

**Competition
& Regulation Report**

January - February 2016

EDITORIAL: HCC accepted commitments proposed by the PPC S.A. to address competition concerns with regard to the supply of electricity to Aluminium of Greece S.A.

HIGHLIGHTS

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Editorial:**HCC accepted commitments proposed by PPC S.A. to address competition concerns with regard to the supply of electricity to Aluminium of Greece S.A.**

Article 9 of Council Regulation EC No. 1/2003 established a new mechanism, allowing the European Commission to close an investigation into a suspected infringement of the antitrust prohibitions contained in Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) by making commitments offered by the undertakings concerned binding on those undertakings. In exchange for commitments from suspected undertakings to change something in their behavior or in their structure, the Commission can close proceedings against them. Within the context of Greek law, the mechanism of commitments was first introduced by article 17 paragraph 2 of Law 3784/2009, which amended Law 703/77, and ultimately “perfected” by Law 3959/2011. In specific, article 25 para. 6 of said law provides that if the Hellenic Competition Commission (HCC) considers, during relevant investigation carried out either on its own initiative or following a request by the Minister of Economy, Competitiveness and Shipping or a complaint, that there is a likelihood of infringement of Articles 1 and 2 of this Law or Articles 101 and 102 of the TFEU, it may, by its decision, accept commitments on the part of the undertakings or associations of undertakings concerned to cease the infringement considered likely and may make such commitments binding for the undertakings or associations of undertakings.

The importance of the aforementioned mechanism is that, at a practical level, commitment decisions are used by competition authorities both to restore a breach in competition, but also as a tool to implement financial policies or policies clearly outlined by the EU Commission – whether by way of sector inquiries, infringement decisions or commitment decisions.

By its decision No. 621/2015, the Hellenic Competition Commission (HCC) accepted commitments proposed by the Public Power Corporation S.A. (PPC S.A.), the dominant producer and supplier of electricity in Greece, so as to meet the preliminary competition concerns expressed by the HCC. The HCC’s investigation in the markets for the production and trade of electricity was initiated following a complaint by Aluminium of Greece S.A. (Aluminium) and its parent group Mytilineos Holdings (group of companies also active in the energy sector) for alleged abuse of dominance¹ by PPC (article 102 TFEU and art. 2 of Law 3959/2011). Aluminium is the biggest high voltage electricity consumer (manufacturer of aluminium). The complainants alleged that PPC refused to supply Aluminium and imposed on the latter unfair and discriminatory trading conditions, thereby also foreclosing a competitor in the upstream electricity production market.

On the basis of the commitments proposed by PPC, PPC shall:

¹ See also, in this regard decision No. [551/VII/2011](#) of the HCC, concerning the acceptance of commitments by HCC the dominant Greek incumbent gas company, to address competition concerns in the market of natural gas supply and the secondary market of natural gas transmission.

1. immediately withdraw its request to the power transmission operator ("ADMIE") to no longer represent Aluminium's electricity meters, revoke the declaration of discontinuation of power supply to Aluminium and the termination of the commercial relationship for power supply with the latter and, subsequently, publicize the said retraction.
2. Continue to supply Aluminium on the current terms and conditions.
3. Conduct negotiations with Aluminium concerning the fees for the supply of electricity to Aluminium on the basis of the pertinent legislation and regulatory framework, to be completed within 3 months with the conclusion of a supply agreement between the parties.
4. Abstain from similar actions until the conclusion of the negotiations / the resolution of the dispute, provided that Aluminium continues to pay the fees it currently pays. To read the full press release of the HCC click [here](#). To read the full text of decision No. 621/2015 of the HCC click [here](#). Furthermore, to read the relevant press release of PPC, with regard to decision No. 621/2015 of the HCC click [here](#).

Antitrust

CJEU: In the field of competition law, the leniency programs of the EU and of the Member States coexist autonomously

On 20.01.2016, in Case C-428/14 (DHL Express (Italy) S.r.l. and Others v Autorità Garante della Concorrenza e del Mercato and Others), the Court of Justice of the European Union (CJEU) ruled on questions referred by an Italian court regarding the interpretation of Article 101 TFEU and Regulation 1/2003. The main proceedings concerned DHL's action for annulment

of the Italian competition authority's decision to fine the company for participating in a cartel in the freight forwarding sector, in breach of Article 101. DHL had submitted an application for immunity from fines for revealing the existence of the cartel to the authority. However, another cartel member, Schenker, had submitted an earlier application to that effect. As only the first company to file an application can get immunity, DHL had been fined. DHL brought an action against that fine, arguing, among others, that the Italian authority should have taken account of an immunity application DHL had filed with the Commission and which preceded Schenker's. The Court ruled that there are no legal links between applications for leniency to the Commission and to national competition authorities. To read the full press release of the CJEU (No. 3/16) in Case C-428/14 click [here](#).

CJEU: judgment issued in the appeal on the power transformers case

On 20.01.2016, in Case C-373/14 (Toshiba Corporation vs European Commission), the CJEU ruled on an appeal against an earlier judgment of the General Court that had dismissed Toshiba's action for annulment of the Commission's 2009 power transformers cartel decision. The Court dismissed the appeal and fully upheld the Commission's findings. To read the full judgment of the CJEU in Case C-373/14, click [here](#).

The CJEU ruled on whether restrictions on granting discounts through travel agents' online booking system could constitute a concerted practice

In Case C-74/14 (*'Eturas' UAB and others v Lietuvos Respublikos konkurencijos taryba*), the CJEU ruled on questions referred by a Lithuanian court regarding the interpretation of Article 101 TFEU. The main proceedings concerned actions for annulment brought by several tour operators against a decision of the Lithuanian competition authority to fine them for concerted practices related to a common online travel reservation system. The platform operator had sent the travel agents participating in the system an electronic message capping the rebates that could be granted for products sold via the system and had technically adapted the system so as to implement this cap. The Lithuanian competition authority had found this to constitute an information exchange on the travel agents' market behaviour, in breach of Article 101. The Court held that travel agents who knew the content of the message could be presumed to have participated in a concerted practice, unless they had distanced themselves from the message, challenged its imposition or adduced other evidence to rebut the presumption, such as systematically granting higher rebates than those set under the cap. It is for the referring court to determine whether, considering all the circumstance of the case, the sending of such a message is sufficient proof that the addressees knew the content. To read the full judgment of the CJEU in case C-74/14 click [here](#).

The CJEU annulled fine imposed by General Court on Galp in relation to Spanish bitumen cartel

In Case C-603/13 (*Galp Energía España SA, Petróleos de Portugal (Petrogal) SA and Galp Energía SGPS SA v Commission*), the CJEU ruled on an appeal by Galp and others against a General Court (GC) ruling of 16 September 2013 in Case T-462-07 (to see the judgment of the GC in Case T-462/07 click [here](#), that had largely dismissed Galp's action for annulment of the Commission's 2007 decision fining the company for its participation in a cartel on the Spanish market for bitumen, but had granted a slight reduction in Galp's fine. The CJEU dismissed most of the appellants' arguments and largely upheld the Commission's findings, except for the participation of the appellants in two accessorial aspects of the cartel (the monitoring system and the compensation mechanism). The Court therefore reduced the fine imposed on the appellants from € 8.7 million to € 7.7 million. To read the full judgment of the CJEU in Case C-603/13 click [here](#).

