

# Competition & Regulation Report

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## **Editorial: CJEU C-415/15 P – State Aid: new clarifications concerning national support schemes for social housing.**

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**Editorial:****CJEU C-415/15 P – State Aid: new clarifications concerning national support schemes for social housing.**

Following an appeal by three housing corporations (woningcorporaties, wocos) established in Netherlands, by its judgment in Case C-415/15 P<sup>1</sup>, the Court of Justice of the European Union (CJEU) ruled on matters relating to the scope of the judicial review and the legal effects of a compatibility decision of the European Commission (EC) under the EC Regulation no. 659/1999 regarding an aid granted to housing corporations.

Wocos are not-for-profit bodies whose mission is to acquire, build and rent out dwellings aimed mainly at underprivileged individuals and socially disadvantaged groups. Wocos also engage in other activities, such as the construction and lease of flats at higher rents, the construction of flats for sale and the construction and lease of public purpose buildings. In 2002, the Netherlands authorities notified the EC of the general scheme of State aid provided for wocos.

On 15 December 2009 the EC adopted the decision at issue. The measures included in the general scheme of State aid provided by

Netherlands to wocos and referred to in the E 2/2005 procedure were the following: (a) State guarantees for loans granted by the Guarantee Fund for the construction of social housing; (b) State aid from the Central Housing Fund, project-based aid or aid for rationalisation in the form of loans at preferential rates or direct subsidies; (c) the sale by municipal authorities of land at prices below market value; (d) the right to obtain loans from the Bank Nederlandse Gemeenten.

In the decision at issue, the Commission classified each of those measures as State aid and took the view that the Netherlands scheme for financing social housing constituted existing aid, that scheme having been created before the EC Treaty entered into force in the Netherlands and the subsequent reforms not having brought about any fundamental change. On 30 August 2010, the EC adopted Decision C (2010) 5841 final, with which considered that, on the basis of the available evidence, it could not conclude that measure (d) referred to in the decision at issue, i.e. the right to obtain loans from the Bank Nederlandse Gemeenten, met all State aid criteria.

By an application filed with the General Court on 30 April 2010, the applicants brought an action under Article 263 TFEU for

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<sup>1</sup> Judgment of the Court (First Chamber) of 15 March 2017 *Stichting Woonpunt and Others v European Commission*, Case C-415/15 P.

annulment of the decision at issue, in so far as it relates to aid measure E 2/2005. The General Court rejected that action as inadmissible. The Court set aside the order of the General Court in so far as it had declared inadmissible the action brought by the applicants, in so far as that decision concerned aid measure E 2/2005 related to specifically bank loans for social housing, and dismissed the remainder of the action. The Court held that the action brought against the decision at issue, in so far as that decision concerned aid measure E 2/2005, was admissible and referred the case back to the General Court for a decision on the merits. By the new order the General Court rejected the action as manifestly unfounded.

The appellants claimed then that the Court should set aside, in whole or in part, the order of the General Court and refer the case back to the General Court for a new ruling consistent with the legal findings of the Court of Justice.

The Applicants invoked two grounds: According to the first ground, the General Court infringed EU law, incorrectly assessed the relevant facts and provided an inadequate statement of reasons for the order in finding that the then applicants' objections were in fact directed against the Article 17 letter and that the General Court's review could not be extended to those objections. By its assessment, the

General Court disregards the fact that, as is apparent from Article 108(1) TFEU, the justification for the legal consequences of the decision must stem from the fact that the previous situation had been incompatible with the Treaty. The General Court misinterprets the TF1 judgment by inferring from it that its review of the contested decision had to be limited to the question of whether the Commission had correctly assessed the compatibility of the existing system of aid as modified by the commitments undertaken by the Netherlands authorities. According to the second ground, the General Court infringed EU law, incorrectly assessed the relevant facts and provided an inadequate statement of reasons for the order in finding that it could not assess the appropriate measures proposed by the Commission given that they were mere proposals and that it was the adoption by the Netherlands authorities which gave the appropriate measures binding force.

The Court fully upheld the first ground of appeal and partially upheld the second ground by setting aside the order of the General Court and referred the case back to the General Court

To read the full judgement of the Court click [here](#).

**Antitrust****The CJEU upheld the fines imposed on Samsung SDI and Samsung SDI (Malaysia) for their participation in the cartel on the market for tubes for television sets and for computer monitors**

In its judgment in Case C-615/15 P (Samsung SDI Co. Ltd and Samsung SDI (Malaysia) Bhd v Commission), the Court of Justice of the European Union (CJEU) dismissed an appeal and confirmed the fines imposed jointly and severally on Samsung SDI and Samsung SDI (Malaysia) in the cathode ray tubes cartel case. To read the full press release of the CJEU (No. 26/2017) click [here](#).

