

## Competition & Regulation Report

*July - October 2016*

**EDITORIAL:** The CJEU reopened the matter of illegal state aid to Alouminion of Greece S.A.

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**Editorial:**

**The CJEU reopened the matter of illegal state aid to Alouminion of Greece S.A.**

With its judgment in Case C-590/14 P (DEI v. Alouminion tis Ellados and the European Commission) the Court of Justice of the European Union (CJEU) annulled a previous decision of the General Court of the European Union (GC) of 8 October 2014 in Case T-542/11 (Alouminion v European Commission) with which the GC had ordered Greece to recover from Alouminion unlawful state aid amounting to 17,4 million euros, and referred the case back to it for further consideration.

More specifically, by its decision of 23 January 1992, the Commission held that a preferential tariff for the supply of electricity granted to Alouminion under a 1960 contract (between DEI and Alouminion) constituted a state aid scheme compatible with the internal market. Under an agreement between Alouminion and the Greek State, formalised by a legislative decree of 1969, the 1960 contract was due to end on 31 March 2006, unless it was extended in accordance with its provisions. DEI terminated the 1960 contract as of 1 April 2006. Alouminion subsequently challenged that termination before the Greek courts. By order of 5 January 2007, the Single-member Court of First Instance of Athens, suspended, as an interim measure, the effects of the termination. DEI then brought an appeal before the Multi-member Court of First Instance of Athens which, by its order of 6 March 2008, terminated, from that

date, the aforementioned contract.

Subsequent to the above, by its decision of 13 July 2011, the Commission considered that Greece had unlawfully granted Alouminion State aid of an amount of 17.4 million euros since, in consequence of the first order of the Greek courts, Alouminion continued to benefit from the preferential tariff for the period from 5 January 2007 to 6 March 2008. The Commission held that that aid should be classified as new aid and that, since it had been granted without prior notification to the Commission, it was incompatible with the internal market. It therefore ordered Greece to recover the aid from Alouminion.

The GC, in proceedings brought by Alouminion, by judgment of 8 October 2014, annulled the Commission's decision, holding that that aid must be classified as existing aid. DEI, supported by the Commission, brought the appeal proceedings in question before the CJEU arguing that the GC had made errors in law.

In the case at hand, the CJEU held, in the first place, that the GC misinterpreted the case-law of the CJEU and erred in law by finding that the first order of the Greek Court was not to be regarded as a grant or alteration of existing aid. The CJEU considered that the extension of the duration of existing aid must be regarded as an alteration of existing aid and constitutes, therefore, new aid. More specifically, according to the CJEU, the first order of the Greek Court constituted alteration of existing aid and, therefore, new aid. Secondly, the CJEU held that the national courts are responsible for ensuring compliance

with EU law on state aid and are subject to a duty of sincere cooperation with the institutions of the EU.

The CJEU concluded that the GC erred in law by finding that, on the ground that they are ruling in interlocutory proceedings (as in the present case), the national courts may escape the obligations incumbent upon them in the context of the control of State aids.

To read the full press release of the CJEU (No. 116/16) click [here](#) and to read the full judgment of the CJEU in Case C-590/14 P click [here](#).

### **Antitrust**

#### **The CJEU issued its preliminary ruling in Case C-542/14 (VM Remonts and Others)**

In Case C-542/14 (VM Remonts and Others) the Court of Justice of the European Union (CJEU) ruled on questions referred by a Latvian court regarding the interpretation of Article 101 TFEU that prohibits anticompetitive agreements. The CJEU clarified, in particular, the conditions for a company's liability for anticompetitive conduct by an independent service provider it has hired. The CJEU held that a company may, in principle, be held liable for such conduct, provided one of the following conditions was met: (i) the service provider was in fact acting under the direction or control of the company concerned, or (ii) the company was aware of the anti-competitive objectives pursued by its competitors and the service provider and intended to contribute to them by its own conduct, or (iii) the company could reasonably have foreseen the anti-competitive acts

of its competitors and the service provider and was prepared to accept the risk which they entailed. To read the full judgment of the CJEU in Case C-542/14 click [here](#).

#### **CJEU: Advocate General Wahl considered that Intel's appeal against the imposition of a €1.06 billion fine for abuse of its dominant position should be upheld**

In Case C-413/14 P (Intel Corporation Inc. v. European Commission) concerning Intel's appeal against the General Court of the European Union (GC) judgement of June 2014 (which upheld the Commission's decision that Intel abused its dominant position by virtue of operating exclusivity rebate schemes, Advocate General Wahl recommended that the CJEU should set aside the ruling and refer the case back for the GC to carry out a full assessment of the actual or potential effect on competition of Intel's conduct. To read the full press release of the CJEU (No. 114/16) click [here](#).

#### **The CJEU issued its judgment in Case C 101/15 P Pilkington Group v. European Commission**

On 08.09.2016, in Case C 101/15 P (Pilkington Group v. European Commission), the CJEU ruled on an appeal against a ruling in the carglass cartel. The appellant argued against the initial findings of the Court regarding an earlier appeal. The Court dismissed the appeal in full. To read the full press release of the CJEU (No. 85/16) click [here](#).

**CJEU: Order issued in Case C-523/15 P (Westfälische Drahtindustrie GmbH, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG, and Pampus Industriebeteiligungen GmbH & Co. KG v. European Commission)**

On 19 July 2016, in Case C-523/15 P (Westfälische Drahtindustrie GmbH, Westfälische Drahtindustrie Verwaltungsgesellschaft mbH & Co. KG, and Pampus Industriebeteiligungen GmbH & Co. KG v. European Commission) the CJEU handed down its order dismissing the appeal of Westfälische Drahtindustrie GmbH, Westfälische Drahtindustrie Verwaltungsgesellschaft GmbH & Co. KG and Pampus Industriebeteiligungen GmbH & Co. KG against the GC's decision to uphold the fines imposed by the Commission in respect of their participation in a pre-stressing steel cartel. To read the full order of the CJEU in Case C-523/15 P click [here](#).

**CJEU: Order issued in Case C-608/15 P (Panasonic and MT Picture Display v. European Commission)**

In Case C-608/15 P (Panasonic and MT Picture Display v. European Commission), the CJEU upheld €129 million (\$143 million) antitrust fine levied by the Commission in 2012 over violations of EU competition law regarding cathode ray tubes. To read the full order of the CJEU in Case C-608/15 P click [here](#).

**The CJEU issued its judgment in Case C-519/15 P (Trafilerie Meridionali v. European Commission)**

On 15.09.2016 the CJEU issued its judgment in Case C-519/15 P (Trafilerie Meridionali v. European Commission). More specifically, the appellant brought action against the dismissal of the CJEU of an action against the Commission Decision C(2010)4387 setting a fine in the pre-stressing steel case. The CJEU dismissed this action in full. To read the full judgment of the CJEU in Case C-519/15 P click [here](#).

**The CJEU issued its judgment in Joint cases C 490/15 P and C 505/15 P (Ori Martin SA/Siderurgica Latina Martin SpA (SLM) v. European Commission) (prestressing steel decision)**

On 15.09.2016 the CJEU issued its judgment in cases C 490/15 P and C 505/15 P (Ori Martin SA/Siderurgica Latina Martin SpA (SLM) vs. European Commission). The appellants brought action against the dismissal of the Court of an action against the Commission Decision C(2010)4387 and the modified Decision C(2010)2269 setting a fine in the pre-stressing steel case. The court dismissed this action in full. To read the full judgment of the CJEU in cases C 490/15 P and C 505/15 P click [here](#).

**The GC issued its judgment in Case T-146/09 (RENV Parker Hannifin Manufacturing and Parker-Hannifin vs. European Commission)**

By its judgment in Case T-146/09 (RENV Parker Hannifin Manufacturing and Parker-Hannifin vs. European Commission) the GC ruled on Parker's action for annulment of a Commission

decision of 2009 fining the company for its participation in a cartel in the sector of marine hoses. The GC confirmed the Commission's main findings but reduced Parker's fine. To read the full judgement of the GC in Case T-146/09 click [here](#).

**The GC issued its judgment in Case T 76/14 (Morningstar v. European Commission)**

On 15.9.2016 the GC issued its judgment in Case T 76/14 (Morningstar v. European Commission). The appellant lodged an appeal against the Commission Decision accepting the Commitments of Thomson Reuters regarding real-time datafeeds in a case of investigations regarding the abuse of a dominant position. The GC dismissed this appeal and confirmed that the Commission has a wide discretion to make commitments binding or to reject them. To read the full press release of the GC (No. 100/16) click [here](#).