The GC dismissed appeals by Mitsubishi and Toshiba against re-imposition of fines for gas insulated switchgear cartel

On 19 January 2016, in its judgment in Cases T-404/12 and T-409/12 (*Toshiba vs. European Commission and Mitsubishi Electric vs. European Commission*, respectively) the General Court of the European Union (GC) dismissed appeals by Mitsubishi Electric Corp. ("Mitsubishi") and Toshiba Corp. ("Toshiba") against a Commission decision to re-impose fines for their participation in the gas

insulated switchgear ("GIS") cartel, following annulment of its original decision. In January 2007, the Commission imposed fines totaling EUR 750.71 million on 20 European and Japanese companies for their participation in a cartel on the market for GIS. Mitsubishi and Toshiba were fined EUR 113.92 million and EUR 86.25 million respectively, and EUR 4.65 million jointly and severally. In 2011, the GC annulled the fines imposed on Mitsubishi and Toshiba because the Commission had breached the principle of equal treatment in calculating the fines. Nevertheless, the findings of the infringement were upheld. In 2012, the Commission reviewed the fines imposed on Mitsubishi and Toshiba, reducing them to EUR 74.82 million and EUR 56.79 million, respectively, and EUR 4.65 million jointly and severally. In November 2012, the Applicants challenged the Commission's 2012 decision before the GC.

In its ruling, the GC found that the Commission did not breach the Applicants' rights of defense, nor did it fail to state reasons or breach the principles of equal treatment or proportionality in its recalculation of the fines. The GC stated that because the Applicants had not recorded any relevant turnover in 2003, the Commission was correct to rely on the sales made by their joint venture company in that year to calculate the starting point of the fines. The GC ruled that the role of the Applicants in the infringement was comparable to that of the European companies and, therefore, the Commission did not infringe the principle of equal treatment in setting the fines. Accordingly, the GC dismissed the Applicants' appeals in their entirety. To read the relevant

press release of the GC (No. 2/16) in Cases T-404/12 and T-409/12 click [here](#).

The European Commission fined car parts producers € 137 789 000 in cartel settlement

The European Commission imposed fines of € 137 789 000 on Melco (Mitsubishi Electric) and Hitachi for participating in a cartel for alternators and starters with another firm, Denso, in breach of EU antitrust rules. Denso was not fined as it revealed the existence of the cartel to the Commission. All companies acknowledged their involvement and agreed to settle the case. For more than five years, the three Japanese car parts manufacturers coordinated prices and allocated customers or projects with regards to alternators and starters, two important components of car engines. Although contacts associated with forming and running the cartel took place outside the European Economic Area (EEA), the cartel affected European customers as alternators and starters were also sold directly to car manufacturers in the EEA. To read the full press release of the European Commission (No. IP-16-173) click [here](#).

Greece: New law passed amending provisions of Law 3959/2011 - "Protection of Free Competition"

Under the new law (4364/2016, GG 13 A'/05.02.2016), among others, the age limit of automatic withdrawal from the Hellenic Competition Commission (HCC) is set at 73 years for the president, and vice-president and at 70 years for the rest of the board members. The new law also provides that the board members of the HCC

should have no by blood or marriage relation with any person who is a member of the Greek or the European Parliament, or the government. To read the relevant provisions of law 4364/2016 which amend provisions of Law 3959/2011, click [here](#).

Greece: Assessment by HCC of the commitments proposed by the company “NIK. I. THEOCHARAKIS S.A.”

Within the context of examining the complaints of the company “K.S. Cholis S.A.” against the company “NIK. I. THEOCHARAKIS S.A.”, the companies “NISSAN EUROPE S.A.S.”, “NISSAN INTERNATIONAL S.A.”, “SPX Service Solutions Germany GmbH” and against eight other affiliated or current or former members of the authorized NISSAN sales and services network, concerning a breach of article 1 para. 1 of law 703/1977 (currently in force: article 1 of law 3959/2011), the HCC shall convene on 21.03.2016 in order to examine and decide upon the acceptance or not of commitments proposed by the company “NIK. I. THEOCHARAKIS S.A.”. To read the full press release of the HCC click [here](#).

Greece: Review of the rules on rates per working hour (man-hour) of repair and maintenance services payable by the insurer in the case of accidents involving insured vehicles adopted by AUDATEX HELLAS S.A. and its shareholders, following the administrative courts’ referral of Decision 460/2009 back to the HCC

Following the issuing of a statement of objections, the HCC shall convene on 11.4.2016 to consider whether AUDATEX HELLAS, an association

of undertakings according to the statement of objections, and its shareholders had fixed hourly rates for repair services in the case of accidents involving insured vehicles, payable by the insurance companies using the Audatex software to create repair estimates. Moreover according to the statement of objections AUDATEX HELLAS had fixed the annual increase of hourly rates. The statement of objections also alleges that AUDATEX HELLAS had adopted binding rules and mechanisms to monitor compliance of the users of its software (i.e. insurance companies, estimators and repair shops) with the fixed rates (such as an MFN clause in agreements with repair shops coupled with the obligation to provide access to their books and records, an exclusivity clause in agreements with estimators regarding the use of the Audatex software, appointment by insurance companies exclusively of estimators using the Audatex software and redirecting damaged vehicles to repair shops using the Audatex software). Finally, according to the statement of objections alleged infringements by the Hellenic Association of Insurance Undertakings could not be substantiated to the requisite legal standard. To read the full press release of the HCC click [here](#).

Mergers

The CJEU dismissed Odile Jacob’s appeal in the case concerning Lagardère’s purchase of Vivendi Universal Publishing

In Case C-514/14 (Odile Jacob SAS vs. European Commission), the Court of Justice of the European Union (CJEU) ruled on Odile Jacob’s appeal against a General Court judgment of September

2014. The 2014 judgment had dismissed Odile Jacob's action for annulment of a Commission decision of May 2013 regarding the acquisition of Vivendi Universal Publishing by Lagardère. The Commission had approved the merger in 2004, subject to the carving out of assets now known as Editis under the supervision of an independent trustee. Upon an action by Odile Jacob, whose bid for Editis was unsuccessful, the General Court had annulled the Commission's July 2004 decision to approve the French investment group Wendel as buyer of these assets, questioning the independence of the trustee. The CJEU confirmed this decision. In May 2013, upon a new request by Lagardère, who had appointed a different trustee, the Commission approved Wendel for the second time as purchaser of Editis with retroactive effect. The CJEU now dismissed Odile Jacob's appeal against this decision and entirely upheld the Commission's findings. The Court held in particular that the Commission took the right course of action to comply with the ruling annulling its first buyer approval. In particular, the Commission was right to re-assess Wendel as purchaser of Editis and to approve the buyer after a new report drawn up by a different, fully independent trustee. To read the full press release of the CJEU (No. 5/16) in Case C-514/14 click [here](#).

The European Commission approved acquisition of small package delivery services provider TNT Express by FedEx

Following an in-depth investigation opened in July 2015, the Commission concluded that the acquisition of small package delivery services provider TNT Express by FedEx will not give rise to competition concerns, because FedEx

and TNT are not particularly close competitors and because the merged entity will continue to face sufficient competition from its rivals in all markets concerned. The in-depth investigation into FedEx's takeover of TNT Express was prompted by concerns that the proposed acquisition would substantially lessen competition in certain markets for international deliveries of small packages up to 31.5kg in the European Economic Area (EEA). The Commission concluded that the proposed concentration would not significantly impede effective competition in the EEA or any substantial part of it. To read the full press release of the European Commission (IP-16-28) click [here](#).

