed acquisition of most of Nokia Corporation's devices & services business (the "D&S business") by Microsoft Corporation. To read the full Press Release of the Commission (IP/13/1210) click [here](#). The full text of the decision was also published on 11.02.2014 and is available [here](#).

Commission approves creation of a joint venture by Ferrostaal Industrieanlagen and Rheinmetall

The European Commission has approved under the EU Merger Regulation the creation of Rheinmetall International Engineering, a joint venture between Rheinmetall Germany and Ferrostaal Industrieanlagen, both of Germany. The transaction was examined under the simplified merger review procedure. To read the full Press Release of the Commission (MEX/13/1216) click [here](#).

Microsoft's acquisition of Skype is compatible with the internal market

The merger does not restrict competition either on the consumer Internet-based communications market or on the business Internet-based communications market. To read the full press release of the General Court

of the European Union (PRESS RELEASE No 156/13), click [here](#).

The European Commission has approved under the EU Merger Regulation the acquisition of joint control over Financiera El Corte Inglés, E.F.C., S.A. "FECI" by Santander Customer Finance, S.A. "Santander" and El Corte Inglés S.A.

The Commission concluded that the proposed acquisition would not significantly change the market structure and there will be a number of strong players in the markets for card issuing and consumer credit as well as in their respective sub-segments. To read the full press release of the Commission (MEX/14/0130) click [here](#).

Commission clears acquisition of joint control over TNT Post UK by Lloyds Banking Group alongside current parent PostNL

The European Commission has cleared under the EU Merger Regulation the acquisition of joint control over TNT NN1 Limited ("TNT Post UK") by Lloyds Banking Group plc ("Lloyds") and PostNL NV. To read the full press release of the Commission (MEX/14/0131) click [here](#).

Commission clears acquisition of Portuguese water company AGS by Marubeni and Innovation Network

The European Commission has found the acquisition of joint control over Administração e Gestão de Sistemas de Salubridade, S.A. (AGS) of Portugal by

Marubeni Corporation (Marubeni) and Innovation Network Corporation of Japan (INCJ), both of Japan to be in line with the EU Merger Regulation. To read the full press release of the Commission (MEX/14/0210) click [here](#).

Commission approves Russian joint venture between Rudus East and Lujabetoni.

The European Commission has approved under the EU Merger Regulation the creation of a joint venture by Rudus East and Lujabetoni, both of Finland. To read the full press release of the Commission (MEX/14/0210) click [here](#).

Commission clears reacquisition of Acciai Speciali Terni and VDM by ThyssenKrupp, concluding the remedy implementation process following the Outokumpu/Inoxum merger

The European Commission has concluded that the proposed reacquisition of Acciai Speciali Terni (AST) and Outokumpu VDM (VDM) by ThyssenKrupp AG (TK) is in line with the EU merger regulation. The reacquisition does not raise any competition concerns, since the merged entity will continue to face a number of credible competitors. To read the full press release of the Commission (IP/14/143) click [here](#).

Commission clears acquisition of joint control over Parque Principado by CPPIB and Intu

The European Commission has cleared under the EU Merger Regulation the acquisition of joint control over the Luxemburg based company Parque Principado by the Canada Pension Plan Investment Board ("CPPIB") of Canada together with current parent Intu Properties Plc ("Intu") of the UK. To read the full press release of the Commission (MEX/14/0225) click [here](#).

Commission sends warning to Munksjö and Ahlstrom for providing misleading information in a merger case

The European Commission has sent a Statement of Objections (SO) to Ahlstrom Corporation, Munksjö Oyj, both of Finland, and Munksjö AB of Sweden, warning them for providing misleading information regarding their notified plans to combine their activities in the production of abrasive paper backings. To read the full press release of the Commission (IP/14/189) click [here](#).

State Aid

Commission adopts new guidelines for state aid to airports and airlines

The European Commission adopted new guidelines on how Member States can support airports and airlines in line with EU state aid rules. The guidelines are aimed at ensuring good connections

between regions and the mobility of European citizens, while minimising distortions of competition in the Single Market. The full press release (IP/14/172) of the Commission is available [here](#). The formal adoption and publication of the new guidelines in the Official Journal in all EU official languages is foreseen for March 2014. For information purposes, the text of the new guidelines is available [here](#). Moreover, the Frequent Asked Questions memo of the Commission can be found [here](#). Issue II of the Competition Policy Brief, issued in February 2014 by the European Commission, is also dedicated in the new state aid rules for the aviation industry. To read the full text of the said issue click [here](#).

