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HIGHLIGHTS

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

- Antitrust: Commission adopts new Horizontal Block Exemption Regulations and Horizontal Guidelines & Questions and Answers on adoption of the new Horizontal Block Exemption Regulations and Horizontal Guidelines
- Press Release - Clearance of the notified concentration concerning the acquisition by the company under the name "INNOVIS PHARMA SA, " of sole control over the company 'GAP S.A.'
- Press Release - Clearance of the notified concentration concerning the acquisition by the company under the name "LAFARGE BETON S.A." of sole control over the company 'LARSINOS S.A.'
- T-238/21 - Ryanair v. Commission
- T-34/21 and T-87/21 - Ryanair DAC and Condor Flugdienst GmbH v. Commission
- T-268/21 - Ryanair v Commission (Italy ; Covid-19)
- T-238/21 - Ryanair v Commission (SAS II ; COVID-19)
- T-34/21 - Ryanair v Commission (Lufthansa ; COVID-19)

Editorial

The relationship between Antitrust and Data Protection : valuable substantial and procedural clarifications by the courts of the Union

It is clearly established that the Commission when performing dawn raids or other investigations, as well as National Competition Authorities (NCA's) are bound by the constraints of personal data protection on the basis of the EU Charter of Fundamental Rights and respectively of the EU Regulation 2018/1725 and the EU Regulation 2016/679 (GDPR). However, by the commented judgments the European Courts have provided important clarifications on the scope of said commitment of the Commission and of the NCA's, as well as on the substantial interactions between EU Competition Law and EU Law on data protection.

In a landmark case (**C-252/21**) Meta Platforms and Others, the Court ruled that an NCA can find, in the context of the examination of an abuse of dominance, that the GDPR has been infringed. Meta Platforms Ireland operates the social network Facebook within the European Union. The German Federal Cartel Office (Bundeskartellamt) prohibited the use of the social network Facebook by private users resident in Germany from being subject, in the general terms, to the processing of their off-Facebook data and those data from being processed without their consent. It considered that the fact that the processing of the off-Facebook data of the users was not consistent with the GDPR, constituted an abuse of the dominant position that Meta held in the market for online social networks in Germany. The reviewing court (Higher Regional Court of Düsseldorf) stayed proceedings and asked the Court of justice whether an NCA had the right or not in assessing an abuse of dominance to take into consideration a violation of the personal data protection regulations and in particular of the GDPR. The Court of justice replied in the affirmative. However, and as the role of NCAs is distinct from the role of the authorities empowered by the GDPR to monitor its adequate application, NCA's can find a violation of the GDPR solely in the purpose of assessing an abuse of dominance. In order to ensure the consistent application of the GDPR, NCAs must on the basis of the principle of sincere cooperation verify whether the incriminated behavior has been the subject of any decision of such authorities or of the Court. If such is the case, the NCA's cannot depart from it, although they can make their own assessment in terms of competition law. On the basis of said principle of sincere cooperation and if there is no previous decision of the GDPR supervising authorities, the NCA's must cooperate with them before issuing their decision.

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

A few days before, the General Court issued an also important judgment (**T-451/20**) on the antitrust procedures before the Commission on an action brought by Meta Platforms against a Commission request seeking disclosure of documents identified by means of search terms. Meta claimed inter alia that the request of the Commission was contrary to the protection of the rights of the subjects of the data according to the GDPR. The General Court dismissed the action in its entirety. Notably the Court held that the organization of the collect of the data during the procedure before the Commission in a separate virtual data room (vdr), to which the minimum required of handlers of the Commission had access, to the use of which the lawyers of Meta could in proper time have access and had the possibility to submit their observations, upon which ultimately the Director of Communication of the Commission could decide as arbitrator, ensure sufficiently the respect of the rights of the subjects in terms of personal data protection as well as the defense rights of Meta. The establishment and the rules of the vdr in question were compliant with an interim judgment of the General Court (T-451/20 R).

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

Antitrust

CJ: C- 211/22, Super Bock Bebidas SA and Others

The judgment of the Court in this case of a request for a preliminary ruling concerned a dispute in the main proceedings regarding the lawfulness of the Portuguese Competition Authority's decision finding that Super Bock, AN and BQ (the other parties to the case) had infringed competition rules and therefore imposing fines. Specifically, the clarification sought relates to how competition authority decisions, which found supply contracts illegal, are binding on national courts.

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

Commission adopts new Horizontal Block Exemption Regulations and Horizontal Guidelines and respective Questions & Answers on adoption of the new Horizontal Block Exemption Regulations and Horizontal Guidelines

The revision of the HBER and Guidelines has provided more straightforward guidance to businesses in order to assess the compatibility of their horizontal cooperation agreements with EU competition rules.

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

Commission sends Statement of Objections to Google over abusive practices in online advertising technology

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

Remarks by Executive Vice-President Vestager on the Statement of Objections sent to Google over practices in the online advertising technology industry

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

Mergers

GC : T-585/20 - Polwax S.A. v European Commission

The General Court dismissed an action against a Commission's decision brought by Polwax, on the approval of the merger of Orlen and Lotos under conditions.