The European Commission approved acquisition of Procter & Gamble's beauty products businesses by Coty

The European Commission approved under the EU Merger Regulation the acquisition of Procter & Gamble's beauty products businesses by Coty. The Commission concluded that strong independent players would remain active in all the concerned markets. Coty and Procter & Gamble ("P&G") are both US manufacturers of beauty products. Their main products are fragrances, colour cosmetics and skin & body products. The Commission investigated whether the acquisition would reduce competition and lead to higher prices for these consumer goods in Europe, in particular for fragrances and colour cosmetics. After its investigation the Commission concluded that competition in these markets would remain sufficiently strong to prevent price increases for European consumers. To read the full press release of the European Commission (IP-16- 327) click [here](#).

The European Commission cleared acquisition of joint control over SSP by Mitsubishi and KKR

The European Commission approved under the EU Merger Regulation the acquisition of joint control over South Staffordshire Plc of the United Kingdom ("SSP") by Mitsubishi Corporation of Japan and KKR & Co. L.P of the United States. SSP provides regulated water services, such as the abstraction of water, the treatment of abstracted water and the distribution of water to users via a network of underground pipes, as well as non-regulated water services (water treatment, waste waters, water tankering, etc.) and related services. Mitsubishi Corporation is a global integrated trading company and KKR is a global investment firm. The Commission concluded that the proposed acquisition would raise no competition concerns, because none of the KKR and Mitsubishi Corporation portfolio companies compete neither on the same market as SSP nor in related markets. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission approved acquisition of Northgate by Goldman Sachs

The European Commission approved under the EU Merger Regulation the proposed acquisition of Northgate Information Solutions Limited of the UK by The Goldman Sachs Group, Inc. of the US. Northgate develops and provides integrated software, outsourcing and IT technology solutions and services for payroll and HR management. Goldman Sachs is

active in investment banking, securities and investment management. The Commission concluded that the proposed acquisition would raise no competition concerns, in particular because of the limited overlaps between the companies' activities resulting from the transaction. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission approved Staples' acquisition of Office Depot, subject to conditions

Following an in-depth review, the European Commission approved under the EU Merger Regulation the acquisition of office supplies distributor Office Depot by Staples, subject to the divestment of Office Depot's contract distribution business in Europe and entire business in Sweden. The Commission's investigation focused on the effects of the transaction in the international contract sales channel as well as in the national contract sales channel in the Netherlands and Sweden. The Commission concluded that the commitments remove the entire overlap between the merging companies in all markets where concerns were raised, thus ensuring that an important alternative will remain available on these highly concentrated markets. To read the full press release of the European Commission (IP-16-278) click [here](#).

The European Commission cleared acquisition of SanDisk by Western Digital

The European Commission approved under the EU Merger Regulation the proposed acquisition of data storage

manufacturer SanDisk by rival Western Digital, both of the US, after concluding the takeover would not adversely affect competition in Europe. Western Digital and SanDisk both provide computer storage solutions, such as hard disk drives or solid state drives based on flash memory, for the consumer electronics and enterprise markets. The Commission concluded that the transaction would not raise competition concerns. To read the full press release of the European Commission (IP-16-244) click [here](#).

The European Commission cleared acquisition of GCA by Thomas H. Lee and Goldman Sachs

The European Commission approved under the EU Merger Regulation the acquisition of GCA Services Group, Inc. by Thomas H. Lee Partners, L.P. ("THL") and The Goldman Sachs Group, Inc., all of the US. THL is investing in growth-oriented global businesses. Goldman Sachs offers a range of banking, securities and investment services worldwide and GCA provides a wide range of facility services, such as janitorial and custodial services as well as labour management. The Commission concluded that the proposed acquisition would raise no competition concerns, because GCA is not active in the European Economic Area (EEA). The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of UniCarriers Holdings by Mitsubishi Heavy Industries

The European Commission approved under the EU Merger Regulation the

acquisition of UniCarriers Holdings Corporation ("UCHC") of Japan by Mitsubishi Heavy Industries, Ltd. ("MHI") of Japan. MHI is a multinational engineering, electrical equipment and electronics company active amongst others in the production and sale of forklifts and warehouse equipment in the European Economic Area. UCHC is a holding company active in the development, manufacture and marketing of forklifts, containers carriers, transfer cranes and forklift engines. The Commission concluded that the proposed acquisition raises no competition concerns, as the companies' market shares are very low in the markets where their activities overlap. The operation was examined under the simplified merger procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of parts of Volvo IT by HCL Technologies Sweden

The European Commission approved, under the EU Merger Regulation, the proposed acquisition of certain business operations and assets belonging to Volvo IT by HCL Technologies Sweden. Both companies are headquartered in Sweden. HCL Technologies Sweden is a subsidiary of the HCL Technologies Group, a global technology and IT services provider. Volvo IT is a wholly owned subsidiary of AB Volvo, a global producer and distributor of trucks, buses, construction equipment and marine and industrial engines. The Commission concluded that the proposed concentration would raise no competition concerns, given the companies' low combined market shares and the presence of other strong competitors in the relevant markets.

The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared joint venture between PostFinance AG and SIX Group AG

The European Commission approved under the EU Merger Regulation the acquisition of joint control over SIX Paynet AG by PostFinance AG and SIX Group AG, all of Switzerland. PostFinance comprises the banking activities of the Swiss Post. SIX Group manages the Swiss financial infrastructure, providing services such as trading and settlement of securities, processing of financial information and cashless payments. SIX Paynet is currently solely owned by SIX Group and provides services in the context of electronic invoicing, electronic payments and related services. The Commission concluded that the proposed transaction would raise no competition concerns because SIX Paynet has limited activities in the European Economic Area (EEA) and the companies have a moderate combined position in the market where their activities overlap. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of EMC by Dell

The European Commission approved the acquisition of data storage and software provider EMC by computer technology company Dell, both of the US, under the EU Merger Regulation. Dell and EMC both provide data storage systems, and in particular

external enterprise storage systems. Dell is also active in servers based on x86 architecture. VMware, a company controlled by EMC, is a supplier of virtualization software that can be used in conjunction with these types of servers and storage products. The Commission assessed the effects of the transaction on the market for external enterprise storage systems. The Commission also investigated the risk that the merged entity could attempt to restrict or degrade access to VMware's software for competing hardware vendors. The Commission concluded that the acquisition would raise no concerns. To read the full press release of the European Commission (IP-16-444) click [here](#).

Greece: Clearance of the proposed acquisition of sole control over the operations in Greece of retailer VEROPOULOS by retailer METRO

By its unanimous Decision No. 623/2016, the Hellenic Competition Commission (HCC) in plenary approved, under Greek merger control rules, the proposed acquisition of sole control over the operations in Greece of the VEROPOULOS (Βερόπουλος ΑΕΒΕ) retail supermarket chain by the METRO (Μετρό ΑΕΒΕ) retail and wholesale supermarket chain. According to the decision, the notified transaction does not raise serious doubts as to its compatibility with merger control rules in the relevant markets concerned by the concentration. To read the full press release of the HCC click [here](#). To read the full text of Decision No. 623/2016 click [here](#).

Greece: Public announcement concerning the acquisition of the company “Super Market G. Kanakis S.A.” by the company “Alpha Vita Vasilopoulos S.A.”

On February 9 2016, the HCC was notified, pursuant to the relevant provisions of Greek Law, by the company “Alpha Vita Vasilopoulos S.A.” of its intention to acquire the company “Super Market G. Kanakis S.A.”. To read the full press release of the HCC click [here](#).

Greece: Public announcement concerning the acquisition of part of the the company “VIOKOT S.A.” by the company “TH. NITSIAKOS S.A.”