Commission's new on-line state aid benchmarking tool shows less aid to banks

The most recent State aid Scoreboard shows that there was a sharp reduction in the outstanding guarantee support provided by Member States to the financial sector during the crisis. To read the full press release of the Commission (IP/13/1301) click [here](#). The new State Aid Scoreboard can be found [here](#).

Commission opens in-depth investigation into restructuring aid for Cyprus Airways

The European Commission has opened an in-depth investigation to verify whether Cyprus' plans to support the restructuring of Cyprus Airways

with €102 million are in line with EU state aid rules. To read the full press release of the Commission (IP/14/107) click [here](#).

Commission consults on draft guidance on notion of aid

The European Commission is inviting comments on a draft notice aimed at providing practical guidance for identifying state aid measures that need to be notified to the Commission for approval before being implemented, pursuant to Article 108 (3) of the Treaty on the functioning of the European Union (TFEU). The text of the draft notice is available [here](#). Comments can be submitted until **14 March 2014**.

Commission orders Poland to recover incompatible state aid from Gdynia airport

The European Commission found that the public funding granted by the municipalities of Gdynia and Kosakowo to Gdynia airport gives the beneficiary an undue economic advantage over its competitors, in particular the Gdansk airport, in breach of EU state aid rules. To read the full press release of the Commission (IP/14/138) click [here](#).

Judgment in Case C-69/13, Mediaset SpA v. Ministero dello Sviluppo Economico

When executing a Commission decision declaring an aid scheme illegal and incompatible with the internal market, the national court is not bound by the institution's later statements of

position, but must take them into consideration by virtue of the principle of sincere cooperation. In that regard, the calculations made by the national court to quantify the amounts to be repaid may, on the basis of all the factors of which it has been made aware, result in an amount equal to zero. To read the full Press Release of the Court of Justice of the European Union (**PRESS RELEASE No. 18/2014**) click [here](#).

Commission approves certain State aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (“ETS Guidelines”)

By virtue of its Decision no. [C \(2013\) 7906/14.11.2013](#), published in the Official Journal of the European Union on 21.01.2014 (JOCE C/17/2014), the Commission authorized a Spanish scheme to compensate undertakings for a part of their indirect emission costs, that is to say costs resulting from the EU Emission Trading System (“ETS”), under the Commission’s Guidelines on certain state aid measures in the context of the greenhouse gas emission allowance trading scheme post-2012 (“ETS Guidelines”), pursuant to Article 107 (3) c) of the Treaty on the Functioning of the European Union (TFEU).

In another case, the Commission authorised an allocation of 404,6 million free greenhouse gas emission allowances for the modernization of the Polish electricity sector. The full press

release of the Commission (**IP/14/61**) is available [here](#).

The Commission has also approved similar measures for Cyprus (case [SA.34250](#), [IP/12/700](#)), Estonia (case [SA.33449](#), [IP/12/700](#)), Romania (case [SA.34753](#)), Czech Republic (case [SA.33537](#), [IP/12/1411](#)) Hungary (case [SA.34086](#), [IP/12/1411](#)) and Bulgaria (case [SA.34385](#)).

National courts are not bound by the positions adopted by the European Commission when declaring an aid scheme unlawful and incompatible with the internal market (although bound by the decision).

The Court of the European Union, examining a request for a preliminary ruling (Case C-69/13), ruled on the scope of the national courts’ competence when judging an aid scheme that has been declared unlawful and incompatible with the internal market by the European Commission. The full text of the Judgment dated of 13.02.2014 is available [here](#).

Overview of decisions and on-going in-depth investigations in the context of the financial crisis

The European Commission published on 24.02.2014 an overview of state aid decisions and on-going in-depth investigations in the context of the financial crisis. To read the full Memo of the Commission (**MEMO/14/126**) click [here](#).

Commission approves restructuring of Cypriot cooperative banks

The European Commission has found recapitalization and restructuring aid measures in favor of the Cooperatives Credit Institutions and their central body, the Cooperative Central Bank Ltd. (together "the cooperative banking sector") in Cyprus to be in line with EU state aid rules. To read the full press release of the Commission (IP/14/186) click [here](#).