**CJEU: Judgment issued in Case C-162/15 P (Evonik Degussa vs. European Commission)**

By its judgment in Case C-162/15 P (Evonik Degussa vs. European Commission), the CJEU confirmed the European Commission's general policy concerning the use of information provided by leniency applicants in its decisions with a view of publishing the non-confidential final decisions in antitrust cases whereby the general public is apprised of how the EU law prohibition against cartels is applied in practice by the

Commission. The CJEU also clarified the competence of the hearing officer to decide, in publication matters, on claims based on legal principles of EU law, such as those of equal treatment and the protection of legitimate expectations. To read the full judgment of the CJEU in Case C-162/15 P click [here](#).

**The CJEU issued its judgment on South European bananas cartel appeal**

With its judgment in Case C-469/15 P (FSL and Others v Commission), the CJEU dismissed the appeal brought by banana importer Pacific Fruit group against a General Court of the European Union (GC) judgment of 2015. This judgment fully confirmed the assessment of the GC, and in particular endorsed the admissibility of evidence transmitted to the European Commission by the Italian finance police (Guardia di Finanza). In October 2011 the Commission imposed a fine on Pacific Fruit group for participating with Chiquita in a price fixing cartel for fresh bananas in three EU Member States (Greece, Italy and Portugal). As part of its cartel investigation, the Commission received copies of documents from the Italian finance police. The CJEU agreed with the

GC and the Commission that these documents could be used as evidence in proving the cartel. The CJEU confirmed the admissibility of documents transmitted by national authorities other than competition authorities, as long as this transmission has not been declared unlawful under national law. To read the full judgment of the CJEU in Case C-469/15 click [here](#).

**CJEU: Advocate General's Opinion issued in Case C-671/15 (President of the Autorité de la concurrence v Association des producteurs vendeurs d'endives (APVE) and Others)**

In his Opinion issued in Case C-671/15 (President of the Autorité de la concurrence v Association des producteurs vendeurs d'endives (APVE) and Others), Advocate General Wahl opined that agricultural producer organisations and their associations may be held liable for agreements, decisions or concerted practices contrary to EU law. That is the case, in particular, where concertation on prices or on the quantities placed on the market and exchanges of information occur between several (associations of) producer organisations or between such bodies and other types of operators on the market. To read

the full press release of the CJEU (No. 39/2017) click [here](#).

**The CJEU ruled on parental liability as regards subsidiary companies**

By its judgment in Case C-516/15 P (Akzo Nobel vs. European Commission), the CJEU confirmed the Commission's existing position on parental liability of companies. In particular, it confirmed that the liability of a parent company, which is jointly and severally liable for its subsidiary's unlawful conduct, can in respect of certain factors be assessed separately and may differ from the liability of the subsidiary. This means that, for example, the parent remains liable, if the limitation period has only expired in relation to its subsidiary but not in relation to the parent. To read the full judgment of the CJEU in Case C-516/15 P click [here](#).

**The European Commission confirmed unannounced inspections in sector of kraft paper and industrial paper sacks**

The European Commission confirmed that on 07.03.2017 its officials carried out unannounced inspections at the premises of several companies active in the sector of kraft paper and industrial paper sacks. The Commission officials were accompanied by

their counterparts from the relevant national competition authorities. To read the full press release of the European Commission (IP-17-485) click [here](#).

### **The European Commission fined six car air conditioning and engine cooling suppliers €155 million in cartel settlement**

The European Commission fined Behr, Calsonic, Denso, Panasonic, Sanden and Valeo a total of € 155 million for taking part in one or more of four cartels concerning supplies of air conditioning and engine cooling components to car manufacturers in the European Economic Area. All six suppliers acknowledged their involvement in the cartels and agreed to settle the case. Denso was not fined for three of the cartels as it revealed their existence to the Commission. Panasonic was not fined for one of the cartels as it revealed its existence to the Commission. To read the full press release of the European Commission (IP-17-501) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-17-505) click [here](#).

### **The European Commission introduced new anonymous whistleblower tool**

A new tool to make it easier for individuals to alert the Commission about secret cartels and other antitrust violations while maintaining their anonymity was launched by the European Commission. Individuals can now help anonymously in the fight against cartels and other anti-competitive practices. These practices include agreeing on prices or procurement bids, keeping products off the market or unfairly excluding rivals and can cause immense damage to Europe's economy. To read the full press release of the European Commission (IP-17-591) click [here](#).

### **European Commission proposal to make national competition authorities even more effective enforcers for the benefit of jobs and growth**

The European Commission proposed new rules to enable Member States' competition authorities to be more effective enforcers of EU antitrust rules. The proposal aims to ensure that when applying the same legal basis, national competition authorities have the appropriate enforcement tools, in order to bring

about a genuine common competition enforcement area. By ensuring that national competition authorities can act effectively, the Commission's proposal aims to contribute to the objective of a genuine Single Market, promoting the overall goal of competitive markets, jobs and growth. The proposal for new rules takes the form of a Directive that will allow national specificities to be respected. The Directive will now be transmitted to the European Parliament and Council for adoption, in line with the normal legislative process. Once adopted, Member States have to transpose the provisions of the Directive into national law. To read the full press release of the European Commission (IP-17-685) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-17-726) click [here](#).