**The GC issued its judgment in Case T-54/14 (Goldfish (Heiploeg) v. European Commission)**

On 8.9.2016 the GC issued its judgment in Case T-54/14 (Goldfish (Heiploeg) v. European Commission). With its judgment, the GC upheld the Commission's assessment of the North Sea Shrimps cartel for Goldfish and other entities of the Heiploeg group. In November 2013, the Commission fined Goldfish and other entities of the Heiploeg group €27 million for operating a long-term cartel in breach of EU antitrust rules. The Commission found that Heiploeg and other North Sea shrimps traders bilaterally discussed a wide range of aspects of their business, including their purchase

prices from fishermen, conduct towards other traders on the market, market sharing, and prices charged to specific important customers that often set the benchmark price for other customers. To read the full judgment of the GC in Case T-54/14 click [here](#).

**The European Commission fined truck producers € 2.93 billion for participating in a cartel**

The European Commission found that MAN, Volvo/Renault, Daimler, Iveco, and DAF broke EU antitrust rules. These truck makers colluded for 14 years on truck pricing and on passing on the costs of compliance with stricter emission rules. The Commission imposed a record fine of € 2 926 499 000. MAN 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. The infringement covered the entire EEA and lasted 14 years, from 1997 until 2011, when the Commission carried out unannounced inspections of the firms. To read the full press release of the European Commission (IP-16-2582) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-16-2585) click [here](#).

**Greece: the HCC introduced settlement procedure for cartels**

By its unanimous Decision No. 628/2016, the Hellenic Competition Commission (HCC) established the terms and conditions of the settlement procedure in cartel cases, according to the provisions of Articles 25a and 14 par 2 of the Greek Competition Act. The new Settlement Procedure concerns cases where undertakings or associations of undertakings make a

clear and unequivocal acknowledgement of participation and liability in relation to their participation in horizontal agreements (cartels) and the subsequent breach of competition law (Article 1 of the Greek Competition Act and/or Article 101 TFEU). As a result, they can obtain a reduction of the imposed fine by 15%, provided that certain conditions are fulfilled. To read the full press release and the full text of Decision No. 628/2016 of the HCC, please visit the website of the [HCC](#).

**Greece: Ex-officio investigation by HCC into the luxury cosmetics market, for alleged infringements of competition rules**

The Grand Chamber of the HCC convened on the 13th of October 2016 to examine, following a relevant statement of objections, whether certain undertakings active in the wholesale and retail trade of luxury cosmetics, committed an infringement of art. 1 of Law 703/1977 (as was applicable), current art 1 of L. 3959/2011, and of art. 101 TFEU. The ex-officio investigation was initiated following complaints by NOTOS COM, the first against five luxury cosmetics wholesalers (namely, ESTEE LAUDER HELLAS S.A, P.N. GEROLYMATOS S.A, L' OREAL PRODUITS DE LUXE HELLAS S.A, GR. SARANTIS S.A. and PARFUMS CHRISTIAN DIOR HELLAS S.A.) and the second against luxury cosmetics retailers under the brand name "HONDOS CENTER". For the purposes of the above investigation, the Directorate-General for Competition DG conducted dawn raids at the premises of the undertakings involved, took witness statements and sent several information requests. To read the full

press release of the HCC please visit the website of the [HCC](#).

**Greece: HCC examined a case involving the operation of parking stations of the Thessaloniki Airport "Makedonia" following a request of the Center for Consumer Protection**

The Plenary of the HCC convened on 22 September to examine, following a relevant proposal, of a case involving an alleged infringement of article 2 of law 703/1977 (presently article 2 of law 3959/2011) concerning the operation of parking areas of Thessaloniki Airport "Makedonia" by the company "MPORIS MOYZENIDIS SINGLE MEMBER LLC". To read the full press release of the HCC please visit the website of the [HCC](#).

**Greece: Ex-officio investigation of the HCC in the market of hemodialysis filters and arterial and venous lines**

The Grand Chamber of the HCC will convene on the 5th of December 2016 to examine, following a relevant statement of objections, whether certain undertakings active in the market of hemodialysis filters and arterial and venous lines infringed competition rules (Arts. 1 of the Greek Competition Act and 101 TFEU). The ex-officio investigation by the General Directorate for Competition (DG) was initiated in 2011 following an eponymous complaint against suppliers of filters and other hemodialysis products. In the context of the investigation, the DG conducted dawn raids at the premises of the suspected undertakings involved, took witness statements and sent several information requests. To read the full press release of the HCC please visit the website of the [HCC](#).



**France: Within the framework of a settlement between all the parties, the Autorité de la concurrence fined Henkel and its wholesaler-importers in several overseas departments €600,000**

The Autorité de la concurrence issued a decision by which it globally fined Henkel and several importers of its products in La Réunion, the Antilles, Guiana and the Wallis-and-Futuna Islands approximately 615 000 euros for implementing exclusive import contracts between March 2013 and February 2016, breaching Article L. 420-2-1 of the French Commercial Code pursuant to the law of 20 November 2012 relative to economic regulation overseas, known as the “Lurel Law”. This decision is the first by which the Autorité publicly released a general settlement with all the companies involved in a same case, given that none of them made a statement of objection. To read the full press release of the Autorité de la concurrence click [here](#).

**France: The Autorité de la concurrence fined for anticompetitive agreement the modelling sector's main professional union and 37 modelling agencies**

The Autorité de la concurrence issued a decision under which it fined the main professional union of modelling agencies, the SYNAM, for having, between 2000 and 2010, drawn up and distributed pricing schedules as a guide to modelling agencies' commercial policy. Advertisers and couture houses could refer to these schedules when setting prices for filming, advertising photos and catwalk shows. 37 modelling agencies, representing almost the entire market turnover, are also fined for having participated in statutory meetings on union pricing schedules

between 2009 and 2010. To read the full press release of the Autorité de la concurrence click [here](#).

**Germany: Bundeskartellamt proceedings against companies of ClemensTönnies group concluded - fines of 128 million euros cancelled due to restructuring measures**

The Bundeskartellamt closed its fine proceedings against two companies of the Zur Mühlen Group. The fines totalling 128 million euros which were imposed on Böklunder Plumrose GmbH & Co. KG, Böklund, and Könecke Fleischwarenfabrik GmbH & Co. KG, Bremen, have become invalid due to internal restructuring measures taken by the companies. The Zur Mühlen Group is a holding company of Mr Clemens Tönnies Senior. To read the full press release of the Bundeskartellamt click [here](#).

## Mergers

**The European Commission requested feedback on certain aspects of EU merger control**

The European Commission launched a public consultation on the functioning of certain procedural and jurisdictional aspects of EU merger control. The public consultation seeks feedback from citizens, businesses, associations, public authorities and other stakeholders. The public consultation will close on 13 January 2017. To read the full press release of the European Commission (IP-16-3337) click [here](#).

**The European Commission approved acquisition of Arianespace by ASL, subject to conditions**

Following an in-depth review, the European Commission approved under the EU Merger Regulation, the acquisition of Arianespace by Airbus Safran Launchers, a joint venture between Airbus and Safran. This approval is subject to conditions. The Commission had concerns that the transaction would give rise to flows of sensitive information between Airbus and Arianespace to the detriment of competing satellite manufacturers and launch service providers. The Commission's approval is conditional on the implementation of the commitments offered by the companies to address these concerns. To read the full press release of the European Commission (IP-16-2591) click [here](#).