On February 16 2016, the HCC was notified, pursuant to the relevant provisions of Greek Law, by the company “TH. NITSIAKOS S.A.” of its intention to acquire part of the company “VIOKOT S.A.” (and, in particular, the part of the company engaged in the sale of chicken meat). To read the full press release of the HCC click [here](#).

State Aid

CJEU: Judgment issued in Case T-507/12 (Slovenia v European Commission)

The Court of Justice of the European Union (CJEU) issued its judgment in Case T-507/12 (Slovenia v European Commission). In 2012, the Commission ordered Slovenia to recover illegal state aid from the Slovenian ski-maker Elan. The Slovenian State brought an Action for annulment. The CJEU now rejected the Action and confirmed the Commission's findings. The CJEU held

that a 2008 capital injection, carried out by Elan's publicly-owned shareholders, was imputable to Slovenia. The CJEU confirmed that the capital injection was not carried out on market terms and therefore granted a selective advantage to Elan over its competitors. To read the full judgment of the CJEU in Case T-507/12 click [here](#).

CJEU: Judgment issued in Case C-446/14P Germany vs. European Commission (State aid to Zweckverband Tierkörperbeseitigung)

The CJEU issued its judgment in Case C-446/14P (Germany vs. European Commission), with which it upheld the judgment of the General Court of 16 July 2014 that had confirmed in its entirety a Commission Decision of April 2012. This Commission decision had found that financial contributions to Zweckverband Tierkörperbeseitigung, a German public corporation for the disposal of animal carcasses, by its members (several municipalities) had given the corporation an undue economic advantage over its competitors, in breach of EU State aid rules. To read the full judgment of the CJEU in Case C-446/14P click [here](#).

The General Court confirmed that the guarantee granted by Austria to BayernLB in the context of its restructuring concerning BayernLB's credit lines in favour of Hypo Group Alpe Adria constitutes State aid which is nevertheless compatible with EU law

In Case T-427/12 (Austria v Commission), the General Court of the European Union (GC) ruled on Austria's action for annulment of a Commission decision of July 2012 authorising restructuring aid in favour

of BayernLB, including a €2.6 billion funding guarantee granted by Austria in the context of the nationalisation of the Austrian Hypo Group Alpe Adria (HGAA), a subsidiary of BayernLB. The guarantee covered intra-group funding that remained with HGAA after the nationalisation. Austria guaranteed that the amount would be reimbursed so that BayernLB reduced the risk that it would face in the event of HGAA's insolvency. This gave the bank an economic advantage. The Commission therefore assessed the guarantee in the context of BayernLB's restructuring plan and found that the guarantee involved compatible state aid. Austria contended that the guarantee involved no state aid. The GC dismissed the action and confirmed the Commission's findings. The GC also held that the civil action pending before a national court had no influence on the question whether the measure constitutes state aid and therefore the Commission was not bound to take it into account. To read the full press release of the GC (No. 8/16) in Case T-427/12 click [here](#).

GC: Judgment issued in Case T-620/11 (GFKL Financial Services v Commission), and Case T-287/11 (Heitkamp BauHolding v Commission)

On 04.02.2016 in Case T-620/11 (GFKL Financial Services v Commission) and in Case T-287/11 (Heitkamp BauHolding v Commission), the GC ruled on actions for annulment of a Commission decision of 2011 finding a provision of the German corporate tax law known as "Sanierungsklausel" (or reorganisation clause), to be incompatible with EU state aid rules. Several companies brought actions for annulment against

the decision. The GC dismissed two of these actions, brought by Heitkamp Holding and GFKL. The Court fully upheld the Commission's findings and confirmed in particular that the Sanierungsklausel, a measure which excludes healthy companies from the benefit of certain tax advantages granted to ailing companies, procured the latter a selective advantage over their competitors, in breach of EU state aid rules. To read the full judgment of the GC in Case T-620/11 click [here](#) and in Case T-287/11 click [here](#).

GC: Actions for Annulment filed with the Court in the Fiat and Starbucks Cases

As reported in our C&RR Issue 2015/4, on 21 October 2015, the Commission issued its decisions concerning tax rulings in favor of Fiat Finance (Luxembourg) and Starbucks (Netherlands) (see the relevant press release of the European Commission, [IP-15-5880](#)). In response to the aforementioned decisions of the European Commission, both Luxembourg and the Netherlands lodged actions for annulment before the GC, of the Commission's decisions in the Fiat and Starbucks cases, respectively, which were published on 15.02.2016 in the Official Journal of the European Union. To read the summary of the pleas of the action for annulment lodged by Luxembourg in the Fiat case (Case T-755/15) click [here](#). To read the summary of the pleas of the action for annulment lodged by the Netherlands in the Starbucks case (Case T-760/15) click [here](#). Moreover, the pleas of Fiat in its own action for annulment against the Commission's decision were also published. To read the summary of the

pleas of Fiat in Case T-759/15 click [here](#).

The European Commission concluded Belgian "Excess Profit" tax scheme illegal; around €700 million to be recovered from 35 multinational companies

The European Commission concluded that selective tax advantages granted by Belgium under its "excess profit" tax scheme are illegal under EU state aid rules. The scheme has benefitted at least 35 multinationals mainly from the EU, who must now return unpaid taxes to Belgium. The Belgian "excess profit" tax scheme, applicable since 2005, allowed certain multinational group companies to pay substantially less tax in Belgium on the basis of tax rulings. The scheme reduced the corporate tax base of the companies by between 50% and 90% to discount for so-called "excess profits" that allegedly result from being part of a multinational group. The Commission's in-depth investigation opened in February 2015 showed that the scheme derogated from normal practice under Belgian company tax rules and the so-called "arm's length principle". To read the full press release of the European Commission (IP-16-42) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-16-44) click [here](#).

European Commission: Latest Scoreboard shows how State Aid Modernisation has cut red tape for unproblematic aid

The European Commission updated its State Aid Scoreboard, which shows that in 2014 Member States (EU28) spent €101.2 billion, i.e. 0.72% of GDP, on state aid to manufacturing services,

agriculture and fisheries. This is an increase of around €33 billion from 2013, reflecting Member States' increased awareness, following adoption of the 2014 Energy and Environmental Aid Guidelines, that renewable energy support involves state aid. The Member States also made extensive use of the possibilities offered by the 2014 modernisation of State aid rules, in particular the new General Block Exemption Regulation (GBER). To read the relevant press release of the European Commission click [here](#).

The European Commission approved impaired asset management measures for banks in Hungary and Italy

The European Commission found Hungarian and Italian plans aimed at transferring nonperforming loans off the balance sheets of Hungarian and Italian banks to be free of any state aid. The Commission concluded that the pricing models used by the Hungarian asset management company ensure it will buy non-performing loans at market prices. The Commission also decided that under the state guarantee scheme chosen by the Italian authorities, the State will be remunerated in line with market conditions for the risk it will assume by granting a guarantee on securitised non-performing loans. This formalises an understanding reached between Commissioner Vestager and Minister Padoan on 26 January 2016. To read the full press release of the European Commission (IP-16-279) click [here](#).

The European Commission published its final report entitled “Ex-post evaluation of the impact of restructuring aid decisions on the viability of aided (non-financial) firms

To read the full report of the European Commission click [here](#).

European Commission: Overview of decisions and on-going in-depth investigations of Financial Institutions in Difficulty

In 2008/2009, the Commission adopted a temporary state aid framework to enable Member States to deal with financial problems in systemic banks, as well as support access to finance for real economy firms. The crisis rules for banks, which were tightened in July and December 2010, were extended on 1 December 2011. The Temporary Framework for state aid measures to support access to finance in the current financial and economic crisis expired in December 2011. The Commission now published a factsheet to provide an overview about investigations and decisions. To read the full press release of the European Commission (MEMO-16-282) click [here](#).