**Settlement decision of price-fixing case involving HONDOS in the beauty and broader cosmetics sector, published in the Government Gazette**

By its unanimous Decision No. 636/2017, the Hellenic Competition Commission (HCC) decided to settle a case against eight (8) companies controlled by HONDOS family members in the beauty and broader cosmetics sector

regarding infringements of Articles 1 of the Greek Competition Act and 101 TFEU. On 09.03.2017, this decision of the HCC was published in the Government Gazette (Issue 755/B'/09.03.2017). To read the full text of decision No. 636/2017 of the HCC as published in the Government Gazette, click [here](#)

**Germany: Düsseldorf Higher Regional Court confirmed Bundeskartellamt's decision on prohibition of use of price comparison engines**

On 05.04.2017 the Düsseldorf Higher Regional Court confirmed the Bundeskartellamt's decision of principle against the running shoes manufacturer Asics. According to the decision the general prohibition of the use of price comparison engines by retailers implemented through a (selective) distribution system violates competition law and is illegal. To read the full press release of the Bundeskartellamt click [here](#).

**Germany: Bundeskartellamt published its decisions imposing fines on account of vertical price fixing in the sale of furniture**

On 3.8.2016, 4.11.2016, 30.11.2016 and 15.12.2016 the Bundeskartellamt imposed fines totaling 4.43 million euros on five



furniture manufacturers and four managers for enforcing resale price maintenance in the sale of furniture. On 28.04.2017, the Bundeskartellamt published the abovementioned decisions. To read the full press release of the Bundeskartellamt click [here](#).

### Mergers

**The GC annulled, on the ground of a procedural irregularity, the decision by which the Commission refused to authorise the merger between UPS and TNT in the express small package delivery services sector**

In its judgement in Case T-194/13 (United Parcel Service, Inc. v Commission), the General Court of the European Union (GC) annulled, on the ground of a procedural irregularity, the decision by which the Commission refused to authorise the merger between UPS and TNT in the express small package delivery services sector. To read the full press release of the GC (No. 23/2017) click [here](#).

**The European Commission cleared acquisition of Gamesa by Siemens**

The European Commission cleared unconditionally under the EU Merger Regulation the proposed acquisition of wind turbine

manufacturer Gamesa by Siemens. The Commission found that the transaction raises no competition concerns, because a number of credible competitors would remain in this market. To read the full press release of the European Commission (IP-17-589) click [here](#).

**The European Commission cleared merger between Dow and DuPont, subject to conditions**

The European Commission approved under the EU Merger Regulation the proposed merger between US-based chemical companies Dow and DuPont. The approval is conditional in particular on the divestiture of major parts of DuPont's global pesticide business, including its global R&D organisation. Commissioner Margrethe Vestager, in charge of competition policy, said: "Pesticides are products that matter – to farmers, consumers and the environment. We need effective competition in this sector so companies are pushed to develop products that are ever safer for people and better for the environment. Our decision today ensures that the merger between Dow and DuPont does not reduce price competition for existing pesticides or innovation for safer and better products in the future."



To read the full press release of the European Commission (IP-17-772) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-17-775) click [here](#).

### **The European Commission cleared acquisition of sole control of ITP by Rolls-Royce, subject to conditions**

The European Commission cleared under the EU Merger Regulation the proposed acquisition of aircraft engine components maker ITP (Spain) by aircraft engine maker Rolls-Royce (UK). Rolls-Royce, together with ITP, MTU of Germany and Safran of France, is a member of the military engine consortium EPI (Europrop International GmbH). EPI designs and manufactures the engine powering the Airbus A400M, which competes with the Lockheed Martin C-130J aircraft, powered by a Rolls-Royce engine. The Commission concluded that the transaction, as modified by the commitments, would no longer raise competition concerns. The decision is conditional upon full compliance by Rolls-Royce with its commitments. To read the full press release of the European Commission (IP-17-1024) click [here](#).

### **The European Commission blocked proposed merger between Deutsche Börse and London Stock Exchange**

The European Commission prohibited the proposed merger between Deutsche Börse AG and London Stock Exchange Group under the EU Merger Regulation. The Commission's investigation concluded the merger would have created a de facto monopoly in the markets for clearing fixed income instruments. The proposed merger would have combined the activities of the two largest European stock exchange operators, Deutsche Börse AG (DBAG) and London Stock Exchange Group (LSEG). They own the stock exchanges of Germany, Italy and the United Kingdom, as well as several of the largest European clearing houses. To read the full press release of the European Commission (IP-17-789) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-17-792) click [here](#).