**The European Commission cleared joint acquisition of a number of assets held by the National Bank of Greece by DAAM and GSAM**

The European Commission approved under the EU Merger Regulation the acquisition of interests held by the National Bank of Greece S.A. in eleven UK and Guernsey private equity funds by DAAM (Deutsche Alternative Asset Management) of Germany and GSAM (Goldman Sachs Asset Management) of the US. The Commission concluded that the proposed transaction would raise no competition concerns, given that the overlaps between the activities of the companies controlled by the acquirers on the one hand, and the companies controlled by the target funds on the other hand, are very limited. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared joint venture by KH and STRABAG for heavy maintenance works on public roads and motorways**

The European Commission approved under the EU Merger Regulation the creation of a joint venture named A2 Route Sp. z o.o, by Kulczyk Holding S.A. of Poland, a wholly owned subsidiary of Kulczyk Investments S.A. of Luxembourg, and Strabag Sp. z o.o. of Poland, a company belonging to STRABAG SE Capital Group of Austria. The joint venture will be active in Poland in the field of heavy maintenance services on public roads and motorways, including repairs, modifications, renovation of used or damaged road infrastructure, renovation and replacement of road surface, modernisation of road infrastructure, as well as construction works necessary to upgrade the motorway and road infrastructure. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared ice cream joint venture between PAI Partners and Nestlé**

The European Commission approved under the EU Merger Regulation the creation of Froneri, a joint venture by PAI Partners of France and Nestlé of Switzerland. 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 approved the acquisition of joint control over Novy by BNP Paribas Fortis Private Equity, Sofindev and DHAM**

The European Commission approved under the EU Merger Regulation the acquisition of joint control over Novy International NV by BNP Paribas Fortis Private Equity Belgium NV, Sofindev IV NV and DHAM NV, all of Belgium. 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 Sumitomo and MonotaRO**

The European Commission approved under the EU Merger Regulation the creation of a joint venture between Sumitomo Corporation of Japan, PT Sumitomo Indonesia, controlled by Sumitomo Corporation, and MonotaRO Co., Ltd of Japan. Sumitomo Corporation is a global trading group active in a variety of sectors, including metal products, media, energy, chemicals and electronics. MonotaRO markets maintenance, repair and operations supplies to small and medium companies across Asia through its online channel and product catalogues. PT Sumitomo Indonesia is active in a variety of areas including import and export, trilateral trade, and domestic business investment. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of Integral UK by Jones Lang LaSalle**

The European Commission approved under the EU Merger Regulation the acquisition of sole control over Integral UK, of the UK, by Jones Lang LaSalle Services Limited, of the USA. Although both companies are active in the market for the provision of facilities management services, the Commission concluded that the proposed acquisition would raise no competition concerns, given the companies' moderate combined market positions. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of the payment card business of Barclays Bank by Bancopopular-e**

The European Commission approved under the EU Merger Regulation the proposed acquisition of the payment card business of Barclays Bank in Spain and Portugal by Bancopopular-e, a joint venture controlled by Banco Popular of Spain and private funds managed by Värde Partners of the United States. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of Volvofinans Bank by Volvo and Volverkinvest**

The European Commission approved under the EU Merger Regulation the proposed acquisition of Volvofinans Bank AB, a provider of automotive financial services, by Volvo Car Corporation, a vehicles manufacturer, and AB Volverkinvest, an association of Swedish Volvo car dealers. All companies are based in Sweden. The

Commission concluded that the proposed transaction would raise no competition concerns given the companies' moderate market positions resulting from the transaction. To read the relevant press release of the European Commission click [here](#).

**The European Commission approved acquisition of sole control over Sony/ATV by Sony Corporation of America**

The European Commission cleared under the EU Merger Regulation the proposed acquisition of sole control over the music publishing business of Sony/ATV by Sony Corporation of America, both of the US. Sony/ATV, a music publishing company, is currently jointly owned and controlled by Sony and the Michael Jackson Estate. In addition to its own catalogue, Sony/ATV is also the exclusive administrator of the catalogue of EMI Music Publishing, which is ultimately jointly controlled by Sony. The Commission found that the transaction would have no negative impact on competition in any of the markets for recorded music and music publishing in the European Economic Area. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of Bilfinger Real Estate Solutions and Bilfinger Efficiency by EQT VII**

The European Commission approved under the EU Merger Regulation the acquisition of Bilfinger Real Estate Solutions GmbH and Bilfinger Efficiency GmbH (together "Bilfinger"), both of Germany, by EQT VII of the UK. Bilfinger is active in building construction and real estate

management as well as in facility management services. EQT VII, part of the EQT group of private equity funds, is an investment fund which seeks to invest primarily in Northern Europe. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of Navico and C-Map by Goldman Sachs and Altor**

The European Commission approved under the EU Merger Regulation the acquisition of joint control over Navico Holding and Digital Marine Solutions Holding (trading as "C-Map"), both of Norway, by Goldman Sachs Group of the US and Altor Fund IV of Sweden. Navico manufactures marine electronics for yachting and commercial use. C-Map supplies marine maps and charts for recreational and commercial applications. Goldman Sachs is a global investment banking, securities and investment management firm and Altor is a private equity fund. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of joint control over Ferrari Financial Services AG by Fiat Chrysler Automotive Bank and Ferrari Financial Services S.p.A.**

The European Commission approved under the EU Merger Regulation the acquisition of joint control over Ferrari Financial Services AG of Germany by Fiat Chrysler Automotive Bank and Ferrari Financial Services S.p.A., both of Italy. Ferrari Financial Services AG offers financing solutions for Ferrari passenger cars to private and corporate customers in Belgium, France, Germany, Switzerland and the UK. Fiat Chrysler Automotive offers several

types of financing and insurance products for passenger cars and light commercial vehicles, mainly from the Fiat and Chrysler group in several European Economic Area countries. Ferrari Financial Services S.p.A. is a holding company, ultimately controlled by Ferrari. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of Dolce & Gabbana's beauty products license business by Shiseido**

The European Commission approved under the EU Merger Regulation the acquisition of the Dolce & Gabbana fragrances, colour cosmetics, and skincare products license business of Italy by Beauté Prestige International of France, controlled by Shiseido Company of Japan. To read the relevant press release of the European Commission click [here](#).

**Greece: Public announcement of a concentration concerning the acquisition of joint control by the company “Marinopoulos General Commerce Societe Anonyme” and Mr. Emmanuel Manolidakis over the company “Cretan Retail Management Cretan Grocery Stores Societe Anonyme”**

On 12 August 2016, a concentration was notified to the Hellenic Competition Commission (HCC), pursuant to which Mr. Emmanuel Manolidakis intends to acquire joint control over the company “Cretan Retail Management Cretan Grocery Stores Societe Anonyme”. This company is currently exclusively controlled by the company “Marinopoulos General Commerce

Societe Anonyme”. To read the full press release of the HCC please visit the website of the [HCC](#).

**Greece: Clearance by HCC of the proposed acquisition by RAVAGO DISTRIBUTION S.A. of sole control over the operations of DELTA CHEMICALS SA**

By its unanimous Decision No. 629/2016, the HCC approved, under Greek merger control rules, the proposed acquisition of sole control over the operations in Greece of DELTA CHEMICALS SA, a company active in the production and distribution of chemical and plastic products. 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 please visit the website of the [HCC](#).

**Greece: Approval by the HCC of the concentration concerning the acquisition of complete control by the company DERASCO TRADING LTD, over the companies “Autodeal P. & R. Davaris S.A.”**

The HCC, with its decision No. 632/2016 approved the acquisition of 70% of the share capital of each of the companies “Autodeal P& P Davaris S.A.” and “Hyundai Hellas P. & R. Davaris S.A.” by the company DERASCO TRADING LTD. To read the full press release of the HCC please visit the website of the [HCC](#).

**Greece: Announcement to HCC of a concentration concerning the acquisition of control by the company “HOME HOLDINGS S.A.” over the company “IONIKI XENODOXEIAKAI EPICHEIRISEIS S.A.”**

On 25.10.2016, an announcement was made to the HCC concerning the acquisition of control by the company “HOME HOLDINGS S.A.” over the company “IONIKI XENODOXEIAKAI EPICHEIRISEIS S.A.”. To read the full press release of the HCC please visit the website of the [HCC](#).

**Greece: Announcement of a public concentration to HCC concerning, among others, the acquisition by the company “Greek Supermarkets Sklavenitis S.A.” over part of the assets and liabilities of the companies “Marinopoulos S.A.”, “Supermarket Ksynos S.A.”, “Express M. S.A.” and “Peiraikon Super Market S.A.”, and the transfer by the company “Marinopoulos S.A.” to the company “Greek Supermarkets Sklavenitis S.A.” of 100% of the shares of the company “Marketa Arvanitis S.A.”, of 68,61% of the shares of the company “Zeuxi - Greek Grocery Stores and Supermakets S.A.”, of 55% of the shares of the company “Kronos N. Karakitsos S.A.” and of 51% of the shares of the company “Palamaris Emmanouil S.A.”.**

To read the full press release of the HCC please visit the website of the [HCC](#).