The European Commission ordered Belgium to recover €211 million from several steel companies within the Duferco group

The Commission concluded that €211 million funding granted by the Walloon authorities in Belgium to several steel companies within the Duferco group between 2006 and 2011 distorted competition in breach of EU state aid rules. Following an in-depth investigation, the Commission concluded that no private investor

would have accepted to invest at the same terms as the Belgian Foreign Strategic Investments Holding (FSIH), a public authority controlled by the Walloon Government in Belgium. The public funding therefore provides a selective advantage to its recipients that their competitors who have to operate without such subsidised funding did not have. To read the full press release of the European Commission (IP-16-113) click [here](#). To read the relevant statement of Commissioner Vestager (STATEMENT-16-118) click [here](#).

The European Commission invited comments on functioning and future of simplified procedure for treatment of certain types of aid

The European Commission launched a public consultation to seek stakeholders' views on the Commission Notice on a Simplified Procedure for the Treatment of Certain Types of Aid. This Notice sets out the conditions under which the Commission can follow a simplified procedure for assessing certain types of state aid cases. The Commission consultation seeks feedback from public authorities, citizens, companies, organisations and other interested parties on their experience with the implementation of the Notice. In light of the replies, the Commission intends to carry out a review to take account of feedback received as well as to reflect changes brought about by the Commission's State Aid Modernisation (SAM) initiative. Comments are invited until 6 April 2016. To read the relevant press release of the European Commission click [here](#).

The European Commission approved seventh prolongation of Cypriot bank guarantee scheme

The European Commission approved, under EU State aid rules, a prolongation until 30 June 2016 of the government guarantee scheme for credit institutions in Cyprus. The original scheme was authorised on 6 November 2012. Since then its prolongation has been authorised several times, the last time in July 2015. The Commission found this seventh prolongation of the measure to be in line with its guidance on support measures for banks during the financial crisis. The prolonged measure is targeted, proportionate and limited in time and scope. The Commission, therefore, concluded that the guarantee scheme represents an appropriate means of remedying a serious disturbance in the Cyprus economy and as such, is compatible with Article 107(3)(b) of the Treaty on the Functioning of the EU. During the application of the extraordinary crisis rules for state aid to banks, the Commission is authorising guarantee schemes on banks' liabilities for successive periods of six months in order to be able to monitor developments and adjust conditions accordingly. To read the relevant press release of the European Commission click [here](#).

Energy**The European Commission cleared acquisition of Topaz, RPIF and Esso Ireland by Alimentation Couche-Tard**

The European Commission approved under the EU Merger Regulation the acquisition of Topaz Energy Group Limited, Resource Property Investment

Fund Plc. ("RPIF") and Esso Ireland Limited, all of Ireland, by Alimentation Couche-Tard Inc. ("ACT") of Canada. ACT is a worldwide convenience store operator primarily active in the European Economic Area (EEA) through its petrol station network in Norway, Sweden, Denmark, Poland, Latvia, Lithuania and Estonia. Topaz supplies motor fuels, lubricants, heating oil and aviation fuel to retail and wholesale clients in Ireland and in Northern Ireland. RPIF holds investments in a number of Topaz's properties including service stations and depots. Esso Ireland is active in the retail and wholesale supply of fuel products in Ireland. The companies' activities overlap only for the wholesale supply of lubricants in the EEA. The Commission concluded that the proposed acquisition would raise no competition concerns given the companies' moderate positions on this market. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared joint venture between Saudi Aramco and Lanxess

The European Commission approved under the EU Merger Regulation the creation of a joint venture between Aramco Overseas Company B.V. of the Netherlands, a subsidiary of Saudi Arabian Oil Company of Saudi Arabia, and Lanxess Deutschland GmbH of Germany. Aramco is active in the international petrochemical industry. Lanxess is a specialty chemicals company with global activities. The joint venture will include Aramco's and Lanxess' activities in the synthetic rubber business. The Commission

concluded that the proposed transaction would raise no competition concerns because several competitors will remain in the market after the transaction and it will not lead to a change of the market structure. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of joint control over Saipem by ENI and FSI

The European Commission approved under the EU Merger Regulation the acquisition of joint control of Saipem S.p.A. by ENI S.p.A. and Fondo Strategico Italiano S.p.A. ("FSI"), all of Italy. Saipem is active globally in engineering and construction for the oil and gas industry. ENI is active globally in the whole oil and gas value chain, as well as in the generation and sale of electricity, the petrochemical and engineering sectors. FSI is a holding company investing directly or indirectly in companies of "significant national interest" to Italy. The Commission concluded that the proposed transaction will raise no competition concerns, given the significant number of alternative competitors active on all markets concerned. The transaction was examined under the normal merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of joint control of Hydro Dolomiti Enel by Macquarie European Infrastructure Fund and Dolomiti Energia

The European Commission approved under the EU Merger Regulation the

acquisition of joint control over Hydro Dolomiti Enel by Macquarie European Infrastructure Fund ("MEIF4") and Dolomiti Energia. MEIF4 is active, through its portfolio company Renvico, in the generation and wholesale supply of electricity in Central-Southern Italy. Dolomiti Energia operates mainly in Northern Italy in several areas, including generation and supply of electricity and heat, distribution of electricity and methane gas, water services and collection and disposal of municipal waste. Hydro Dolomiti Enel is active in the generation and wholesale supply of electricity with a portfolio of hydro plants located in Northern Italy. The Commission concluded that the proposed acquisition will raise no competition concerns, because the companies have a limited position on the markets where their activities overlap. The market share increment brought about by the transaction is therefore small and will not significantly alter the market structure. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of Ruhr Oel by BP

The European Commission approved under the EU Merger Regulation the acquisition of Ruhr Oel GmbH (ROG) of Germany by BP p.l.c. of the United Kingdom. BP is a global energy player active across the entire crude oil and natural gas value chain. ROG is active in the refining and ex-refinery sales of refined oil products. The companies' activities overlap for ex-refinery sales of industrial solvents. Furthermore, a vertical relationship arises from BP's wholesale supply of crude oil that can be used as an input for ROG's refining

and ex-refinery sales of refined oil products. The Commission concluded that the proposed acquisition would raise no competition concerns given the companies' moderate positions and the number of strong competitors active on these markets. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission published a non-technical summary and technical report entitled "The economic impact of enforcement of competition policies on the functioning of EU energy markets"

To read the summary and report of the European Commission click [here](#).

The European Commission cleared acquisition of Cameron by Schlumberger in oilfield industry

The European Commission approved under the EU Merger Regulation the acquisition of Cameron by Schlumberger, both of the US. Cameron provides drilling and production systems, valves and measurement, and topside process systems used on oil, gas and process platforms above sea level. Schlumberger provides oilfield products and services supplying technology, information solutions and integrated project management for oil and gas customers. Cameron's stake in OneSubsea, currently a joint venture between Cameron and Schlumberger, is also part of the transaction. OneSubsea was formed in 2013 and is active in the development and supply of products and services for subsea oil and gas production. Cameron's and Schlumberger's activities present limited

overlaps in the markets of produced water treatment (de-oiling and sand management), as well as on the market of drilling chokes. The Commission concluded that the proposed acquisition would raise no competition concerns, given the very limited overlaps between the companies' activities and the modest increment in market shares brought about by the transaction. The transaction was examined under the normal merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of TEN by Engie and REC

The European Commission approved under the EU Merger Regulation the acquisition of Transmisora Eléctrica del Norte S.A. (TEN) of Chile by Engie S.A. of France and Red Eléctrica Corporación S.A. (REC) of Spain. Engie is a global energy player active in the areas of electricity, natural gas and energy services. REC operates the national electricity grid and power transmission system in Spain and is also active in some countries in South America. TEN has currently no activity on the market but will develop and operate an electricity transmission line in Chile. The companies' activities do not overlap. The Commission therefore concluded that the proposed acquisition would raise no competition concerns. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

Greece: RAE published the results of its public consultation for the adoption of a Pricing Regulation for the Gas Distribution Network

To read the relevant press release of the Regulatory Authority for Energy (RAE) click [here](#).