### **The European Commission cleared acquisition of Atlas Elektronik by Thyssenkrupp**

The European Commission approved under the EU Merger Regulation the acquisition of the

remaining shares in Atlas Elektronik GmbH, by Thyssenkrupp Technologies Beteiligungen GmbH, both of Germany. Atlas Elektronik provides naval systems, in particular sonar systems and combat management system solutions for submarines, surface combatants and mine counter vessels, as well as naval weapons and naval communication systems. It is currently owned and controlled by Thyssenkrupp (51 %) and Airbus OS (49 %). Thyssenkrupp is active in the production of submarines and surface naval vessels, as well as in the production and trading of materials (including steel), industrial and capital goods and the provision of engineering solutions for industrial processes and services. To read the relevant press release of the European Commission click [here](#).

**Greece: Decision of the HCC of the proposed clearing the acquisition by HOME HOLDINGS HOLDING SOCIETE ANONYME of IONIKI HOTEL BUSINESSES S.A., published in the Government Gazette**

By its unanimous Decision No. 633/2016, the Chamber of the Hellenic Competition Commission (HCC) approved, under Greek merger control rules, the proposed acquisition of sole control over the operations in Greece of IONIKI

HOTEL BUSINESSES S.A., owner of the Athens Hilton Hotel, by HOME HOLDINGS HOLDING SOCIETE ANONYME. On 20.04.2017, this decision was published in the Government Gazette (Issue 1331/B'/20.4.2017). To read the full text of Decision No. 633/2016 of the HCC as published in the Government Gazette, click [here](#).

**Greece: Decision of the HCC clearing proposed acquisition by SKLAVENITIS supermarket retail group of sole control over entities within (or parts of) MARINOPOULOS supermarket retail group, published in the Government Gazette**

By means of its decision No. 637/2017, the HCC cleared on 26 January 2017, the proposed acquisition by the SKLAVENITIS supermarket retail group of sole control over entities within (or parts of) the MARINOPOULOS supermarket retail group, subject to structural and behavioral commitments offered by the notifying party to remedy the HCC's concerns as to the compatibility of the transaction with Greek merger control rules. On 13.04.2017, this decision was published in the Government Gazette (Issue 1308/B'/13.04.2017). To read the full text of decision No. 637/2017 of the HCC as published

in the Government Gazette, click [here](#).

**France: The Autorité de la concurrence cleared the acquisition of the Adria Mobil company by Trigano**

Trigano notified the Autorité de la concurrence on 15 March 2017 of its intention to acquire the Adria Mobil company. Following an examination of the effects of the transaction on the construction and distribution of leisure accommodation vehicles (camper vans, caravans and mobile homes), the Autorité cleared the operation which does not raise competition issues. Trigano and Adria Mobil are both active on the construction and distribution of leisure accommodation vehicles markets. To read the full press release of the Autorité de la concurrence click [here](#).

**State Aid**

**CJEU: Judgment issued in Cases C-414/15 P, C-415/15 P, (Stichting Woonpunt / Woonlinie and others vs. European Commission)**

In its judgment in Cases C-414/15 P, C-415/15 P (Stichting Woonpunt / Woonlinie and others vs. European Commission), and given some

aspects of the proceedings before the General Court of the European Union (GC), the Court of Justice of the European Union (CJEU) considered that the state of the present proceedings does not permit it to give final judgment. Accordingly, the case was referred back to the GC. To read the full judgment of the CJEU in Cases C-414/15 P and C-415/15 P click [here](#).

**CJEU: Judgement issued in Case C-100/16 P (Ellinikos Chrysos AE Metalleion vs. European Commission)**

In Case C-100/16 P (Ellinikos Chrysos AE Metalleion vs. European Commission) the CJEU delivered its judgment, with which it confirmed entirely the Commission's Decision of 2011 in the Greek Cassandra Mines case. In particular, the CJEU partly upheld the GC Judgment of 9 December 2015 (which had upheld our previous negative Decision with recovery of 23 February 2011). The CJEU set aside the GC's judgment only on one point but at the same time examined that point in its own powers and found that it does not change the substance of the case. To read the full judgment of the CJEU in Case C-100/16 P click [here](#).

**The European Commission cleared Latvian export-credit insurance scheme**

The European Commission found that the Latvian short-term export-credit scheme is in line with EU state aid rules, and in particular with the 2012 Short-term export-credit Communication. The Commission concluded in particular that the kind of insurance cover provided by the scheme to exporters established in Latvia is unavailable in the private market. To read the relevant press release of the European Commission click [here](#).

**The European Commission investigated alternative to divestment commitment for Royal Bank of Scotland**

The European Commission opened an in-depth investigation to assess whether the alternative package proposed by the UK authorities is an appropriate replacement for the commitment for the Royal Bank of Scotland (RBS) to divest Williams & Glyn (also known as "Rainbow"), required as part of its restructuring plan. To read the full press release of the European Commission (IP-17-863) click [here](#).