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

Commission approves the merger between Credit Suisse and UBS

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

Commission clears Viasat's acquisition of Inmarsat

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

Commission clears acquisition of OMV Slovenija by MOL, subject to conditions

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

Commission clears acquisition of Activision Blizzard by Microsoft, subject to conditions

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

Commission sends Orange and MasMovil Statement of Objections over their proposed joint venture in Spain

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

Commission sends Booking Statement of Objections over proposed acquisition of eTraveli

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

Commission clears acquisition of Lagardère by Vivendi, subject to conditions

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

HCC: Clearance of the concentration concerning the acquisition by BC Partners of sole control over AKMI Educational and Metropolitan College

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

HCC: Clearance of the notified concentration concerning the acquisition by the company under the name "LAFARGE BETON S.A." of sole control over the company 'LARSINOS S.A.'

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

HCC: Clearance of the concentration concerning the acquisition by Elikonos 2 SCA SICAR, EOS Hellenic Renaissance Fund and Bearonem Limited of joint control over Med Frigo SA, CARGO MED SA and Med Energy

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



State Aid

GC : T-102/21, T-289/21 and T-513/21

The General Court uphold Commission's decision finding that support measures in the context of the COVID-19 pandemic in the Netherlands for small and medium sized businesses are in line with the principle of equal treatment.

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

GC : T-131/21 - Região Autónoma da Madeira v European Commission

The Court dismissed the action brought by a Spanish Autonomous Region against the Commission's decision which found the state aid offering tax advantages (Madeira Free Trade Zone Aid Scheme) illegal and incompatible with the internal market and proceeded to order its recovery.

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

Commission approves €2.6 billion Swedish scheme to support companies in the context of Russia's war against Ukraine.

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

Commission approves €680 million Spanish scheme under the Recovery and Resilience Facility to support roll out of 5G mobile networks in rural areas.

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

Energy

Mergers : GC : T-312/20 - EVH v European Commission and T-319/20 GGEW, Gruppen-Gas-und Elektrizitätswerk Bergstraße AG v European Commission

Among the most notable findings of the General Court, was that the fact of not characterizing the third operation in question as a concentration and ruling that the rules regarding “single concentrations” are inapplicable in this case as they do not apply to interdependent companies acquiring control of different targets and therefore upholding the Commission’s decision.

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

State Aid: Commission approves €837 million Spanish scheme to support the production of batteries for electric and connected vehicles to foster the transition to a net-zero economy

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

State Aid: Commission approves €280 million Belgian measure to support ArcelorMittal decarbonise its steel production

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

State Aid: Commission approves €1.1 billion Hungarian scheme to support electricity storage facilities to foster the transition to a net-zero economy

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

State Aid : Commission approves €718 million Czech scheme to support companies in the heat sector in the context of Russia's war against Ukraine.

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

Electronic Communications

State Aid : Commission approves up to €8.1 billion of public support by fourteen Member States for an Important Project of Common European Interest in microelectronics and communication technologies

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

State Aid : Remarks by Executive Vice-President Vestager on an Important Project of Common European Interest in microelectronics and communication technologies

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

Transport

State Aid : CJ, C-163/22 P - Gmina Miasto Gdynia and Port Lotniczy Gdynia-Kosakowo v Commission

The appellant disputed a decision declaring a state aid measure incompatible with the internal market and ordering its recovery, but the appeal was dismissed in its' entirety by the Court of Justice.

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

State Aid : GC, T-268/21 - Ryanair v Commission (Italy ; Covid-19)

The General Court quashed the Commission's decision on the grounds that the Commission was required to state reasons in approving of state aid in the context of the COVID-19 pandemic in the air transport sector.

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

State Aid : GC, T-238/21 - Ryanair v Commission (SAS II ; COVID-19)

The General Court quashed the Commission's decision on the grounds that the Commission has infringed the 'Temporary Framework for State aid measures to support the economy in the current COVID-19 outbreak' by failing to require the inclusion of a step-up or an alternative mechanism with regard to the equity instrument (subscription by the Kingdom of Denmark and the Kingdom of Sweden to new common shares) required by the measure at issue (the recapitalization of SAS).

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

State Aid : GC, T-34/21 and T-87/21 – Ryanair, Condor v. Commission (Lufthansa ; COVID-19)

The General Court quashed the Commission's decision approving Germany's recapitalization of Lufthansa by Germany in the context of the COVID-19 pandemic. The General Court found that the Commission's errors were among else; in its assessment of the inability of Lufthansa to finance its needs in the market, in not requiring that Lufthansa buys its shares back from Germany as soon as possible, in finding that Lufthansa does not have significant market power in some airports.

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

State Aid : GC, T-79/21 - Ryanair DAC, Airport Marketing Services Ltd v. Commission

The General Court upheld the Commission's decision finding that state aid granted to Ryanair and its' subsidiary AMS were unlawful and therefore dismissed the action brought by Ryanair and ordered it to repay 8.5 MIL EUR to France.

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



Pharmaceuticals

Mergers : HCC: Clearance of the notified concentration concerning the acquisition by the company under the name "INNOVIS PHARMA SA, " of sole control over the company 'GAP S.A.'

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



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