Greece: RAE published the results of its public consultation concerning management issues of the Special Public Utilities Account, and other more general matters concerning transactions of managers for regulated charges

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

Greece: RAE published the results of its public consultation concerning the adoption of a Management Code for the Natural Gas Distribution Network

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

Greece: Athens Court of Appeal backed RAE tariff set for Aluminium of Greece

By its decision No. 634/2016, the Athens Court of Appeal rejected the Public Power Corporation's (PPC) challenge of a decision delivered in 2013 by RAE, through which the power company had been ordered to sell electrical energy to Aluminium of Greece S.A. at a price of 36.6 euros per MWh. In its verdict, the Athens Court of Appeal pointed out that RAE's pricing decision for PPC covers the utility's costs and also yields a profit. PPC had argued that the price imposed by RAE would force the utility to supply electricity below cost and, as a result,

constitutes illegal state aid. The dispute between Aluminium of Greece and PPC began in 2006 after an older tariff agreement between the two sides, dating back to the 60s, expired. The battle escalated in 2013 following RAE's pricing decision.

This judgment of the Appeal Court of Athens was issued just days after the General Court of the European Union issued its Order of 09.02.2016 in Case T-639/14 (PPC v European Commission). By its Order, the GC decided to end the trial in the specific case, and essentially ended the dispute as to whether PPC's pricing constitutes illegal state aid in the specific case at hand. To read the key points of decision No. 634/2016 of the Court of Appeal of Athens, as reported in the press, click [here](#). To read the full Order of the GC in Case T-639/14 (PPC v European Commission) click [here](#).

Electronic Communications

The European Commission cleared joint venture between Lov Group and De Agostini

The European Commission approved under the EU Merger Regulation the creation of a joint venture between Lov Group Invest SAS of France and De Agostini S.p.A. of Italy. The companies will contribute with their respective businesses in the production and distribution of audio-visual content to the joint venture. Lov Group will contribute with Banijay and De Agostini will contribute with Zodiak Media. Both Banijay and Zodiak Media are active in the production and licensing of broadcasting rights for general entertainment TV content in a number of countries, namely Belgium, Denmark,

Finland, France, Italy, Norway, Poland, Spain and Sweden. The Commission concluded that the proposed transaction would raise no competition concerns, because the activities of Banijay and Zodiak overlap only to a limited extent. Moreover, a number of alternative suppliers of TV content will remain active in the markets after the transaction and customers can switch suppliers relatively easy. The transaction was examined under the normal merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of mobile network operator BASE by Liberty Global, subject to conditions

Following an in-depth investigation, the European Commission approved under the EU Merger Regulation the acquisition of BASE, a Belgian mobile network operator, by Liberty Global. The approval is conditional upon the implementation of commitments to ensure effective competition in the Belgian retail mobile market. The agreed remedies adequately address the Commission's concerns since they ensure that a new mobile virtual network operator will enter the retail mobile market, to compensate for the loss of competition resulting from the exit of Telenet as an independent mobile virtual network operator. To read the full press release of the European Commission (IP-16-241) click [here](#).

UK: CAT referred superfast broadband price control appeals to CMA

The Competition Appeals Tribunal (CAT) referred 2 appeals to the Competition and Markets Authority

(CMA) over restrictions to the charges BT is permitted to make for use of its superfast broadband network. British Telecommunications plc (BT) and TalkTalk Telecom Group plc (TalkTalk) both appealed to the CAT following Ofcom's decision on superfast broadband pricing in March last year. The determination will be made by a group of independent panel members supported by a case team of CMA staff. The CMA has 6 months to send its final determination to the CAT. The CAT will then include this determination in its judgment alongside the other issues it has considered as part of the appeals. To read the full press release of the CMA click [here](#).

UK: CMA cleared BT/EE merger

This followed its provisional decision to clear the merger in October 2015. The £12.5 billion acquisition brings together the UK's largest fixed telecoms business and the UK's largest mobile telecoms business. A range of concerns were raised by other operators and customers in the UK telecoms industry, and the CMA's assessment has been complex, detailed and rigorous. After considering in detail responses to the provisional findings, as well as the extensive evidence gathered during the inquiry, the CMA inquiry group decided that the merger is not expected to result in a substantial lessening of competition in any market or markets in the UK, including in relation to the supply of retail mobile, wholesale mobile, mobile backhaul, wholesale broadband and retail broadband services. To read the full press release of the CMA click [here](#).

Pharmaceuticals

The European Commission cleared acquisition of HRA Pharma by Astorg Asset Management and Goldman Sachs.

The European Commission approved under the EU Merger Regulation the acquisition of HRA Pharma, a French company that develops and sells pharmaceutical products and devices in women health and endocrinology sectors, by Astorg Asset Management, a private equity investment firm and Goldman Sachs, a global investment banking, securities and investment management firm. The Commission concluded that the transaction would raise no competition concerns, given that there are no overlaps between the activities of HRA Pharma on the one hand and the activities of portfolio companies controlled by Astorg and Goldman Sachs, on the other hand. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of Walmark by Vita Central Europe

The European Commission approved under the EU Merger Regulation the acquisition of sole control over Walmark, a.s., of the Czech Republic by Vita Central Europe B.V., of The Netherlands. Vita Central Europe already has joint control over Walmark, a manufacturer of dietary supplements, over-the-counter pharmaceuticals and other related products. Vita Central Europe is part of a private equity group known as Mid Europa. The

Commission concluded that the proposed transaction would raise no competition concerns, in particular because there are no overlaps between the companies' activities. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission approved diabetes joint venture between Sanofi and Google

The European Commission approved under the EU Merger Regulation the creation of a joint venture between Aventis Inc., a subsidiary of Sanofi S.A. of France, and Verily Life Sciences LLC, a subsidiary of Alphabet Inc. of the United States, the holding company of Google Inc. Sanofi is a global pharmaceutical group and offers, amongst others, a range of solutions for the treatment of diabetes. Verily Life Sciences is active in life sciences. The joint venture will offer services for the management and treatment of diabetes. In addition, the joint venture may commercialise certain products, such as specialised continuous glucose monitoring devices, insulin pumps and insulin. The Commission concluded that the proposed transaction would raise no competition concerns, in particular since the joint venture's products are not yet commercialised and a number of competitors would remain active in the market after the transaction. The transaction was examined under the normal merger review procedure. To read the relevant press release of the European Commission click [here](#).

UK: The CMA fined a number of pharmaceutical companies for anti-competitive conduct and agreements in relation to the supply of paroxetine

The Competition and Markets Authority's (CMA) decision relates to conduct and agreements between 2001 and 2004 in which GlaxoSmithKline plc (GSK), the supplier of branded paroxetine (an anti-depressant medicine), agreed to make payments and other value transfers totalling over £50 million to suppliers of generic versions of paroxetine. The CMA found that these payments and other value transfers were aimed at delaying the potential entry of generic competitors into the UK market for paroxetine.