**The European Commission endorsed reform of UK Levy scheme on horserace betting**

The European Commission endorsed a reform of the existing UK Horserace Betting Levy scheme as in line with EU state aid rules. The reform will subject off-shore bookmakers to the levy whereas currently only bookmakers based in the UK contribute to the financing of horse racing. It will establish a 10% levy on the Gross Gambling Yield (GGY) applied to all betting operators for their part of the GGY above a de minimis threshold of £500,000/year. This Commission decision will apply until the UK ceases to be a member of the EU. To read the relevant press release of the European Commission click [here](#).

**The European Commission found Portuguese recapitalisation of Caixa Geral de Depósitos involved no new aid**

The European Commission found Portugal's plans to strengthen the capital position of fully state-owned Caixa Geral de Depósitos (CGD) by €3.9 billion are in line with EU state aid rules. The measures are carried out on market terms and therefore involve no new aid in favour of the bank. To read the full press release of the European

Commission (IP-17-557) click [here](#). To read the full memo of the European Commission (MEMO-17-557) click [here](#).

### **The European Commission approved € 475 million support in French outermost regions**

The European Commission approved, under EU state aid rules, support in the form of reductions of the octroi de mer tax to the benefit of locally produced products in the French outermost regions. The octroi de mer tax applicable in the French outermost regions is in principle levied both on goods imported to those regions as well as on locally produced goods. The scheme provides for reductions of the octroi de mer tax for a specific list of products produced locally in the French outermost regions. The Commission considered that the scheme promotes the development of the outermost regions of Guadeloupe, Guyane, Martinique, Mayotte and La Réunion without unduly distorting competition in the Single Market. To read the full press release of the European Commission (IP-17-621) click [here](#).

## **Energy**

### **EU rules on Intergovernmental Agreements in energy updated**

The European Parliament and the Council of the EU adopted new rules for increasing the transparency and compliance with EU law of intergovernmental agreements (IGAs) in the field of energy that EU countries sign with non-EU countries. These rules closely follow a proposal made by the European Commission in February 2016. The new rules are in accordance with the EU's Energy Union strategy. It aims to deliver a more integrated and better functioning internal energy market that can ensure security of supply and a successful transition to clean energy while promoting investment, growth and jobs. To read the relevant press release of the European Commission click [here](#).

### **The European Commission approved Finnish compensation scheme for indirect ETS costs**

The European Commission approved a Finnish support scheme to partially compensate energy-intensive companies in certain sectors for higher electricity prices resulting from indirect emission costs under the EU

Emission Trading Scheme (ETS). This benefits companies in specific sectors that are especially exposed to international competition: The state aid aims to avoid an increase in global greenhouse gas emissions due to shifts of production outside the European Union, where they may face less environmental regulation. To read the relevant press release of the European Commission click [here](#).

### **The European Commission opened in-depth investigation into German plans for electricity capacity reserve**

The European Commission opened an in-depth investigation to assess whether German plans to set up an electricity capacity reserve comply with EU state aid rules. The Commission had concerns that the measure may distort competition and favour power plant operators over demand response operators. To read the full press release of the European Commission (IP-17-903) click [here](#).

### **The European Commission invited comments on Gazprom commitments concerning Central and Eastern European gas markets**

The European Commission invited comments from all interested parties on commitments submitted

by Gazprom to address the Commission's competition concerns as regards gas markets in Central and Eastern Europe. The commitments will enable cross-border gas flows at competitive prices. To read the full press release of the European Commission (IP-17-555) click [here](#). To read the full statement of Commissioner Vestager (STATEMENT-17-590) click [here](#).

### **The European Commission cleared acquisition of LM Wind Power Holding by General Electric Company**

The European Commission approved unconditionally under the EU Merger Regulation the acquisition of LM Wind Power of Denmark, by General Electric Company of the US. The Commission concluded that the merged entity would continue to face effective competition in Europe. To read the full press release of the European Commission (IP-17-684) click [here](#).

### **Greece: RAE published 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), the companies

importing Natural gas in the National Natural Gas System (NNGS) are required to submit to the Regulatory Authority for Energy (RAE), every three months, data about the quantities and prices of imported natural gas. To read the full press release of RAE click [here](#).

**Greece: RAE published the results of its public consultation on the amendment of the Greek Electricity Transmission Management Code, as regards the methodology for the compensation for the tertiary spinning reserve**

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

**Greece: RAE announced the issuance of its decisions No. 149/2017 and 150/2017, as well as the results of its relevant public consultation of 08.02.2017, on the proposal of LAGIE concerning the manner of application of the methodology for the additional charge of suppliers for the special APE and SITHYA account**

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

**Greece: RAE issued an announcement concerning the common natural gas distribution network management code**

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

**Greece: RAE issued an announcement on the amendment of article 41 of the Code on the Auctioning of Future Power Products, as in force**

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

**Greece: RAE issued an announcement concerning its examination of the necessity to exercise its power to readjust the charges of the Special Gas Emissions Reduction Fee (ETMEAP)**

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

**Greece: RAE announced the results of its public consultation on the amendment of the Electricity Transaction Manual, as regards the Methodology for the Calculation of the Variable Cost of Hydroelectric Units**