New draft rules for State aids in agriculture, forestry and rural areas, available for information and feedback

The draft new rules on State aids in the agriculture and forestry sectors and in rural areas (block exemption Regulation and Guidelines) have been put online in all official EU-languages. Although the new rules have not yet been adopted by the Commission, the drafts are made public to inform interested parties who can make comments by 24 March 2014. The revision aims at modernizing state aids and adapting them to the new Common Agricultural Policy. To read the full press release of the Commission (IP/14/185) click [here](#).

Commission approves the State aid measure "Prolongation of Broadband Network Development in White Rural Areas of Greece"

On 16.01.2014 the European Commission, after assessing the State aid measure "Prolongation of Broadband Network Development in White Rural Areas of Greece", decided

not to raise objections, as the State aid is compatible with Article 107(3)(c) of the TFEU. The decision was published in the Official Journal of the European Union on 21.02.2014 (JOCE C/50/2014). To read the full text of the Commission's decision click [here](#).

Commission publishes the decision of prolongation of the Greek regional state aid map 2007-2013 until 30.06.2014

On 21.02.2014 the European Commission made available the public version of the decision dated 19.11.2013, regarding the prolongation of the Greek regional aid map 2007-2013 until 30 June 2014 (JOCE C/50/2014). To read the full text of the decision click [here](#).

Commission publishes the decision approving the Reset of Greek Motorway concession projects

On 21.02.2014 the European Commission made available the public version of the decision dated 13.12.2013 regarding the reset of Greek Motorway concession projects. The Commission concluded that the aid in question is compatible with the Treaty under Article 107(3)(c). To read the full text of the decision click [here](#).

[Decisions on state aid pending for publication in the OJ](#)

Energy

The French mechanism for offsetting the additional costs arising from the obligation to purchase the electricity generated by wind turbines falls within the concept of an intervention by the State through State resources

The charges paid by final consumers of electricity, managed by the Caisse des dépôts et consignations, must be regarded as remaining under public control. To read the full press release of the General Court of the European Union (**PRESS RELEASE No. 163/2013**) click [here](#).

Commission clears acquisition of Greek power plant Heron II by Qatar Petroleum, GEK TERNA and GDF SUEZ

The European Commission has found the acquisition of joint control over Heron II Viotia Thermoelectric Station S.A. (Heron II) of Greece by Qatar Petroleum International Limited (QPI) of Qatar, GEK TERNA S.A. of Greece and GDF SUEZ S.A. of France to be in line with the EU Merger Regulation. The public version of the decision is available [here](#).

Commission is referring Cyprus to the Court for failing to transpose the EU rules on minimum oil reserves

The European Commission is referring Cyprus to the Court of Justice of the EU for failing to transpose the Oil Stocks Directive, which requires Member States to maintain minimum

stocks of crude oil and petroleum products to ensure security of oil supply in case of possible disruptions. To read the full press release of the Commission (**IP/14/156**) click [here](#).

Action plan to support the development of blue energy

The Commission has added a [new communication](#) to focus specifically on the potential of the ocean energy sector to contribute to the objectives of the Europe 2020 Strategy, as well as the EU's long-term greenhouse gas emission reduction goals. It outlines an action plan to help unlock the sector's potential. To read the full press release of the Commission (**IP/14/36**) click [here](#). To read the Frequently Asked Questions Memo (**MEMO/14/31**) click [here](#).

Progress towards the Internal Energy Market 2014: Pilot project for EU wide electricity trade

Grid operators and power exchanges from 14 EU Member States (Belgium, Denmark, Estonia, Finland, France, Germany, Austria, UK, Latvia, Lithuania, Luxembourg, the Netherlands, Poland and Sweden) plus Norway will inaugurate a pilot project for joint electricity trading, so-called day-ahead market coupling. To read the full press release of the Commission (**MEX/14/0204**) click [here](#).

Commission refers Ireland to Court for failing to transpose EU rules

The European Commission is referring Ireland to the Court of Justice of the

European Union for failing to fully transpose the Renewable Energy Directive. The Directive aims at ensuring a 20% share of renewable energy in the EU by 2020. The Directive had to be transposed by the Member States by 5 December 2010. To read the full press release of the Commission (IP/14/155) click [here](#).