In its decision, the CMA imposed fines totaling £44.99 million on the companies directly involved in the infringements (and, where relevant, on their parent companies or successors to these companies):

- GSK's total fine is £37,606,275
- In respect of GUK's infringement, total fines of £5,841,286 were imposed on Merck KGaA (GUK's former parent) and GUK
- In respect of Alpharma's infringement, total fines of £1,542,860 were imposed on Actavis UK Limited (formerly Alpharma Limited), Xellia Pharmaceuticals ApS (formerly Alpharma ApS) and Alpharma LLC (formerly Zoetis Products LLC, Alpharma LLC and Alpharma Inc).

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

Transport

The General Court upheld the fines imposed by the Commission on a number of Companies for their participation in cartels in the international air freight forwarding services sector

By decision of 28 March 2012, the Commission had imposed fines amounting in total to €169 million on a number of companies by reason of their participation, in periods between 2002 and 2007, in various agreements and concerted practices on the market for international air freight forwarding services. Those services included the organisation of transportation of items, and could also include activities such as customs clearance, warehousing or ground services on behalf of customers according to their needs. On 29.02.2016, in its judgments in Cases T-251/12 EGL, Inc. and Others v Commission, T-254/12 Kühne + Nagel International AG and Others v Commission, T-264/12 UTi Worldwide, Inc. and Others v Commission, T-265/12 Schenker Ltd v Commission, T-267/12 Deutsche Bahn AG and Others v Commission and T-270/12 Panalpina World Transport Ltd and Others v Commission, the General Court of the European Union (GC) upheld the aforementioned fines imposed by the Commission on a number of Companies for their participation in cartels in the international air freight forwarding services sector. To read the full press release of the GC (No. 20/16) click [here](#).

The European Commission adopted three decisions requiring taxation of ports in the Netherlands, Belgium and France

The European Commission required the Netherlands to abolish an exemption from corporate tax for its six seaports so as to align the regime with EU state aid rules. The Commission also proposed in two separate decisions that Belgium and France align their taxation of ports with state aid rules. To read the full press release of the European Commission (IP-16-124) click [here](#).

The European Commission seeks feedback on commitments offered by container liner shipping companies

The European Commission invited comments from interested parties on commitments offered by fifteen container liner shipping companies to address concerns relating to concerted practices. The Commission has concerns that container liner shipping companies' practice of publishing their future price increase intentions may harm competition and customers by raising prices for their services to and from Europe, in breach of EU antitrust rules. Fifteen container liner shipping companies ("carriers") have regularly announced their intended future increases of freight prices on their websites, via the press, or in other ways. The carriers are China Shipping (China), CMA CGM (France), COSCO (China), Evergreen (Taiwan), Hamburg Süd (Germany), Hanjin (South Korea), Hapag Lloyd (Germany), HMM (South Korea), Maersk (Denmark), MOL (Japan), MSC (Switzerland), NYK (Japan), OOCL (Hong Kong), UASC (UAE) and ZIM (Israel). A summary of the proposed commitments has been

published in the [EU's Official Journal](#). Interested parties can submit comments within one month from the date of publication. To read the full press release of the European Commission (IP-16-317) click [here](#).

The European Commission cleared joint venture by Triton and KKR in maritime transport.

The European Commission approved under the EU Merger Regulation the acquisition of joint control over a newly created joint venture by Embarcadero Maritime LLC ("EM") of the Marshall Islands, ultimately controlled by KKR &Co L.P. of the US and Nordic Tankers A/S ("NT") of Denmark, ultimately controlled by Triton Managers III Limited and TTF III Limited of Jersey. KKR is a global investment firm. EM operates a fleet of container, chemical, product and LPG vessels. Triton is a group of independent European private equity funds and companies dedicated to investing in medium-sized businesses in Northern Europe. NT is a fully integrated shipping company active in the transport of specialized liquid products in bulks. Through the joint venture, EM and NT would combine some of their stainless steel chemical tankers business in Europe, with focus on North-Western Europe and the Baltic region. The Commission concluded that the proposed acquisition would raise no competition concerns given the 'moderate market positions in the tramp shipping sector resulting from the transaction. The transaction was examined under the simplified merger review procedure. To read the relevant press release of the European Commission click [here](#).

The European Commission approved public service aid to Sundsvall Timra and Skelleftea airports in Sweden

The European Commission found Swedish plans to grant compensation for public service obligations linked to the management of two regional airports to be in line with EU state aid rules. The public funding will contribute to facilitate regional connectivity and development without unduly distorting competition in the Single Market. The Commission's investigation found that the lack of acceptable connections between Västernorrland County and Västernorrland County with Stockholm and the rest of Europe would significantly harm the standard of living of inhabitants of these areas and would significantly reduce the regions' activities and business outlook. This would seriously hamper the social and economic development of these areas. In line with the Aviation Guidelines, the Commission also ensured that the compensation cannot be used to subsidise any airline aiming at developing commercial air transport services. To read the full press release of the European Commission (IP-16-103) click [here](#).

Greece: Public announcement made to HCC regarding a concentration of companies for the management of regional airports in Greece

On 12.01.2016, a concentration of companies was notified, in accordance with article 6, para. 6 of Law 3959/2011, to the Hellenic Competition Commission (HCC), according to which the company styled "FRAPORT AG FRANKFURT AIRPORT SERVICES WORLDWIDE", of the Fraport

Group shall acquire the exclusive control over 14 regional airports in Greece, through two special purpose vehicles (SPVs), namely FRAPORT Regional Airports of Greece A S.A. and FRAPORT Regional Airports of Greece B S.A. To read the full press release of the HCC click [here](#).

Greece: The Operational Regulation and Organization of Services of the Regulatory Authority for Ports was published in the Government Gazzette

To read the full Operational Regulation and Organization of Services of the Regulatory Authority for Ports (GG A' 28/24.02.2016) click [here](#).

News of the Markets**March is 'go or no go' for Bouygues merger decision: Orange**

According to press information, March 2016 could be 'make or break' for French mobile operator Orange, as its deputy CEO hopes a decision over a Bouygues Telecom merger will be made clear within a few weeks' time. The transaction to purchase Bouygues Telecom could amount to some 10 billion euros (\$11 billion) in cash and shares. The deal itself would likely make Bouygues the second-biggest shareholder in Orange after the French government.

Italian consumer groups allege McDonald's abuses dominance in fast-food market

According to press information, McDonald's Corp. could face fresh regulatory headwinds in Europe after three Italian consumer groups filed an antitrust complaint with the European

Union alleging that the fast-food chain imposes illegal terms on its franchisees. The complaint, which is supported by U.S. and European trade unions, alleges that McDonald's abuses its dominant market position and harms consumers by charging its franchisees rents that exceed market rates by up to 10 times, and by limiting their ability to switch to other brands.

HRADF Approved Cosco's Bid for Port of Piraeus

State sell-off fund the Hellenic Republic Assed Development Fund (HRADF) formally accepted the binding bid submitted by Cosco Pacific for the majority stake in Piraeus Port Authority (OLP). HRADF announced that the sell-off agreement will now be forwarded for approval to the State Audit Council, after which the contract for the sale of the 67 percent stake in OLP to the Hong Kong-listed company will be signed. The completion of the transaction will also depend on the Competition Commission's approval. To read the full press release of the HRADF click [here](#).