**France: The Autorité de la concurrence cleared, subject to the divestiture of 6 stores in Paris and the Parisian region, the acquisition of Darty by the Fnac group**

The Autorité de la concurrence cleared, subject to the divestiture of 6 stores in Paris and the Parisian region, the acquisition of Darty by the Fnac group. In order to fix identified competition issues, the Fnac group committed to divest physical sale outlets located in the Belleville boulevard (Darty), the Italie 2 (Darty) and Beaugrenelle (Fnac) shopping centers, the Saint Ouen avenue (Darty) and the Vélizy II shopping center (Darty). The Fnac group also committed to divest a commercial location in the Wagram avenue where Darty was about to open a store. To read the full press release of the Autorité de la concurrence click [here](#).

**France: The Autorité de la concurrence cleared the acquisition of sole control of Agri-Négoce by Axéreal Participations, subject to commitments**

On 21 April 2016, the company Axéreal Participations, subsidiary of the farming cooperative Axéreal, notified the Autorité de la concurrence of the acquisition of sole control of the company Agri-Négoce, subject to the divestiture of six grain elevators. On 22.09.2016, the Autorité de la concurrence cleared the acquisition of sole control of Agri-Négoce by Axéreal Participations, subject to commitments. To read the full press release of the Autorité de la concurrence click [here](#).

**Germany: Clearance of takeover by REMONDIS of the Bördner group in Limburg**

The Bundeskartellamt cleared the acquisition of the Bördner group, Limburg, by REMONDIS GmbH & Co. KG, Region Südwest, Mannheim. With the companies Albert Bördner GmbH Städteereinigung and B-F Sonderabfall GmbH & Co. KG, the Bördner group is active in the waste management business in the Limburg area and Hochsauerland district. To read the full press release of the Bundeskartellamt click [here](#).

**Germany: the Bundeskartellamt cleared acquisition of Coop by Rewe subject to conditions**

The Bundeskartellamt cleared the acquisition of the northern German food retailer Coop eG, Kiel, by REWE Markt GmbH, Cologne, subject to conditions. Coop operates around 200 supermarkets in the federal states of Schleswig-Holstein, Mecklenburg-Western Pomerania, Brandenburg and Hamburg under the brand name "Sky". To read the full press release of the Bundeskartellamt click [here](#).

**State Aid****Preliminary ruling of the CJEU in Case C 493/14 (Dilly's Wellnesshotel GmbH)**

The Court of Justice of the European Union (CJEU) ruled in Case C 493/14 (Dilly's Wellnesshotel GmbH) on questions referred by an Austrian Court regarding the interpretation of a European Commission regulation exempting certain categories of state aid from prior Commission scrutiny (the General Block Exemption Regulation,

GBER). The Court clarified that an aid scheme that fails to make explicit reference to the GBER, in particular by citing its title and reference of publication in the EU Official Journal, does not fulfill the GBER's exemption conditions. To read the full judgment of the CJEU in Case C 493/14 click [here](#).

**Judgment of the CJEU in Case C-242/15 P (Land Hessen v Pollmeier Massivholz)**

On 12.10.2016 the CJEU ruled in Case C-242/15 P (Land Hessen v Pollmeier Massivholz) on an appeal against a General Court of the European Union (GC) judgment of March 2015. The 2015 ruling had partly annulled a European Commission decision of October 2008 finding German public support measures in favour of the company Abalon Hardwood Hessen to be in line with EU state aid rules. The German company Pollmeier Massivholz had brought an action for the annulment of this decision. The GC had annulled the 2008 decision insofar as it had found that two state guarantees granted to Abalon involved no state aid within the meaning of the EU rules. The German Land of Hessen had appealed this judgment. The CJEU dismissed the appeal and confirmed the GC's 2015 ruling. To read the full judgment of the CJEU in Case C-242/15 P click [here](#).

**Preliminary ruling of the CJEU in Case C-526/14 (Kotnik and Others)**

In Case C-526/14 (Kotnik and Others), the CJEU ruled on questions referred by a Slovenian court regarding the European Commission's 2013 Communication on state aid to banks during the crisis. The CJEU confirmed the validity of the banking



communication. The Court held in particular that requiring burden-sharing by shareholders and subordinated debtholders as a prerequisite for the Commission to authorise state aid to banks with capital shortfalls was not contrary to EU law. To read the full judgment of the CJEU in Case C-526/14 click [here](#).

**Judgment of the GC in Case T 386/14 (FIH Hold/Erhvervsbank v. European Commission)**

The GC issued its judgment in Case T 386/14 (FIH Hold/Erhvervsbank v. European Commission). More specifically, the appellants brought action before the court for annulment of Commission Decision 2014/884/EU on the State aid case SA.34445 (12/C) implemented by Denmark for the transfer of property-related assets from FIH to the FSC. In his judgment, the GC annulled the underlying Commission Decision of 2014. To read the full judgment of the GC in Case T 386/14 click [here](#).

**Judgment of the GC in Case T-220/13 (Scuola Elementare Maria Montessori v. European Commission)**

The GC issued its judgment in Case T-220/13 (Scuola Elementare Maria Montessori v. European Commission). More specifically, the appellant brought action to annul the Commission Decision (2013)284 regarding a tax scheme on property used for non-commercial purposes. The GC dismissed the appeal in full. To read the full judgment of the GC in Case T-220/13 click [here](#).

**Judgment of the GC in Case T-219/13 (Pietro Ferracci v. European Commission)**

The GC issued its judgment in Case T-219/13 (Pietro Ferracci vs. European Commission). More specifically, the appellant brought action to annul the Commission Decision (2013)284 regarding a tax scheme on property used for non-commercial purposes. The GC dismissed the appeal in full. To read the full judgment of the GC in Case T-219/13 click [here](#).

**European Commission: Ireland gave illegal tax benefits to Apple worth up to €13 billion**

The European Commission concluded that Ireland granted undue tax benefits of up to €13 billion to Apple. This is illegal under EU state aid rules, because it allowed Apple to pay substantially less tax than other businesses. Ireland must now recover the illegal aid. This selective tax treatment of Apple in Ireland is illegal under EU state aid rules, because it gives Apple a significant advantage over other businesses that are subject to the same national taxation rules. The Commission can order recovery of illegal state aid for a ten-year period preceding its first request for information in 2013. Ireland must now recover the unpaid taxes in Ireland from Apple for the years 2003 to 2014 of up to €13 billion, plus interest. To read the full press release of the European Commission (IP-16-2923) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-16-2926) click [here](#).



**The European Commission authorised alternative income tax regime for wholesale diamond sector in Belgium**

The European Commission found that Belgian corporate tax provisions applicable to the wholesale diamond sector were in line with EU State aid rules. To read the full press release of the European Commission (IP-16-2683) click [here](#).

**The European Commission referred Greece to Court for failure to recover incompatible state aid from Hellenic Shipyards**

The European Commission decided to refer Greece to the CJEU because it failed to comply with a 2008 Commission decision ordering the recovery of unlawful aid to Hellenic Shipyards. This follows a 2012 ruling by the CJEU condemning Greece for its failure to implement the decision. To read the full press release of the European Commission (IP-16-2592) click [here](#).

**The European Commission decided Spanish professional football clubs have to pay back incompatible aid; cleared support measures for certain football clubs in the Netherlands**

The European Commission concluded following in-depth investigations that public support measures granted by Spain to seven professional football clubs gave those clubs an unfair advantage over other clubs in breach of EU state aid rules. As a result, Spain has to recover the illegal state aid amounts from the seven clubs, namely FC Barcelona, Real Madrid, Valencia, Athletic Bilbao, Atlético Osasuna, Elche and Hercules. Separately, the Commission concluded after an in-

depth investigation that support measures granted by several Dutch municipalities to five football clubs are in line with EU state aid rules. The Commission found that four clubs (FC Den Bosch, MVV Maastricht, NEC Nijmegen and Willem II, Tilburg) received aid but that the support complied with EU state aid rules. To read the relevant press releases of the European Commission (IP-16-2401 and IP-16-2402) click [here](#) and [here](#), respectively.