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



**Greece: RAE, following relevant requests of interested parties, examined the issue of the term of validity of licenses for electricity generation from renewable resources that were issued prior to the entry into force of law 3468/2006, and proceeded with making relevant clarifications**

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

**Greece: RAE issued an announcement concerning the tables that were posted on the website of LAGIE S.A. regarding the parties did not pay the annual charge, as they were obliged to**

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

**France: The Autorité de la concurrence fined ENGIE 100 million euros for abusing its dominant position by using in particular its historical data file to convert its customers on regulated gas tariffs to market-based contracts for gas and electricity**

Following a complaint by Direct Énergie and the consumer association UFC-QUE CHOISIR, the Autorité de la concurrence issued a decision to fine ENGIE for having abused its dominant position in the gas markets in order to induce its

customers to switch to its market-based gas and electricity contracts. To read the full press release of the Autorité de la concurrence click [here](#).

**Survey commissioned by ACER found market participants still experiencing barriers to EU gas wholesale market trading**

The Agency for the Cooperation of Energy Regulators (ACER) published the results of a survey conducted among wholesale market participants - mainly shippers, suppliers, traders and energy intensive customers - across the EU on the remaining barriers to gas wholesale market trading. The results of the survey provide input into the assessment of developments in gas wholesale markets which the Agency performs every year for the preparation of its Market Monitoring Report (MMR). To read the full press release of ACER click [here](#).

### Electronic Communications

**CJEU: Judgment issued in Case C-660/15 P (Viasat/TV2 vs. European Commission)**

The Court of Justice of the European Union (CJEU) issued its judgment in Case C-660/15 P

(Viasat/TV2 vs. European Commission) concerning a legal action by Viasat Broadcasting against a Commission Decision of April 2011. This decision approved state aid to Viasat's competitor, the Danish public broadcaster TV2. The judgment of the CJEU clarifies an important aspect of the application of the Treaty rules on state aid to Services of General Economic Interest, regarding the interpretation of the criteria set out by the Altmark case law. These are the criteria used to determine whether a compensation paid by the State to a company carrying out Services of General Economic Interest is state aid or not. To read the full judgment of the CJEU in Case C-660/15 P click [here](#).

### **The European Commission cleared 21st Century Fox's proposed acquisition of Sky under EU merger rules**

The European Commission approved unconditionally under the EU Merger Regulation the proposed acquisition of Sky by Twenty-First Century Fox, a US-based diversified global media company. The proposed transaction would combine Sky plc (Sky), the leading pay-TV operator in Austria, Germany, Ireland, Italy and the UK and Twenty-First Century Fox, Inc (Fox), one of the

six major Hollywood film studios (20th Century Fox), as well as a TV channel operator (Fox, National Geographic). To read the full press release of the European Commission (IP-17-902) click [here](#).

### **The European Commission confirmed inspections in the mobile telecommunications sector in Sweden**

The European Commission confirmed that on 25 April 2017 its officials carried out unannounced inspections at the premises of companies active in the mobile telecommunications sector in Sweden. The Commission had concerns that Swedish mobile network operators may have engaged in anti-competitive conduct preventing entry into the consumer segment of the Swedish mobile telecommunications market, in breach of EU antitrust rules (Articles 101 and 102 of the Treaty on the Functioning of the European Union). To read the full press release of the European Commission (IP-17-1108) click [here](#).

### **The European Commission authorised merge of Orange and Deutsche Telekom in Belgium**

The European Commission gave the green light to the formation of a joint venture between Orange

and Deutsche Telekom, Belgium-based BuyIn to become a fully-fledged company, concluding that the transaction will not have a negative impact EU competition. BuyIn will provide services in public administration related to network technology, digital platforms, customer equipment and other products that will be used by German Deutsche Telekom and French Orange. To read the relevant press release of the European Commission click [here](#).

**Greece: the HTPC published a summary of the results of Public Consultation regarding the Decision concerning the Access Network Frequency Plan**

To read a summary of the results of this public consultation of the Hellenic Telecommunications and Post Commission (HTPC) click [here](#).

**Greece: the HTPC published the results of its Public Consultation concerning the granting of rights to use radiofrequencies in the 1452-1492 MHz zone**

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

**Greece: the HTPC published responses to its public consultation concerning the amendment of the Regulation on General Licenses**

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

**Greece: the HTPC announced the completion of its public consultation on the amendment of the framework for the harmonization of the radiofrequency zone για την 2010-2025 MHz for mobile or cellular wireless video links and wireless cameras used for productions and special events**

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

**Greece: HTPC announced the amendment of the Regulation for spectrum management & power injection into the fixed access network**

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

**Greece: the HTPC announced the completion of the amendment of the regulatory framework for the transmission of radio programs**

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

**Greece: the HTPC published non-confidential comments of the participants of its public consultation on the determination of the technical specifications and minimum characteristics of the wholesale VLU product**

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

**Greece: the HTPC published the results on the quality tests on the universal postal service for the year 2016**

To read the results on the quality tests on the universal postal service for the year 2016, as published by the HTPC click [here](#).

