

COMPETITION & REGULATION REPORT

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BY VASSILIS KARAGIANNIS, DR. JURA, PARTNER,
MARGARITA PTEROUDI, LL.M., TRAINEE LAWYER



HIGHLIGHTS

- Court of the EU : Antitrust : C-759/21 P - Nippon Chemi-Con Corporation v Commission
- Court of the EU : Antitrust : C-757/21 P - Nichicon Corporation v Commission
- General Court of the EU : T-172/21 - Valve Corporation v Commission
- Antitrust: Commission re-imposes €376.36 million fine on Intel for anticompetitive practices in the market for computer chips
- Digital Markets Act: Commission designates six gatekeepers
- HCC : Antitrust : Decision on the complaints lodged against the company OPAP SA, imposing a fine totaling EUR 24,562,249.05
- Mergers : Court of the EU : C-376/20 P - Commission v CK Telecoms UK Investments
- Mergers: Commission fines Illumina and GRAIL for implementing their acquisition without prior merger control approval
- Mergers: Commission clears Advent's acquisition of GfK subject to conditions
- Mergers (HCC): Decision No 822/2023 on ATTICA's commitments Subject: Decision on the assessment of the competitive conditions and the effectiveness of the commitments undertaken by ATTICA GROUP ("ATTICA") under Decision No. 658/2018 of the Hellenic Competition Commission ("HCC"), for the ferry routes from Attica region to the islands of Chios-Mytilini and vice versa.
- Mergers (HCC) : Clearance of the concentration concerning the acquisition by MYTILINEOS SA of sole control over UNISON FACILITY SERVICES SA
- Court of the Union : State Aid : C-313/22 – ACHILLEION
- General Court of the EU : State Aid T-826/14 Spain v Commission, etc.

Editorial

Acquisition of e-Traveli by Booking : non horizontal mergers in closely related markets with high market shares are unlikely to be approved by the Commission.

The European Commission has prohibited, under the EU Merger Regulation, the proposed acquisition of Flugo Group Holdings AB ('eTraveli') by Booking Holdings ('Booking'). The acquisition would have led Booking to increase its dominant position on the market for hotel online travel agencies ('OTAs') in the European Economic Area ('EEA').

OTAs provide an important intermediation service, matching demand and supply for travel services, which include accommodation, flights, car rentals, and attractions. The market of OTAs has a significant size in the EEA, where OTAs handle transactions worth more than €100 billion annually.

Booking is the leading hotel OTA while eTraveli is one of the main providers of flight OTA services in Europe. Booking is also active in the market for metasearch services ('MSS') mainly through its price comparison platform KAYAK. In the hotel OTA market Booking has a strong dominant position with a market share steadily increasing and exceeding actually 60%. On the other hand eTraveli is a best-in-class OTA and the number two player in the EEA and most particularly the flight OTA in Europe. Flight OTA services are an important customer acquisition channel for hotel OTAs as they generate a significant amount of traffic and are often the first step in the planning of a trip. The proposed acquisition would have as an effect for Booking to leverage e-Traveli capabilities in this sector of the market and thus acquiring an important customer acquisition channel. Furthermore, the proposed acquisition would have as an effect the possibility for Booking to expand its travel services. All these contemplated effects of the proposed transaction would allow Booking to a large extent to act independently vis-a-vis its competitors increasing thus the prices charged to Hotels to the detriment of final consumers.

Therefore, the Commission decided to prohibit the acquisition despite the fact that Booking offered remedies to address the concerns of the Commission. To read the full press release of the Commission click [here](#) . To read the remarks by Commissioner Reynders, [click here](#)

Antitrust

C-757/21 P - Nichicon Corporation v Commission

C-759/21 P - Nippon Chemi-Con Corporation v Commission

The CJEU dismissed appeals against two judgments of the General Court in cases **Nichicon** and **Nippon Chemi-Con**, confirming the fines imposed by the European Commission in 2018 on the producers of aluminum and tantalum electrolytic capacitors.

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

C-510/22 - Romaqua Group

The case concerns a request for a preliminary ruling in proceedings between Romaqua Group SA with the National Company Responsible for Mineral Waters, Romania and the National Company Responsible for Mineral Waters, Romania, in relation to the rejection of a request for the organization of a public tendering procedure for the award of two concessions for the exploitation of mineral waters. The Court found that EU law must be interpreted as precluding national legislation granting the holder of a license to exploit mineral water springs, an extension of the license without a public tendering procedure.

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

T-172/21 - Valve Corporation v Commission

The General Court rejected Valve Corporation's appeal against the European Commission's 1.6 million EUR fine imposed on Valve Corporation for hampering the sale of PC video games based on the user location ("geoblocking").