**The European Commission found Hungary's food chain inspection fee and tax on tobacco sales in breach of EU rules**

The European Commission found that two Hungarian fiscal measures based on progressive turnover rate structures were in breach of EU State aid rules. The Commission concluded that the progressive tax rates grant a selective advantage to companies with low turnover over their competitors. To read the full press release of the European Commission (IP-16-2404) click [here](#).

**The European Commission approved liquidity support for Attica Bank**

The European Commission found that the envisaged state guarantee by Greece in favour of Greek Attica Bank to support the bank's access to liquidity is in line with EU state aid rules. To read the relevant press release of the European Commission click [here](#).

**Energy****Judgment of the CJEU in Case C 574/14 (PGE Górnictwo i Energetyka Konwencjonalna S.A. vs. Prezes Urzędu Regulacji Energetyki)**

On 15.09.2016 in Case C 574/14 - (PGE Górnictwo i Energetyka Konwencjonalna S.A. vs. Prezes Urzędu Regulacji Energetyki), the Court of Justice of the European Union (CJEU) issued its judgement on the request for preliminary ruling submitted by the Supreme Court in Poland as regards an application of PGE against the Polish energy regulator on the enforcement of annual adjustments to State aid by way of compensation for stranded costs in view of changes in the structures of the corporate groups to which the stranded costs beneficiaries belong. By the ruling the CJEU reaffirmed the exclusive competence of the European Commission in assessing the compatibility with the internal market of State aid measures and allows a Member State, when performing the annual adjustments of the stranded costs granted to take a dynamic approach by taking into consideration continuously evolving market circumstances including changes in corporate structures that are subsequent to the moment when the Commission approved the aid. To read the full judgment of the CJEU in Case C 574/14 click [here](#).

**The European Commission approved French plans to support combined heat and power plants**

The European Commission found French plans to support combined heat and power plants using natural gas to be in line with EU state aid rules. The scheme will reduce CO2 emissions and

improve energy efficiency, in line with EU energy and climate goals, without unduly distorting competition. The French scheme will provide support to high efficiency combined heat and power plants with a power output up to 1 megawatt (MW). It will help France to reach its energy efficiency and CO2 emission reduction targets by supporting the deployment of around 7 MW of additional generation capacity. High efficiency combined heat and power units provide at least 10% primary energy savings as compared to units that produce heat and electricity separately. To read the full press release of the European Commission (IP-16-2743) click [here](#).

**The European Commission approved German support to cogenerated electricity; opened in-depth investigation into surcharge reductions**

The European Commission found German plans to support high-efficiency cogeneration to be in line with EU state aid rules. They promote energy efficiency, lower CO2 emissions and lead to a better integration of cogenerated power into the electricity market. To read the full press release of the European Commission (IP-16-3525) click [here](#).

**The European Commission cleared acquisition of joint control over Cubico by PSP and OTTP**

The European Commission approved under the EU Merger Regulation the proposed acquisition of joint control over Cubico Sustainable Investments Holdings ("Cubico") of the UK by Public Sector Pension Investment Board ("PSP") and Ontario Teachers' Pension Plan Board ("OTPP"), both of Canada. Cubico owns, manages and

invests in renewable energy and water infrastructure assets globally. PSP is a pension investment manager and its investments include real estate, private equity, infrastructure and renewable energies. OTTP is an investment fund that mainly distributes its portfolio among public equities, private capital, infrastructure, natural resources and real estate. To read the relevant press release of the European Commission click [here](#).

**The European Commission approved German electricity demand response scheme**

The European Commission approved under EU state aid rules a German measure to stabilise the electricity network by reducing electricity consumption of large consumers. The Commission concluded that the measure improves the security of electricity supply whilst maintaining competition in the Single Market. To read the full press release of the European Commission (IP-16-3524) click [here](#).

**European Commission: successful opening of German gas markets allows early termination of E.ON commitments**

The European Commission released German energy firm E.ON from commitments to reduce long-term bookings on the German gas grid almost five years ahead of schedule. This is because, thanks to the successful implementation of the commitments, competition on the market has increased significantly. To read the full press release of the European Commission (IP-16-2646) click [here](#).

**The European Commission approved Polish scheme to support high-efficiency co-generation of heat and power**

The European Commission found that a Polish scheme supporting high-efficiency co-generators of heat and power is state aid but complies with EU state aid rules since it furthers efficient energy production. The scheme will run until 2018 with an annual budget of over PLN 1 billion (€232 million). To read the full press release of the European Commission (IP-16-3214) click [here](#).

**The European Commission approved Greek support to improve electricity generation on non-interconnected islands**

The European Commission found Greek plans to support the modernisation of power plants on non-interconnected Greek islands to be in line with EU state aid rules. In December 2015 Greece notified plans to grant the Greek electricity company PPC a State guarantee, which would enable the company to secure a €190 million loan from the European Investment Bank ('EIB'). This loan will cover half of the costs for the necessary upgrade, expansion and refurbishment of existing power plants on 18 islands not connected to the electricity grid of the mainland. PPC will finance the other half of the costs from its own budget. The measure involves state aid, because the terms of the public loan are more favourable than those a commercial operator would have accepted. The Commission found that this aid is in line with EU rules, in particular the Commission's 2011 rules on services of general economic interest, since the measure is necessary

to allow PPC to continue to supply consumers on the islands concerned with affordable electricity. It ensures the availability of the required electricity generation capacity on the islands concerned. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared joint acquisition of Termica Milazzo by ENI and Kuwait Petroleum**

The European Commission approved under the EU Merger Regulation the acquisition of Termica Milazzo S.r.l. of Italy, by Raffineria di Milazzo S.p.A, a joint venture between Eni S.p.A. and Kuwait Petroleum Italia S.p.A, all of Italy. The Commission concluded that the proposed acquisition would raise no competition concerns, because of the very limited overlaps between the companies' activities generated by the transaction. To read the relevant press release of the European Commission click [here](#).

**Regulators of Bulgaria and Greece approved the Bidding Phase Notice of the Market Test in accordance with the Binding Phase Guidelines for management and allocation of capacity on the IGB Interconnector**

The National Regulatory Authorities for Energy of Bulgaria, EWRC, and Greece, the Regulatory Authority for Energy (RAE) by Decisions EWRC No. Y- 4 and RAE No. 283/2016 approved during the month of August the Bidding Phase Notice submitted by ICGB AD in compliance with the Guidelines for the Binding Phase of the Market Test for management and allocation of capacity on the IGB Interconnector, issued by the Authorities in July 2016 (RAE Decision

No. 255/2016, EWRC Decision No.Y-3). To read the full press release of RAE click [here](#).

**Greece: Results of RAE's public consultation on the establishment of an interim provision for the methodology for the allocation of amounts of natural gas to Exit Points of the Distribution Network**

To read the full press release of RAE concerning the results of its public consultation on the establishment of an interim provision for the methodology for the allocation of amounts of natural gas to Exit Points of the Distribution Network click [here](#).

**Greece: Announcement of RAE regarding its decision No. 336/2016**

RAE announced its decision No. 336/2016 regarding the determination of prices of the regulatory parameters for the application of the Methodology for the Calculation of the Variable Cost of the Hydroelectric Units, including the prices of the maximum reservoir level security, in order for them to be applied during the period from 01.10.2016 until 31.12.2016. To read the full press release of RAE click [here](#).

**Greece: Announcement of RAE concerning the amendment of the Electricity Transaction Code and of the Electricity Transaction Code Manual**

RAE announced its decision No. 334/2016 concerning the amendment of the Electricity Transaction Code and of the Electricity Transaction Code Manual. To read the full press release of RAE click [here](#).

**Announcement of RAE concerning the results of its public consultation concerning the methodology for the charge imposed on the load representatives and the supplementary consultation on the amendment of the Electricity Transaction Code and of the Electricity Transaction Code Manual**

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

**Greece: Announcement of RAE concerning the Pricing Regulation for the Attiki, Thessaloniki, Thessaly and Remaining Greece natural gas distribution networks**

RAE, within the context of its powers for the establishment of rules for the liberalization of competition and the conditions of competition in the market of natural gas, proceeded with the establishment of rules for the pricing of Natural Gas Distribution Networks, by means of the issuance of the Pricing Regulation for the Attiki, Thessaloniki, Thessaly and Remaining Greece distribution networks, in accordance with article 88 etc. of law 4001/2011. To read the full press release of RAE click [here](#).