The Regulatory Authority for Energy (RAE) completes the opening up of the energy market to the non-interconnected islands

RAE has recently adopted a regulatory framework aiming at the opening up of the energy market to the non-interconnected islands. More specifically, RAE has adopted the Code of Non - Interconnected Islands, the full text of which can be found [here](#) and the Methodology of calculation of compensations for Public Service Obligations (PSO) for the consumers of non-interconnected islands, the full text of which is available [here](#).

Public Consultation on the establishment of the annual priority lists for the development of network codes and guidelines for 2015 onwards

The European Commission launched a public consultation regarding the priorities for the development of network codes and guidelines for 2015 and beyond. Interested parties may submit their comments from 26/02/2014 to 09/05/2014. For more information click [here](#).

Electronic Communications

Cross border provision of pay TV services: new developments

The European Commission has opened formal antitrust proceedings to examine certain provisions in licensing agreements between several major US film studios (Twentieth Century Fox, Warner Bros., Sony Pictures, NBC Universal, Paramount Pictures) and the largest European pay-TV broadcasters such as BSkyB of the UK, Canal Plus of France, Sky Italia of Italy, Sky Deutschland of Germany and DTS of Spain. The Commission will in particular investigate whether these provisions prevent broadcasters from providing their services across borders, for example by refusing potential subscribers from other Member States or blocking cross-border access to their services. To read the full press release of the Commission (IP/14/15) click [here](#).

Commission clears acquisition of part of NextiraOne Group's IT service business by NTT

The European Commission has approved under the EU Merger Regulation the acquisition of certain businesses providing IT services of the NextiraOne Group by Dimension Data Holdings Nederland B.V. of the Netherlands, a wholly-owned subsidiary of Nippon Telegraph and Telephone Group (NTT) of Japan. To read the full press release of the Commission (MEX/14/0109) click [here](#).

Commission raises serious doubts about Latvian Regulator's proposals for call Termination Rates

The Commission has opened a phase II investigation under the powers of article 7 of the framework directive against the telecoms regulator in Latvia (SPRK), over SPRK's plans for new rates in the wholesale call termination markets. To read the full press release of the Commission (MEX/14/0203) click [here](#).

HTPC notifies its Wholesale Interconnection Markets Analysis to the European Commission, BEREC and the National Regulatory Authorities of other Member States.

In February 2014, the Hellenic Telecommunications and Posts Commission (HTPC) notified a draft on the Measures to be adopted by HTPC in accordance with Article 7 of Directive 2002/21/EC, as amended by Article 16 of Law 4070/2012 (Gaz. 82 A'), regarding the definition and analysis of the competition level and the proposed regulatory obligations in relation to the wholesale interconnection markets. The relevant documents are available [here](#).

Pharmaceuticals

Commission fines Johnson & Johnson and Novartis € 16 million for delaying market entry of generic pain-killer fentanyl

The European Commission has imposed fines of € 10 798 000 on the US pharmaceutical company Johnson & Johnson (J&J) and € 5 493 000 on Novartis of Switzerland for concluding an anticompetitive agreement to delay the market entry of a cheaper generic version of the pain-killer fentanyl in the Netherlands, in breach of EU antitrust rules. To read the full press release of the Commission (IP/13/1233) click [here](#).

New provisions on pharmaceuticals

The Law 4213/2013 transposing the Directive 2011/24/EU on cross-border medical care contains a specific article (article 22) concerning the pricing policy of pharmaceuticals in Greece. In execution of this article the Ministerial Decision No. 3457 has been adopted.

The abovementioned provisions tempt to codify and complete the preexisting rules. More specifically: a) they clarify the relation between originals and generics, b) they codify and complete the respective pricing rules. Basically the generic is priced on 65% of the off patent product of reference. Furthermore, the Ministerial Decision clarifies the applicable rules for the so-called "dynamic pricing" (reduction of the prices of generics in a reverse pro rata to the volume of consumption) and

lays down a complete set of rules for the compensation in the frame of the social security system. The full text of the Ministerial Decision can be found [here](#).

Restrictions set by national legislations for the establishment of a new pharmacy

The Court of the European Union, examining a request for a preliminary ruling (Case **C-367/12**), ruled that national legislation which lays down, as an essential criterion for determining whether a need for the establishment of a new pharmacy exists, a rigid limit on the ‘people remaining to be served’, where the competent authorities cannot depart from that limit to take account of particular local geographical conditions, breaches Article 49 TFEU, in particular the requirement that the desired objective be achieved in a consistent manner. The full text of the decision dated 13.02.2014 is available [here](#).