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

Commission decides to refer ESTONIA to the Court of Justice of the European Union for failing to transpose ECN+ Directive

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

Commission re-imposes €376.36 million fine on Intel for anticompetitive practices in the market for computer chips**Questions & Answers - Antitrust: Commission re-imposes €376.36 million fine on Intel for anticompetitive practices in the market for computer chips**

The fine reimposed relates to Intel paying computer manufacturers to halt or delay the launch of specific products containing competitors' x86 CPUs and to limit the sales channels available to these products ("naked restrictions"). This constitutes a violation of Article 102 of the TFEU. It is notable that the decision to reimpose the fine is without prejudice to an appeal filed by the Commission against the annulment of another violation ("conditional rebates").

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

To read the Q&A, [click here](#).

Commission fines defence company €1.2 million in cartel settlement

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

Digital Markets Act: Commission designates six gatekeepers**Questions and Answers: Digital Markets Act: Ensuring fair and open digital markets***

Alphabet, Amazon, Apple, ByteDance, Meta and Microsoft will have six months to ensure full compliance with the DMA obligations for each of their designated core platform services.

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

To read the Q&A, [click here](#).

HCC's tool for interactive mapping display of the state of competition in coastal ferry connections in Greece

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

HCC : Decision on the ex officio investigation into the press distribution market as well as on the ex officio investigation following HCC Decision No. 659/2018, imposing a fine of EUR 750,656.06

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

HCC : Decision on the complaints lodged against the company OPAP SA, imposing a fine totaling EUR 24,562,249.05

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

HCC : Decision on the ex officio investigation into the press distribution market as well as on the ex officio investigation following HCC Decision No. 659/2018, imposing a fine of EUR 750,656.06

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

HCC : Sector inquiry into Health Services - Publication of the Interim Report and commencement of public consultation

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



Mergers

C-376/20 P - Commission v CK Telecoms UK Investments

The CJEU judgment sided with the Commission's view in dealing with mergers in oligopolistic markets where there may be effects on competition, despite the not strengthening or establishing of a dominant position ("gap cases").

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

Commission clears Advent's acquisition of GfK subject to conditions

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

Commission opens in-depth investigation into the proposed acquisition of iRobot by Amazon

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

Commission fines Illumina and GRAIL for implementing their acquisition without prior merger control approval

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

Commission clears acquisition of VMware by Broadcom, subject to conditions

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

Statement by Executive Vice-President Margrethe Vestager on today's Court of Justice judgment on the Hutchison/O2 UK merger prohibition decision

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

Commission opens formal investigation for possible breach of notification requirement, standstill obligation and clearance conditions and obligations in Vivendi/Lagardère transaction

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

Commission opens in-depth investigation into the proposed acquisition of Figma by Adobe

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

HCC : Clearance of the concentration concerning the acquisition by MYTILINEOS SA of sole control over UNISON FACILITY SERVICES SA

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

HCC : Clearance of the notified concentration ATTICA – ANEK

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

HCC : Decision No 822/2023 on ATTICA's commitments Subject: Decision on the assessment of the competitive conditions and the effectiveness of the commitments undertaken by ATTICA GROUP ("ATTICA") under Decision No. 658/2018 of the Hellenic Competition Commission ("HCC"), for the ferry routes from Attica region to the islands of Chios-Mytilini and vice versa.

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



State Aid

C-313/22 – ACHILLEION

A Greek court made a request for a preliminary ruling in relation to Regulation 1260/1999 on the structural funds in proceedings between Achilleion and the Greek state concerning the partial recovery of financial aid granted for the modernization of a hotel and the creation of new jobs.

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

C-73/22 P - Grupa Azoty and Others v Commission

The CJEU dismissed the appeal by which the appellant sought to set aside the order of the General Court dismissing as inadmissible the action for the annulment in part of the communication from the Commission titled 'Guidelines on certain State aid measures in the context of the system for greenhouse gas emission allowance trading post-2021'.

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

C-320/21 P - Ryanair v Commission

C-321/21 P - Ryanair v Commission

The CJEU rejected the Ryanair appeal against the General Court judgments, approving guarantees on a revolving credit facility granted to SAS.

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

C-466/21 P - Land Rheinland-Pfalz v Deutsche Lufthansa

The General Court was found by the CJEU to have infringed its duty to state reasons in annulling a Commission decision on alleged state aid, resulting in the General Court's decision being annulled.

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

C-831/21 P - Fachverband Spielhallen and LM v Commission

The CJEU set aside the General Court judgment concerning the tax treatment of operators of public casinos in Germany and referred it back to the General Court.

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

C-508/21 P - Commission v Dansk Erhverv

The European Commission sought to set aside a General Court judgment by which the General Court annulled a European Commission decision concerning state aid granted to German beverage border shops, by exempting them from the general obligation to charge a deposit on non-reusable drinks packaging. The court set aside the General Court judgment and dismissed the action for annulment lodged by Dansk Erhverv.