**Greece: Ex officio investigation of the HCC in the natural gas sector**

The plenary of the Hellenic Competition Commission (HCC) shall convene on 12.12.2016 in order to examine, following a relevant statement of objections, whether the company DEPA Attikis S.A. has complied with the decision No. 551/VII/2012 of the HCC, as it has been amended and is in force. To read the full press release of the HCC please visit the website of the [HCC](#).

**Greece: Announcement of RAE concerning the issuance of the revised pricing regulation for basic activities and the relevant invoices for the use of the National Natural Gas System**

Within the context of RAE's attempts to improve and harmonize the legal framework governing the activities in the fields of natural gas, with the corresponding EU framework, RAE proceeded, in accordance with the provisions of article 88 of law 4001/2001 and law 4409/2016, and following its announcements of 10.12.2015 and 20.9.2016, with which it commenced public consultations on DESFA S.A.'s initial and then revised proposal for the amendment of the Pricing Regulation for Basic Activities in the National Natural Gas System, RAE issued relevant decisions on the above subject matter. To read the full press release of RAE click [here](#).

**Greece: Announcement of RAE concerning the approval of the Invoices for the Distribution of Natural Gas for the networks of Attiki, Thessaloniki, Thessalia and the Rest of Greece**

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

**Greece: RAE announced the results of its public consultation for the amendment of the code of non-interconnected islands and the decision No. 47/31.3.2016 of RAE, concerning the provision of Guarantees by the Load Representatives within the context of Transactions for the sale and purchase of electricity to the non-interconnected islands**

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



**Greece: RAE published its decision concerning the numerical values of the coefficients for the methodology of the allocation of the Special Duty of article 143 para. 2, subpara. c of law, as in force.**

To read the full press release of RAE click [here](#). To read the full decision No. 214/2016, as published in the Government Gazette (Issue B' 2450/09.08.2016) click [here](#).

**Greece: RAE published the results of its public consultation for the amendment of the Regulation of Natural Gas Licenses**

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

**Greece: RAE published its decision concerning "the Methodology for the Calculation of the Variable Cost of Hydroelectric Units" and the amendment of the Electricity Transaction Management Code, of the Manual of the Electricity Transaction Management Code, and of the Management Code of the Hellenic Electricity Transmission System**

To read the full decision No. 207/2016 of RAE click [here](#).

**Greece: Announcement of RAE concerning data about the quantities and prices of imported natural gas**

According to the provisions of the Ministerial Decision No Δ1/Γ/400 (Government Gazette Issue B' 33/19.1.2007), entitled «Determination of the procedure applied to collect and process the data required to calculate the weighted average import price of natural gas», the companies importing Natural gas in the National Natural Gas

System (NNGS) are required to submit to RAE, every three months, data about the quantities and prices of imported natural gas. RAE, within the framework of its competence regarding monitoring of the energy market, following the provisions of par. 1 of article 5 in Law 2773/1999, publicized for the first time on 3.8.2011 the data on the calculated weighted average import price (WAIP) of Natural Gas in the NNGS of Greece, on a monthly basis. Publicized data on WAIP prices were the result of calculations performed on the data provided by importers according to the provisions of the aforementioned Ministerial Decision, and for the period of March 2008-March 2011. To read the full press release of RAE click [here](#).

**Greece: RAE announced the results of its 2<sup>nd</sup> public consultation within the context of establishing the Management Code for the Hellenic Electricity Transmission Network**

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

**Greece: HCC accepted revised commitments proposed by DEPA, in particular with regard to the supply of natural gas through electronic auctions**

By its unanimous decision dated 13.10.2016, the HCC accepted a proposal submitted by DEPA to revise partly the commitments adopted with earlier HCC decisions (Decisions No. 551/2012, 589/2014, 596/2014 and 618/2015). To read the full press release of the HCC please visit the website of the [HCC](#).



**Greece: RAE published the results of its public consultation on the regulation of electricity theft**

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

**Greece: RAE published its decision concerning the determination of the Maximum Price Determined by the Administration, according to article 71 of the Electricity Transaction Management Code**

To read the full press release of RAE click [here](#). To read the full decision No. 208/2016 of RAE, as published in the Government Gazette (Issue B' 2068/06.07.2016) click [here](#).

**Greece: Announcement of RAE concerning its decision No. 329/2016**

By virtue of its decision No. 329/2016, the Code for Transactions relating to Auctions of Electricity Products was approved. To read the full press release of RAE click [here](#). To read the full text of the decision No. 329/2016 as published in the Government Gazette (Issue B' 3164/30.09.2016) click [here](#).

**Greece: RAE announced the results of its public consultation concerning the basic planning of the Capacity Adequacy Remuneration Mechanism in the Interconnected Electricity System of Greece**

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

**Greece: RAE published the results of its short, supplementary public consultation concerning the 1<sup>st</sup> Amendment to the Regulation for the Pricing of ESFA's Basic Activities**

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

**Greece: RAE published the results of its public consultation concerning the amendment of the Manual for the Clearance of the Market of the Management Code of the Greek Electricity Transmission System, with regard to the Transitory Flexibility Compensation Mechanism**

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

**Greece: RAE issued its decision No. 80/2016 concerning the management of the heat of condensation during the calculation of the effectiveness of the cogeneration for the approval of Special Operational Terms of Dispatchable Cogeneration of Electricity and High Performance Heat Units**

RAE, within the context of its powers for the approval of the Special Operational Terms of Dispatchable Cogeneration of Electricity and High Performance Heat Units, announces the issuance of its decision No. 80/2016 concerning the management of the heat of condensation during the calculation of the effectiveness of the cogeneration for the approval of Special Operational Terms of Dispatchable Cogeneration of Electricity and High Performance Heat Units. To read the full press release of RAE click [here](#). To read the full text of RAE's decision No. 80/2016 click [here](#).

**Greece: Establishment of arbitration system pursuant to the provisions of law 4001/2011**

Within RAE, and pursuant to article 37 of law 4001/2011 a permanent system of arbitration is established in order to rule on: a) Disputes between persons

who are active in any way on the market of energy, b) disputes between eligible customers and the businesses who are active in energy-related activities, c) any dispute arising between the abovementioned persons, as a result of the application of the applicable national and EU legislation. To read the full press release of RAE click [here](#).

**Greece: RAE published the results of its public consultation on the Ten-Year Development Plan of the National Natural Gas System, 2016-2025**

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

**France: The Autorité de la concurrence fined both PVG and Ligne Plus suppliers for anticompetitive agreement on wholesale prices and sharing of customer base (horizontal agreement)**

The Autorité de la concurrence issued a decision by which it fined three anticompetitive agreements concluded in the liquid fuel backup heating units sector in France. Both PVG and Ligne Plus, as well as Leroy Merlin were fined a total amount of 9 013 000€. To read the full press release of the Autorité de la concurrence click [here](#).

### **Electronic Communications**

**The CJEU issued judgment in Case C 211/15 P (Orange, formerly France Télécom v. European Commission)**

In Case C 211/15 P (Orange, formerly France Télécom v. European Commission) the Court of Justice of the European Union (CJEU) ruled on an appeal by France Télécom (now Orange) against a General Court of the European Union (GC) ruling of 2015. The 2015 judgment had upheld a

European Commission decision of 2011 finding that the reform of the method of financing the pensions of civil servants working for France Télécom constituted State aid compatible with the internal market on certain conditions set by the European Commission. The CJEU dismissed the appeal and upheld the European Commission's decision. To read the full press release of the CJEU (No. 115/16) click [here](#).

**GC: Judgment in Case T-167/14 (Søndagsavisen v Commission)**

In Case T-167/14 (Søndagsavisen v Commission), the GC ruled on an action for annulment brought by the Danish weekly magazine Søndagsavisen against a European Commission decision of January 2013. The Commission's 2013 decision had found a Danish media support scheme to be in line with EU state aid rules. The GC dismissed the action and upheld the European Commission's 2013 decision. To read the full judgment of the GC in Case T-167/14 click [here](#).

**GC: Judgment in Case T-143/12 (Germany vs. European Commission)**

The GC ruled in Case T-143/12 (Germany vs. European Commission) on an action for annulment of a Commission decision of 2012 ordering Germany to recover incompatible state aid related to pension payments for former civil servants in the postal sector from Deutsche Post. The GC annulled the decision. To read the press release of the GC (No. 76/16) click [here](#).