NBG approved Finansbank sale

According to information of the press, National Bank of Greece will be the strongest lender in the country after the completion of the sale of Turkish subsidiary Finansbank, the group's chairwoman, Louka Katseli, estimated while addressing an extraordinary general meeting for the approval of the sale. The NBG shareholders gave the nod for the concession of Finansbank to Qatar National Bank for the agreed price of 2.75 billion euros. When the repayment of the debts Finansbank had in NBG from loans are included, then

the total amount exceeds 3.5 billion euros.

Shipowners reacted strongly to EU demand

According to press information, the Union of Greek Shipowners has reacted strongly to a series of proposals the European Commission sent to Greece for adoption so the country complies with European rules on equal taxation in maritime transport and does not risk fines for illegal subsidies(as reported in our C&RR Issue No. 2015/5). The Greek ship-owners responded that the country's shipping framework constitutes laws introduced before the country acceded to the then European Economic Community and was recognized fully when Greece became a member in 1981 without ever having been disputed until now. It also constitutes a vital part of the national policy for attracting investment in the shipping sector. According to the same information, European Competition Commissioner Margrethe Vestager has rejected the government's argument that the tax status of shipping in Greece should remain unchanged because shipping companies are already overtaxed, calling also for 'appropriate' amendments to the legislative framework to take place within the next 24 months and to apply as of January 2019, otherwise the Commission will refer Athens to the Court of Justice of the European Union.

Athens sees 'Small PPC' specter return

According to press information, a scheme to create "Small PPC," a subordinate rival to Public Power Corporation, by splitting away part of its production plants, network and clientele, is back on the table despite

the government's expressed opposition to such a plan. Rapid developments are expected regarding the monopoly of PPC in lignite capacity and hydroelectric plant use, with the corporation and the Energy Ministry fighting against the clock to avert what they see as the worst possible scenario. The previous government's plan for a small spin-off to rival PPC may have frozen, but the relevant legislation remains in force as long as an alternative is not found to reduce PPC's retail market share by 25 percent up to 2018 and by 50 percent up to 2020, according to creditor demands.

HRADF seeks suitors for Trainose

During its meeting on January 20th 2016, the Board of Directors of the HRADF decided the relaunching of the international tender for the sale of 100% stake in TRAINOSE. HRADF's goal is to raise the investor's interest on TRAINOSE, which currently operates as the sole provider of rail services in Greece.

The submission of the binding offers must take place until 26 April 2016. To read the full press release of the HRADF click [here](#).

After Piraeus Port, China's COSCO eyes Greek trains to build Europe hub

According to press information, China's COSCO is expected to make an offer for Greece's rail network after becoming the sole bidder for the country's largest port, as the state owned shipping giant forges ahead with a plan to build a European transshipment hub. Buying TRAINOSE and Piraeus Port would give COSCO maritime connections to the Suez Canal and rail links to the Balkans and central and

Eastern Europe. Bolstered by December's merger with China Shipping Group, COSCO's focus on Greece is about building market share at a time of anguish in a bruised and oversupplied shipping sector, industry sources said.

Thrace LNG terminal gets closer

According to press information, a financially and strategically crucial plan which foresees the construction of a liquefied natural gas (LNG) station off the coast of Alexandroupoli in Thrace has come a step closer according to a statement by the Public Gas Corporation (DEPA), with Energy Minister Panos Skourletis highlighting the significance of the project at the Athens Energy Forum 2016. The Greek government appears to back the project, which in combination with the realization of the Interconnector Greece-Bulgaria gas pipeline (IGB) is seen as driving the country's hopes to become a junction for the transmission of gas to Bulgaria and on to Serbia, Romania and even Ukraine.

ELPE and Energean landed Greek gas search blocks

According to information of the press, Greece awarded concessions to Hellenic Petroleum (ELPE) and Energean Oil & Gas for onshore gas exploration and exploitation in three fields in the west of the country. Hellenic Petroleum, Greece's biggest oil refiner, won two of the concessions and the country's sole oil producer Energean Oil & Gas was awarded one. Hellenic Petroleum - in a venture with Italy's Edison and Ireland's Petroceltic - and Energean Oil were the winners of drilling licenses for three onshore and

offshore blocks in western Greece awarded in 2014.

PPC, Hellenic Petroleum, Edison to join forces

According to press information, Public Power Corporation, Hellenic Petroleum (ELPE) and Edison are in negotiations which include the creation of a consortium that could constitute an alternative plan both for the reduction of PPC's share of the domestic electricity market, as Athens has pledged to its creditors, and for the breaking of the PPC monopoly in lignite production. What appears to have been agreed and constitutes the basis of the PPC-ELPE-Edison agreement is the creation of a consortium in which alternative power supplier Elpedison will contribute two natural gas-powered plants at Thisvi and Thessaloniki with a combined capacity of 820 megawatts, while PPC will contribute its existing plant at Meliti and that in Amyntaio.

Verizon considering acquiring Yahoo

According to press information, Verizon is still considering a purchase of Yahoo, but said it needs to better understand the Internet company's assets before deciding whether to make a formal bid. According to the same information, the company is considering all kinds of merger and acquisition options, including both purchases and divestments.

Sklavenitis deal with struggling Marinopoulos seen as lifeline for latter

Two of Greece's biggest supermarket chains, Sklavenitis and Marinopoulos, reached for the former to undertake the

management of the latter's 33 hypermarket stores, which account for a third of Marinopoulos's turnover. The two chains announced the set-up of a joint venture for the management of the 33 stores with an equal stake and an equal number of board members, though the chief executive will be appointed by Sklavenitis. Crucially, the deal with Sklavenitis constitutes part of the Marinopoulos group's restructuring plan, which also includes the sale of a majority holding in its pharmaceutical subsidiary, Famar. It is possible the joint venture model will also be implemented for other companies in the group.

Alternative power suppliers see market share increase

According to press information, the aggressive advertising campaign by alternative power suppliers appears to be paying off, as the seven companies vying to curtail the dominance of Public Power Corporation have recently seen their popularity grow from near-zero to notable levels. Official data by the Operator of the Electricity Market (LAGIE) show Elpedison, Heron, Protergia, Green, Volterra Watt+Volt and NRG Trading have raised their combined market share from 3.7 percent in January 2015 to 5.14 percent in December, with a further rise reported in January 2016.

Greece pushed back deadline for Kasteli airport bids to May 6

The Hellenic State by decision of the Minister of transport, infrastructures and networks pushed backed again the deadline for binding bids to build and operate a new airport on the island of Crete by about two months to May 6 to give investors more time to prepare offers. The government, which signed up to a third international bailout last summer and is craving investments to help return its ailing economy to growth, had set a Feb. 23 deadline.

Gazprom revived Greek-Italian pipeline plan

According to press information, the Greek-Italian gas pipeline project, dubbed Poseidon, is returning to the forefront despite having lost to the Trans Adriatic Pipeline (TAP) in the battle for the transmission of Azeri gas. The project by the Greece's Public Gas Corporation (DEPA) and Italy's Edison staged a comeback as Russian company Gazprom's chief Alexei Miller signed a memorandum of understanding with DEPA chief executive Thodoros Kitsakos and Edison CEO Marc Benayoun on "the transmission of Russian natural gas from Russia - through the Black Sea and third countries - to Greece and then to Italy."

HCC to issue its statement of objections as regards the construction companies' cartel by the end of March 2016

According to press information the HCC is set to issue its recommendation regarding the construction companies' cartel, by the end of March 2016. This case is one of the largest and most

difficult cases handled by the HCC to date.

KLC
law firm

Athens, Ypsilantou Str., 2
106 75
Tel. +30210 7264500
Fax. +30210 7264510
www.klclawfirm.com