As far as the relevant Greek legislation is concerned, the population criterion adopted for the establishment of new pharmacies was considered as compatible with the Greek Constitution and Article 49 TFEU, by virtue of the Decision no. 229/2014 of the Greek Council of State. The full text of the Decision is available [here](#).

Transport

Advocate General’s Opinion in Case C-487/12 Vueling Airlines SA v. Instituto Galego de Consumo de la Xunta de Galicia

In the view of Advocate General Bot, the Spanish legislation which prohibits air carriers from charging for checking in passengers’ baggage in the form of an optional price supplement is incompatible with EU law. The carriers must nevertheless inform customers of the charges for that service in a clear, transparent and unambiguous way, at the start of the booking process, on an opt-in basis. To read the full press release of the Court of Justice of the European Union (**PRESS RELEASE No. 11/2014**) click [here](#).

Approaching lift off: focus will be key to success of new EU macro-regional strategy for the Adriatic and Ionian

Preparations have reached a milestone for a brand new macro-regional strategy to support cooperation among 8 countries in the Adriatic and Ionian region. Hosted by the Greek Presidency of the Council of the European Union and the European Commission, a high-level Stakeholder Conference took place in Athens on 6-7 February. To read the full press release of the Commission (**IP/14/114**) click [here](#).

French NRA “Autorité de la concurrence” publishes an opinion regarding the long-distance transport of coaches

The French Competition Authority (“Autorité de la concurrence”) published on 27.02.2014 its conclusions associated with a thorough one-year sectorial investigation with regard to the state of competition of the long-distance interurban transport market of coaches in France. To read the full press release of “Autorité de la concurrence” (**Communiqué du 27 février 2014**) click [here](#). The full version of the opinion is also available [here](#).

News of the Markets

- An agreement has been reached between the **Greek Gas incumbent (DEPA SA)** and **Gazprom of Russia** according to relevant statement of the Ministry of Environment Energy and Climate Change for a reduction of price up to 15% for the Russian gas imported to Greece. According to press information the deal between DEPA and Gazprom includes also a reduction of the quantity for which the take or pay clause will apply (to 2 bn cube meters from 2,4 bn cube meters) and a possibility to renegotiate the terms of the agreement after two years. This aspect is particularly important for the Greek side in view of the ongoing antitrust investigation of the European Commission against Gazprom. It implies that if in the future Gazprom is directly or indirectly obliged to offer better prices for its Gas to other

Member States of the European Union, the Greek side will be entitled to ask for a similar treatment. Always according to press information the agreement will generate a pass-on rebate from 8% to 11% to the benefit of consumers (undertakings and individuals) for the tariffs applied by DEPA and that retroactively from 1.7.2013.

- **The full introduction of the possibility to conclude contracts of interruptible load stills pending** as the necessary Ministerial Decision has not yet been issued. Interruptibility is most expected especially by energy intensive industries, which complain for the extremely high cost of electricity. According to press information the troika is said not to be per se opposite to the plans of the Ministry of Environment, Energy and Climate Change, but the specific provisions have to be in accordance with European rules on state aid. Meanwhile, the General Assembly of PPC decided for a reduction of 120% to 35% on the tariffs to apply vis-a-vis heavy industries. However, this special pricing policy could be also challenged in terms of State Aid law constraints.

- The deal for merging between **DIAS** and **SELONTA**, two major companies of fish cultivation sector in Greece has been definitively cancelled, according to relevant public statements provided by both sides of the deal. This outcome has been allegedly expected after DIAS has filed a petition for submission to article 99 of the Bankruptcy Code. It is noted that the proposed concentration has been duly notified to the HCC on 7/5/2013.

According to press information, despite this development, the sector of fish cultivation will be inevitably reshaped due to the crisis. It should be also recalled that the major companies of the sector (Dias, Selonta and Nireus) have been condemned on 2010 from the HCC ([492/VI/2010](#)) for having committed a price-fixing cartel. HCC has rejected the crisis-cartel argumentation of the accused companies. The Administrative Court of Appeal of Athens in reviewing the HCC decision has upheld the rationale of the HCC's decision but annulled the imposed fines estimating that, giving the specific circumstances of the case, a recommendation was the most appropriate sanction to apply.