**The European Commission cleared Vodafone/Liberty Global telecoms joint venture, subject to conditions; rejects referral request by Dutch competition authority**

The European Commission cleared under the EU Merger Regulation the proposed creation of a joint venture in the Netherlands by mobile telecom operator Vodafone and cable company Liberty Global. The decision is conditional on Vodafone divesting its consumer fixed line business in the Netherlands. To read the full press release of the European Commission (IP-16-2711) click [here](#).

**The European Commission accepted commitments by Paramount on cross-border pay-TV services**

The European Commission made commitments offered by Paramount legally binding under EU antitrust rules. These address the Commission's concerns regarding certain clauses in film licensing contracts for pay-TV between Paramount and Sky UK. To read the full press release of the European Commission (IP-16-2645) click [here](#).

**The European Commission found Spain's support for private TV broadcasters in breach of EU rules**

The European Commission found that a Spanish scheme compensating terrestrial private broadcasters for carrying out parallel broadcasting during the digitisation of the terrestrial television signal is in breach of EU state aid rules. Following an in-depth investigation, the Commission concluded that the measure selectively favoured terrestrial broadcasters as well as platform operators to the detriment

of broadcasters and operators representing alternative platforms and thereby distorted competition in the Single Market. As no aid has been granted yet, no recovery will be required. To read the full press release of the European Commission (IP-16-2741) click [here](#).

**HTPC: Responses to the public consultation concerning the Reference Offer of the IP Address of OTE for 2016**

The Hellenic Telecommunications and Post Commission (HTPC) announced the receipt of responses to the public consultation concerning the Reference Offer of the IP Address of OTE for 2016. To read the full press release of the HTPC click [here](#).

**Greece: HTPC announced the completion of the tender process for the selection of a Universal Service Provider**

The HTPC announced that it completed successfully the tender process for the selection of the provider who would undertake, within the context of the Universal Service, the provision of "access to fixed positions and the provision of telephone services" in Greece. More specifically, the company "Forthnet" was the successful tenderer, with an offer amounting to 4.930.000 euros. To read the full press release of the HTPC click [here](#).

**Greece: HTPC announced public consultation concerning the Granting of Rights to Use Radiofrequencies in the zone 1452-1492 MHz**

The public consultation shall last until 21.11.2016. To read the full press release of the HTPC click [here](#).

**Greece: HTPC announced a public consultation concerning the configuration of the regulatory framework for the use of the zone 1980 - 2010 MHz / 2170 - 2200 MHz by the selected operators, pursuant to the Decision of the European Commission (449/2009/EC), for the provision of Mobile Satellite Services to aircraft**

The public consultation shall last until 18.11.2016. To read the full press release of the HTPC click [here](#).

**Greece: The HTPC announced the results of the Cost Accounting Audit of OTE S.A. for the year 2015**

The HTPC announced the results of the Cost Accounting Audit of OTE S.A. for the year 2015 (including results for the year 2013) for the wholesale and retail markets under regulation, to which (markets) an obligation for the monitoring of prices, a pricing obligation and other regulations have been imposed. To read the full decision of the HTPC click [here](#).

**Greece: the HTPC notified to the European Commission a draft of measures for the local and central access wholesale markets at a fixed position and for the retail market for access to the public telephone network**

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

## **Pharmaceuticals**

**Judgment of the CJEU in Case C-567/14 (Genentech Inc. vs. Hoechst & Sanofi-Aventis Deutschland)**

The Court of Justice of the European Union (CJEU) ruled in Case C-567/14 (Genentech Inc. vs. Hoechst & Sanofi-Aventis Deutschland) on questions referred by a French court regarding the interpretation of Article 101 of the Treaty on the Functioning of the EU that prohibits anticompetitive agreements. The CJEU clarified that in circumstances as in the case at hand, Article 101 does not prevent the payment of royalties, even though the licensed patents had not been infringed by the licensee's product. This is because the license agreement was concluded before the grant of the relevant patents and the commercial purpose of the agreement was to allow the licensee to use the technology without incurring the risk of infringement action by the licensor. The Court held that as long as the licensee was free to terminate the agreement with reasonable notice and contest the validity of the licensed patents, the license agreement did not violate Article 101. To read the full press release (No. 73/16) of the CJEU click [here](#).

**GC: Judgments issued in Cases T-472/13, T-460/13, T-467/13, T-469/13, T-470/13, T-471/13 (Lundbeck, Sun, Arrow Group, Generics, Merck vs. European Commission)**

On 08.09.2016, the General Court of the European Union (GC) issued judgments which upheld the European Commission's Lundbeck decision (Cases T-472/13, T-460/13, T-467/13, T-469/13, T-470/13, T-471/13) and

ruled for the first time that pharma pay-for-delay agreements breach EU antitrust rules. In such agreements an original pharmaceutical manufacturer pays generics producers to stay out of the market. The Commission's decision found that the Danish pharmaceutical company Lundbeck and four generics competitors had concluded agreements that harmed patients and health care systems. This allowed Lundbeck to keep the price of its blockbuster drug citalopram artificially high, in breach of Article 101 of the Treaty on the Functioning of the European Union. The decision imposed a fine of €93.8 million on Lundbeck and fines totalling €52.2 million on the four generics competitors, Generics UK, Arrow, Alpharma and Ranbaxy. To read the full press release of the GC (No. 90/16) click [here](#).

**The European Commission cleared acquisition of Boehringer Ingelheim's consumer health business by Sanofi, subject to conditions**

The European Commission approved under the EU Merger Regulation the proposed acquisition of the consumer health business of Germany's Boehringer Ingelheim by Sanofi of France, subject to conditions. Both companies are active in the pharmaceutical industry. The decision is conditional upon the divestment of a number of Sanofi's and Boehringer Ingelheim's businesses in the Czech Republic, Estonia, France, Hungary, Greece, Ireland, Latvia, Poland and Slovakia. To read the full press release of the European Commission (IP-16-2723) click [here](#).

**The European Commission cleared merger between IMS and Quintiles**

The European Commission approved under the EU Merger Regulation a proposed merger between IMS Health and Quintiles, both of the US. IMS provides information and technology services to pharmaceutical, biotech, life science and healthcare companies. Quintiles provides product development services and commercial outsourcing services to support healthcare companies develop and commercialize new therapies globally. To read the relevant press release of the European Commission click [here](#).

**Transport**

**The GC issued its judgment in Case T 70/15 (Trajektna luka Split d.d. v. European Commission)**

On 30.9.2016 the General Court of the European Union (GC) issued its judgment in Case T 70/15 (Trajektna luka Split d.d. v. European Commission). The judgment rejected the appeal brought by Trajektna Luka Split against the Commission's decision to reject its antitrust complaint. The judgment confirmed the right for the Commission to reject complaints which do not appear to raise a sufficient level of European Union interest and confirms that the Commission carried out a proper assessment of the matters of fact and law in this case. To read the full judgment of the GC in Case T 70/15 click [here](#).



**The European Commission approved state aid to eleven Romanian regional airports**

The European Commission adopted a decision declaring that state support granted to 11 Romanian regional airports is compatible with EU state aid rules. To read the relevant press release of the European Commission click [here](#).

**The European Commission ordered Spain to recover incompatible State aid for high speed train test centre from railway operator ADIF**

The European Commission concluded that aid granted by Spain to railway operator ADIF for the construction of a high-speed train test centre in Andalusia does not meet a genuine objective of common interest. In particular, it does not contribute to promoting a sustainable development in the region. To read the full press release of the European Commission (IP-16-2621) click [here](#).

**The European Commission found Italy provided incompatible aid to airlines in Sardinia**

The European Commission found that public support granted by Italy's Sardinia region gave selected airlines working at Cagliari and Olbia airports an unfair advantage, in breach of EU state aid rules, which must be repaid. This decision follows the opening of an in-depth investigation by the Commission in January 2013, which sought to examine whether the scheme was in line with EU state aid rules. To read the full press release of the European Commission (IP-16-2682) click [here](#).