**Greece: the HTPC published its responses to the comments of the participants to the public concerning the analysis of the voice call termination on individual mobile networks market at a wholesale level**

To read the responses of the HTPC in this regard, click [here](#).

**On 06.04.2017 the HTPC published the amendment and codification of the approved reference offer for the full and shared unbundled access to the local loop and the relevant services**

To read the abovementioned document of the HTPC click [here](#).

**UK: The CMA's determination following appeals by TalkTalk and CityFibre over leased line charges was published by the CAT**

In November 2016, the Competition Appeal Tribunal (CAT) referred 2 appeals to the Competition and Markets Authority (CMA) over the amount British Telecommunications plc (BT) is permitted to charge other providers for purchasing leased line services. CityFibre Infrastructure Holdings plc (CityFibre) and TalkTalk Telecom Group Plc (TalkTalk) both appealed to the CAT following the Office of Communications' (Ofcom's) final decision in its Business Connectivity Market Review (BCMR) in April last year. In its final determination on the TalkTalk appeal published by the CAT, the CMA said that Ofcom made an error in the methodology used for calculating the price for Dark Fibre Access. It gave guidance to the CAT that the

decision should be remitted to Ofcom and that Ofcom should amend its methodology in light of the CMA's findings. The CMA dismissed the challenge in the CityFibre appeal. To read the full press release of the CMA click [here](#).

### Pharmaceuticals

**UK: The CMA alleged that Concordia and Actavis signed illegal agreements which enabled high prices for a life-saving drug to be prolonged**

The Competition and Markets Authority (CMA) alleged that between January 2013 and June 2016, Concordia (formerly Amdipharm), and Actavis UK (formerly Auden Mckenzie), entered into agreements under which Actavis UK incentivised Concordia not to enter the market with its own competing version of hydrocortisone tablets. In a statement of objections issued to the parties on 03.03.2017, the CMA provisionally found that both companies broke competition law by reaching these anti-competitive agreements, and it also alleges that Actavis UK abused its dominant position by inducing Concordia to delay its independent entry into the market. Under the agreements, Actavis UK instead supplied Concordia with a fixed supply of its own 10mg tablets for a very low price for Concordia to resell the product to customers

in the UK. Actavis UK remained the sole supplier of the tablets in the UK during most of this period, when the cost of the drug to the NHS rose from £49 to £88 per pack. To read the full press release of the CMA click [here](#).

### Transport

**Judgment of the GC of 06.04.2017 issued — Regione autonoma della Sardegna v Commission (Case T-219/14)**

On 06.04.2017 the General Court of the European Union (GC) issued its decision on an application filed under Article 263 TFEU for annulment of a Commission Decision concerning aid measures granted by the Autonomous Region of Sardinia (Italy) to the maritime company Saremar in the form of public service compensation and a capital increase. By its decision, the GC dismissed the action and ordered the Regione autonoma della Sardegna (Italy) to bear its own costs and to pay those incurred by the European Commission and Compagnia Italiana di Navigazione SpA. To read the full decision of the GC in Case T-219/14 click [here](#).

**The GC confirmed France must recover €220 million in aid granted to SNCM in respect of certain maritime transport services it provided between Marseille and Corsica**

By its judgments in Cases T-366/13 (France v Commission) and T-454/13 (SNCM v Commission), the GC upheld the Commission decision ordering recovery of incompatible state aid granted to SNCM for the execution of the 2007-2013 public service contract during peak seasons. The judgments confirmed important state aid principles and improve legal certainty for public local authorities delegating certain public services as well as operating companies carrying out such services. To read the full press release of the GC (No. 20/2017) click [here](#).

**The European Commission re-adopted decision and fined air cargo carriers €776 million for price-fixing cartel**

The European Commission re-adopted a cartel decision against 11 air cargo carriers and imposed a fine totaling € 776 465 000 for operating a price-fixing cartel. In November 2010, the Commission adopted a decision against 12 air cargo carriers imposing fines

totalling almost €800 million. The companies fined in 2010 were Air Canada, Air France-KLM, British Airways, Cargolux, Cathay Pacific Airways, Japan Airlines, LAN Chile, Martinair, Qantas, SAS and Singapore Airlines. A twelfth cartel member, Lufthansa, and its subsidiary, Swiss International Air Lines, received full immunity from fines. All carriers except Qantas appealed to the General Court of the European Union (GC) against the Commission's 2010 decision. In December 2015, the GC annulled the Commission's decision against the 11 cartel participants that appealed, concluding that there had been a procedural error. However, it did not rule on the existence of the cartel. The Commission maintained that these air cargo carriers participated in a price-fixing cartel and adopted a new decision and re-establishing the fines. To read the full press release of the European Commission (IP-17-661) click [here](#).