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

T-578/17 DEP, a&o hostel and hotel Berlin GmbH

The case relates to a contract between the Berlin regional government and a non-profit organization, according to which the organization would occupy a site without rent, on the condition that it would develop and operate a youth hostel on site. The General Court annulled the European Commission's decision not to object to individual aid to develop a youth hostel, on the basis that the Commission did not manage to rule out incompatibility with the internal market.

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

T-826/14 Spain v Commission**T-12/15 Banco Santander and Santusa v Commission****T-252/15 Ferrovial and Others v Commission****T-253/15 Sociedad General de Aguas de Barcelona v Commission****T-256/15 Telefónica v Commission**

The General Court annulled a European Commission decision declaring a Spanish corporate tax scheme which allowed companies that became shareholders in a foreign company to deduct from the tax base, in the form of amortization, the goodwill resulting from the acquisition of that shareholding. In a 2014 decision (contested decision), the European Commission concluded that the measure constituted new aid which was deemed incompatible with the internal market, requiring Spain to end the tax scheme as well as recover aid granted under it.

To read the full judgment in T-826/14, [click here](#), in T-12/15, [click here](#), in T-252/15, [click here](#), in T-253/15, [click here](#), in T-256/15, [click here](#).

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

T-131/16 RENV Belgium v Commission

The General Court upheld a Commission decision according to which a Belgian tax scheme constituted unlawful state aid by granting exemptions to multinational corporate groups. More specifically, by allowing Belgian resident companies that were part of a multinational group and Belgian permanent establishments of foreign resident companies that were part of a multinational group to reduce their tax base in Belgium by deducting excess profit which was not taxed in Belgium and could not be attributed to those companies/establishments, Belgium was granting state aid which gave the companies a selective advantage, incompatible with the internal market.

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

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

Further cases dismissed on the same grounds:

T-263/16 RENV - Magnetrol International v Commission

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

T-266/16 Capsugel Belgium v Commission

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

T-278/16 - Atlas Copco Airpower and Atlas Copco v Commission

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

T-373/16 - Victaulic Europe v Commission

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

T-420/16 - SJM Coordination Center v Commission

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

T-467/16 - Flir Systems Trading Belgium v Commission

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

T-637/16 - ZF CV Systems Europe v Commission

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

T-858/16 - Dow Silicones and Dow Silicones Europe v Commission

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

T-201/16 - Soudal v Commission

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

T-525/20 - ITD and Danske Fragtmænd v Commission

The General Court partially annulled a Commission decision not to raise objections on the basis of the Commission's examination of whether capital injection constitutes state aid being incomplete and insufficient, regarding a subsidiary of the historic Danish and Swedish postal operators.

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

Commission approves €850 million French measure to support ArcelorMittal decarbonise its steel production

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

Commission adopts rules for implementing the EU Foreign Subsidies Regulation

The EU Foreign Subsidies Regulation allows the European Commission to address potential distortive effects of foreign subsidies. The Implementing regulation addresses procedural aspects of its implementation as well as notification forms.

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



Energy

State aid: Commission approves €89.5 million Italian measure under Recovery and Resilience Facility to support 3Sun's solar panel plant expansion

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

State aid: Commission approves €350 million Spanish scheme under Recovery and Resilience Facility for developing electricity storage facilities

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

State aid: Commission approves modification of Dutch scheme to reduce greenhouse gas emissions

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

State aid: Commission approves German €550 million direct grant and conditional payment mechanism of up to €1.45 billion to support ThyssenKrupp Steel Europe in decarbonising its steel production and accelerating renewable hydrogen uptake

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

State aid: Commission approves €246 million Dutch scheme to support renewable hydrogen production

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

State aid: Commission approves modifications to Belgian capacity mechanism

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

State aid: Commission approves €3 billion German scheme to support private investments in strategic goods to foster the transition to a net-zero economy

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

State Aid : Commission approves €40 million German support for on-shore LNG terminal in Brunsbüttel

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

State Aid : Commission approves €5 billion Czech scheme to support energy producers in the context of Russia's war against Ukraine

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

State Aid Commission approves €2.36 billion Hungarian scheme for accelerated investments in strategic sectors to foster the transition to a net-zero economy

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

State aid: Commission approves €1.5 billion French measure to support ProLogium in researching and developing innovative batteries for electric vehicles

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

State Aid : Commission approves €26.7 million Spanish measure to support the upgrade of Cobre Las Cruces' refinery

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

State Aid : Commission approves €6.5 billion German scheme to address carbon leakage risk for energy-intensive companies resulting from national fuel emission trading system

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

Commission approves €800 million Czech scheme to support companies facing increased energy costs in the context of Russia's war against Ukraine

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

Transport

State aid: Commission prolongs the possibility to grant operating aid to certain regional airports

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



KLC Law Firm

10 Kapsali Str. 10674 Athens, Greece

T. +30 210 7264500

F. +30 210 7264510

www.klclawfirm.com

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