**The European Commission approved joint venture between Singapore Airlines and Airbus for the supply of maintenance, repair and overhaul services**

The European Commission approved under the EU Merger Regulation the creation of a joint venture by the Singapore Airlines group and the Airbus group. Singapore Airlines is active worldwide in the provision of air passenger and cargo transportation services as well as engineering services such as airframe maintenance and overhaul services. Airbus is active in aeronautics, space and defence-related services. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared public financing for Italian ground handler Airport Handling; found no economic continuity with SEA Handling**

Following an in-depth investigation opened in July 2014 the European Commission concluded that a €25 million capital injection into the Italian company Airport Handling from its state-owned parent company, S.E.A., was carried out on terms acceptable to a market investor and thus involved no state aid within the meaning of EU rules. Airport Handling is a ground handling operator at Milan's Malpensa and Linate airports. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared public investment package to complete Berlin Brandenburg airport**

The European Commission found a German public investment package to



complete the construction of Berlin Brandenburg airport Willy Brandt to be in line with EU state aid rules. The investment will be made on market terms and will thus involve no State aid to airport operator Flughafen Berlin Brandenburg (FBB). In January 2016, Germany notified plans by the airport's public shareholders to grant a €1.1 billion shareholder loan and a shareholder guarantee covering additional debt financing of up to €1.1 billion to the developer and future operator of the airport, FBB. To read the full press release of the European Commission (IP-16-2712) click [here](#).

**The European Commission accepted commitments by container liner shipping companies on price transparency**

The European Commission adopted a decision that renders legally binding the commitments offered by fourteen container liner shipping companies. The Commission had 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. The commitments address the Commission's concerns and aim to increase price transparency for customers and to reduce the likelihood of coordinating prices. To read the full press release of the European Commission (IP-16-2446) click [here](#).

**News of the Markets**

**Gazprom to propose EU Antitrust Settlement**

In April 2015 the European Commission issued a 'statement of objections' which it sent to Gazprom, expressing concerns that it had breached EU antitrust rules by abusing its dominant position in eight eastern EU gas markets for several years. The warning carries the threat of multi-billion dollar fines, although Brussels indicated its preference was to avoid such action and encouraged Gazprom to propose remedies. According to recent press information, Russia's state owned gas monopoly Gazprom is planning to send its final proposal to the EU to settle antitrust charges. The Commission awaits formal settlement proposals from Gazprom and said that settlement proposals will be market-tested to ensure competition concerns resolved.

**Hellenic Petroleum accused of cartel practices in Bulgaria**

According to press information, Bulgaria's anti-monopoly commission has "convincing evidence" that six oil companies operating in the Balkan country's retail fuel market were involved in cartel agreements on fuel prices. The commission had accused the Bulgarian units of Lukoil, Royal Dutch Shell, OMV, Hellenic Petroleum, Gazprom Neft and Bulgarian Petrol, saying they had collaborated to fix retail prices of diesel and gasoline.

**PPC got low price for the energy packs sold to rivals**

According to information of the press, the first electricity auction in Greece that was conducted by the Operator of the Electricity Market (LAGIE) saw prices range from a low of 37.37 euros per megawatt/hour (the starting price) up to 33 cents above that. The entire amount of electricity up for auction was sold, and 11 out of 12 participants got the quantities they asked for, which was satisfactory for the alternative suppliers of energy, but not for the Public Power Corporation (PPC) – which produces the electricity – which made just 140 million euros for the sale of 460 Mw/h.

**Greece's PPC Sells Stake in Electricity Operator ADMIE to China's State Grid**

Greece's state-controlled power company PPC decided to sell a minority stake in the country's electricity grid operator to China's State Grid in a €320 million deal that further boosts commercial ties between the two nations. The board of Greece's PPC, opted to sell a 24% stake in grid operator ADMIE to the Chinese company, which had placed the highest offer for the asset. An Italian firm had also submitted a bid at a lower price.

**Greece concluded 400-mln-euro privatization of Astir Palace resort**

Greece concluded the 400-million-euro sale of Astir Palace, a luxury seaside resort outside Athens, to Turkish-Arab fund Jermyn Street Real Estate Fund on Thursday. Greece's second largest lender, National Bank, which owns most of the shares, and Greece's privatization agency, the Hellenic Republic Asset Development Fund (HRADF) cashed in 393 million euros

from the sale. To read the full press release of the HRADF click [here](#).

**Fraport to receive regional airports by mid-February**

According to press information, Greece's 14 regional airports will be delivered to Germany's Fraport by mid-February 2017. Greece is aiming at privatization revenues of 14 billion euros by 2022. Privatizations have been a key condition of Greece's three international bailouts since 2010 but the scheme has so far produced much lower revenues than initially targeted.

**EU seeks to spur fast broadband roll-out with telecoms reform**

According to press information, the European Union aims to spur the roll-out of fast broadband across the 28-nation bloc by relaxing rules that force telecom companies to open up their networks to competitors. Under planned reforms of the sector, national telecommunication regulators will be required to take into account existing commercial agreements between operators when deciding whether to force them to allow competitors access to their networks. Fostering investment in new fiber-optic networks, to meet rising demand for data services, is a major plank of the European Commission's reform of its 15-year-old telecoms laws. National regulators will also have to weigh up the range of retail choices available to users to ensure that regulation is not more of a burden than necessary on operators' decisions to invest.

**EU scrapped limit on free mobile roaming plan**

According to press information, the EU scrapped a 90-day limit to its landmark free mobile phone roaming policy, promising checks to curb abuse after the initial plan ran into fierce criticism. The European Commission announced the original “free roaming” plans with huge fanfare in early 2015, but when it unveiled the details earlier this month consumer groups were outraged by a limit of 90 days of free roaming per year.

**Cosco completed Piraeus port takeover**

Piraeus Port Authority (OLP) announced its new 11-member board of directors after China’s Cosco completed the purchase of 51 percent of the organization, with another 16 percent to be transferred in the future. Cosco president Wan Min was appointed OLP’s chairman, while Captain Fu Cheng Qiu, who heads the Chinese firm’s subsidiary at the Piraeus container terminal, took on the position of chief executive officer. Cosco paid 280.5 million euros for its 51 percent stake in OLP and is due to invest another 88 million euros for the 16 percent share that has been set aside. The Chinese firm is also due to invest some 300 million euros in improving the port’s facilities. To read relevant press release of the HRADF click [here](#).

**Athens Hilton Hotel Sold to TEMES-Dogus Consortium**

According to press information, Alpha Bank agreed to sell the Hilton Hotel in Athens to the consortium comprising Greece’s TEMES and Turkey’s Dogus Holdings A.S. The two sides reached a deal on a price of 142 million euros for

97.3% of shares, with the sole pending issue being the regulating authorities’ approval. TEMES is owner of the Costa Navarino resort in the Peloponnese, one of the biggest in the Mediterranean.

**Only one offer submitted for new Iraklio airport project**

According to information of the press a single offer was submitted in the tender for the construction and operation of a new airport for Iraklio at Kastelli on Crete. The consortium of local construction firm GEK Terna and Indian group GMR was the only one to table a bid for the project, despite expectations there would be more participants.

**HRADF announced tender for toll road lease**

The HRADF launched a process on for the lease of Egnatia Odos, a major trade route that runs across northern Greece from east to west, and part of a bailout agreed with the country’s international lenders. Kick-starting the process for the long-term lease over the 670 kilometer Egnatia toll road, the country’s privatization agency said it would initiate a public consultation process, culminating in the invitation of non-binding expressions of interest in the project by December 20, 2016. The duration of the lease of the motorway, which passes through 11 major Greek cities in northern Greece, is 35 years. To read the full announcement release of the HRADF click [here](#).

**PPC signed Florina plant deal with China's CMEC**

According to press information, China Machinery Engineering Corporation (CMEC) signed a memorandum of understanding with PPC to build a coal-fired plant in northern Greece. PPC, which is 51 percent state-owned, said in August it would team up with CMEC and private investors to tap coal mines in the northern region of Florina and build a second, more efficient coal-fired power plant.

**Greece's Titan Cement bought stake in Brazil's Cimento Apodi for \$100 mln**

According to press information, Greece's Titan Cement is buying a stake in Brazilian cement manufacturer Companhia Industrial de Cimento Apodi for about \$100 million. Titan said it had entered a joint venture agreement that Cimento Apodi be controlled on a 50/50 basis by the Dias Branco Group and a Titan/Sarkis vehicle, 94 percent of which is owned by Titan.

**Goody's made Australian debut**

According to press information, Greek fast-food retailer Goody's inaugurated its expansion to Australia with the launch of its first store in downtown Melbourne, located on the ground floor of the building housing the Greek Center for Contemporary Culture.