**The European Commission confirmed no aid in concession deals for Greek regional airports**

The European Commission concluded that concessions for 14 regional airports in Greece were awarded to the German-Cypriot Fraport AG-Slentel Ltd consortium on market terms and therefore did

not involve any state aid. To read the full press release of the European Commission (IP-17-664) click [here](#).

### **The European Commission approved €12 million aid scheme for new air routes to Italian region of Calabria**

The European Commission found that an Italian scheme aimed at providing start-up aid to airlines launching new routes to the region of Calabria is in line with EU state aid rules. The scheme will allow the Calabria regional government to subsidise up to half of the airport charges paid by airlines for the operation of new routes to or from the airports of Lamezia Terme, Reggio Calabria and Crotona for a period of up to three years. To read the relevant press release of the European Commission click [here](#).

## **News of the Markets**

### **DESFA signed MoU with Albgaz in Albania**

According to press information, Greece's gas grid operator (DESFA) signed a memorandum of understanding with Albgaz in Tirana. DESFA announced that the agreement provides for the operation and maintenance of the Trans Adriatic Pipeline (TAP) on

Albanian soil, as well as the transfer of know-how from the Greek company to newly formed Albgaz.

### **PSP pressed for Athens Airport deal extension**

According to press information, Canada-based PSP International asked for the process to extend the agreement for the operation of the Athens International Airport to continue, after having stalled for a lengthy period.

### **HRADF to sell stake in Hellenic Petroleum**

The Hellenic Republic Asset Development Fund (HRADF) is moving ahead with the appointment of a consultant for the sale of a 35.5 percent stake in Hellenic Petroleum, according to press information. The consultant to be commissioned will advise HRADF on the optimum strategy for the utilization of the listed company's stake that the fund controls and will operate as a consultant for the process itself.

### **The Hellenic Republic handed over control of 14 regional airports to Fraport**

A milestone agreement for the privatization program of the Greek Republic was concluded



with the concession of the 14 regional airports by the Greek State to the FRAPORT AG - SLENTEL Ltd. consortium. To read the full press release of the HRADF click [here](#).

**Highest Bidder for Thessaloniki Port Authority SA the consortium comprising "Deutsche Invest Equity Partners GmbH", "Belterra Investments Ltd.»" and "Terminal Link SAS"**

The Hellenic Republic's Privatization Programme and Northern Greece, the consortium comprising "Deutsche Invest Equity Partners GmbH", "Belterra Investments Ltd." and "Terminal Link SAS" submitted an improved financial offer for the acquisition of 67% of Thessaloniki Port Authority SA, as part of the respective international competitive process. The improved financial offer envisages payment of a consideration of €231,926,000 for the acquisition of 67% of shares in ThPA S.A. In assessing the improved financial offer, HRADF's Board of Directors took into account the two independent valuations for THPA and decided to declare the above-mentioned consortium as the Highest Bidder. The total value of the agreement amounts to EUR 1.1 billion and includes among others the aforementioned EUR

231,926,000 offer, the mandatory investments amounting to EUR 180 million over the next seven years and the expected revenues from the Concession Agreement for the Hellenic Republic, in an expected amount in excess of EUR 170 million. To read the full press release of the HRADF click [here](#).

**Spain's Puig acquired majority stake in Apivita cosmetics company**

According to press information, Spanish fashion and fragrance firm Puig SA bought a majority stake in Apivita, a Greece-based cosmetics company. The full details of the deal were not made known.

**Plan for PPC provides for sale of 40% of capacity by June 2018**

According to press information, the Greek government is set to proceed with the sale of part of the production capacity of Public Power Corporation, although this time, the so-called "Small PPC" to be privatized is expected to constitute more than the 30 percent originally foreseen, and in many respects the terms will be tougher too. The draft agreement that the creditors have proposed to the government provides for PPC to part with 40 percent of its

lignite-powered and hydroelectric units starting this July and to be completed within the first half of 2018.

### **HRADF to proceed with a new tender for DESFA**

HRADF's Board of Directors decided to proceed with a new tender for DESFA. In particular, following Socar's withdrawal from the tender process in November 2016, and the respective press release by the Ministry of Environment and Energy, HRADF's BoD decided on the termination of the previous tender for DESFA's 66% and the initiation of a tender process for the appointment of financial advisors that will assist HRADF in the arrangements and implementation of the new tender. To read the full press release of the HRADF click [here](#).

### **Lawsuit of over 100 million euros submitted by Makedonia – Thraki Breweries against Heineken N.V. and its subsidiary, Athinaiki Zythopoia**

According to press information, Makedonia – Thraki Breweries have filed a lawsuit claiming over 100 million euros against Heineken N.V. and its subsidiary, Athinaiki Zythopoia, alleging abuse of the dominant position of the latter on

the Greek market. According to the same information of the press, the adjudication of the dispute shall take place before the competent courts of Amsterdam.

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