- Vodafone Hellas and Wind Hellas announced their common decision to proceed to a Joint Venture under the name Victus Networks SA for the joint exploitation of their mobile networks for 2G and 3G technologies in rural areas and in some minor cities of Greece. According to press information, the JV will have on top of the gains in terms of synergies in the telecommunications sector, important positive externalities in other markets, such as the construction sector and the equipment sector.
- DELTA of Vivartia announced the conclusion of an agreement of cooperation with Granarolo for the markets of Italy and France. The agreement provides the distribution in the aforementioned markets of strained yoghurt and cheese of DELTA.
- Goody's decided to operate a supplementary franchise called

"Goody's Burger House" offering mostly Burger menus. Three franchise points operate already in Glyfada, Kifissia and Paspalimani (Piraeus). According to press information Goody's intends to develop the new network either by new contracts or by conversion of existing ones.

- The Summary of European Union decisions on marketing authorizations in respect of medicinal products from 1 November 2013 to 30 November 2013 was published on 28.12.2013 (OJ C 380, 28.12.2013, p. 1-10), pursuant to Article 13 or Article 38 of Regulation (EC) No 726/2004 of the European Parliament and of the Council (OJ L 136, 30.4.2004, p. 1). The relevant list is available [here](#). The list of the decisions taken pursuant to Article 34 of Directive 2001/83/EC (OJ L 311, 28.11.2001, p. 67) or Article 38 of Directive 2001/82/EC (OJ L 311, 28.11.2001, p. 1.) was also published on 28.12.2013 (OJ C 380, 28.12.2013, p. 11-14) and is available [here](#).
- The European Investment Bank (EIB) is providing further support for local authorities in Greece, with EUR 50 million advanced to the Consignment Deposits & Loan Fund (CDLF). This is the second and final tranche of a EUR 100 million framework facility that will provide financing to local authorities in Greece through the CDLF. The facility enables the local authorities to invest in key sectors for growth, jobs and quality of life, such as transport, educational infrastructure, cultural and historic heritage and rehabilitation of public buildings, environmental improvement,

energy efficiency and tourism infrastructure. To optimize the use of the facility the EIB and CDLF organized today an information session for local authority representatives in cooperation with The Hellenic Agency for Local Development and Local Government (E.E.T.A.A.) S.A and the Central Union of Municipalities of Greece (KEDE). The information session was the first of its kind in Greece and was well attended by some 50 representatives of local authorities. In view of the existing substantial investment requirements of local authorities in tandem with current budgetary constraints, the EIB's facility contributes to better living conditions for thousands of citizens all over the country. For more information see the [site of EIB](#).

- The European Commission launched a public consultation on the Single Market of Gas and Electricity. The aim of this public consultation is to seek the views of stakeholders on the functioning of the retail energy market and consumer participation. Interested parties are invited to reply to this public consultation by answering the [online questionnaire](#) by 17.04.2014 at the latest. More information regarding the said public consultation is available [here](#).

- Law 4237/2014 entitled "ADMIE S.A. issues and other provisions" was published in the Official Gazette no. 36 A' 12.02.2014. The full text of the Law can be found [here](#).

- The Hellenic Competition Commission published an opinion on

the bills regarding the professional rights of the civil engineer, architect and topographic engineer sector. The full text of the opinion is available [here](#)

- The tender procedure launched by HTPC regarding the authorization of digital terrestrial television was completed. "Diego - Digital Provider S.A." was nominated as tenderer for all rights to use for radio frequencies of national and regional coverage, for the development of a digital terrestrial television network. The full press release of HTPC dated 07.02.2014 is available [here](#).

- HTPC launched a tender procedure regarding the allowance of the rights to use for radio frequencies of 3,4-3,8 GHz. Interested parties are invited to submit a request for participation in the tender procedure on Monday, 17.03.2014, between 10:00 and 11:00. To read the relevant announcement of HTPC (dated 17.02.2014) click [here](#).

- HTPC launched a public consultation on the minimum requirements to ensure availability of public telephone services, in case of emergency. Comments may be submitted until 21.03.2014. To read the full text of the requirements, as well as the relevant HTPC invitation, click [here](#).

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