

KLC

LAW FIRM

COMPETITION & REGULATION REPORT

C&RR, ISSUE 2020/5 November- December 2020

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

- Commission fines Teva and Cephalon €60.5 million for delaying entry of cheaper generic medicine
- GC, T-93/18 - International Skating Union v Commission
- Commission clears Altice, Allianz and Omers' joint acquisition of Covage, subject to conditions
- Commission approves the merger of Fiat Chrysler Automobiles N.V. and Peugeot S.A., subject to conditions
- Commission approves €120 million Greek support to compensate Aegean Airlines for damages suffered due to coronavirus outbreak
- Commission approves €20 million voucher scheme to support access to broadband services by students in Greece
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Editorial

Use of Data and the combat of the Commission against techno giants

During the last decade the Commission is fully committed to its combat against techno giants as illustrated by the various EU antitrust proceedings against them. Characteristically, the Commission imposed during the last decade to Google over 10 bn \$ of fines for antitrust violations. In this context, it appears that the Commission has serious concerns about the use of data that these companies are able to collect due to the vast possibilities that the new communications technologies offer. The fact that these platforms are able to have access and store a bulk of information about their users imposes that rules are set out for the fair, non-discriminatory use of such data. These rules are essentially based on the application of article 102 TFEU.

Recently the Commission sent to Amazon a Statement of Objections pursuant a formal investigation opened on July 2020. The Commission took the preliminary view that Amazon systematically relies on non-public business data of independent sellers who sell on its marketplace, to favor Amazon's own retail business, which directly competes with those third party sellers. The Commission also opened a second formal antitrust investigation into the possible preferential treatment of Amazon's own retail offers and those of marketplace sellers that use Amazon's logistics and delivery services. In its Statement Executive Vice-President Margrethe Vestager pointed out that the Commission must be ensured that data on the activity of third party sellers should not be used to the benefit of Amazon when it acts as a competitor to these sellers. The investigation of the Commission will cover the European Economic Area, with the exception of Italy. The Italian Competition Authority started to investigate partially similar concerns last year, with a particular focus on the Italian market. The Commission will be in close cooperation with the Italian Competition Authority throughout the investigation. To read the full Press Release of the Commission click [here](#).

Another (merger) case in period attesting the awareness of the Commission is the approval of the acquisition of Fitbit by Google. The approval of the Commission was subject to the strict fulfilment of a full set of conditions concerning the use of the health data of users held by Fitbit. Thus, Google committed not to use for Google Ads the health and wellness data collected from wrist-worn wearable devices and other Fitbit devices of users in the EEA, including search advertising, display advertising, and advertising intermediation products. Furthermore, Google will maintain a technical separation of the relevant Fitbit's user data. Last, Google will ensure that European Economic Area ('EEA') users will be given an effective possibility to grant or deny the use of health and wellness data stored in their Google account or Fitbit account by other Google services. To read the full Press Release of the Commission click [here](#).

Antitrust

C-372/19 - SABAM v Weareone World BVBA, Wecandance NV

The case was initiated by a national reference from Belgium seeking clarification on Art. 102 TFEU. The ECJ ruled that the imposition of a remuneration model on organisers of musical events for the use of copyright-protected works based on gross income from ticket sales by a copyright management company which has a de facto monopoly in a Member State does not constitute an abuse of dominant position within the meaning of Article 102 TFEU.

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

C-823/18 P - Commission v GEA Group

This case was initiated after an appeal against the General Court's judgment in Case T- 640/16 which annulled the Commission's amended decision in the heat stabilisers cartel (AT.38589). Of great significance in the ECJ's ruling was the interpretation of the notion of undertaking. The ECJ uphold the appeal and referred the case back to the General Court, pointing out, interestingly, that the joint liability for the payment of a fine is merely a manifestation of the notion of undertaking (GEA Group).

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

T-93/18 - International Skating Union v Commission

This case was initiated after an appeal by the International Skating Union ('ISU'), in relation to a 2017 Commission decision that the ISU had infringed Article 101(1) of the TFEU due to the nature of its speed skating competition eligibility rules. The General Court, called upon to rule for the first time on a Commission decision finding that rules adopted by a sports federation do not comply with EU competition law, confirmed that the classification of a restriction of competition by object established by the Commission in respect of the rules at issue is well founded, but partially annulled the contested decision as regards the corrective measures imposed on the ISU. More specifically, the General Court ruled on the legality of the corrective measures imposed by the contested decision in order to bring an end to the infringement found and partially upheld the applicant's claims for annulment in that regard, in so far as the Commission required, subject to a periodic penalty payment, substantial modification of the ISU's arbitration rules in the event that the pre-authorisation system was retained. To read the full judgement, click [here](#).

T-515/18 – Fakro Sp. z o.o. v Commission

The General Court dismissed the appeal of FAKRO in its attempt to overturn a Commission Decision rejecting Fakro's complaint that Velux, its roof-window specialist rival, had abused its dominant position by inter alia engaging in several categories of abuse, including a selective pricing policy (such as rebates, predatory pricing and price discrimination), by introducing "fighting brands" with the sole purpose of eliminating competition, and by brokering exclusive agreements. The General Court confirmed the absence of interest of the EU in pursuing the examination of a complaint, since the extent of the investigation necessary would be disproportionate to the limited likelihood of finding a breach of Art. 102 TFEU. To read the full order, click [here](#).

Commission publishes report on implementation of Damages Directive

The European Commission has published a report on the implementation of the Antitrust Damages Directive which helps citizens and companies claim damages if they are victims of infringements of EU antitrust rules, such as cartels or abuses of dominant market positions. To read the full press release and the report, click [here](#).

Communication on the progress of the HCC's investigation in the banking sector

In November 2019, the HCC conducted dawn raids, at the premises of undertakings and their associations active in the banking sector, as a preliminary step in the investigation of suspected anti-competitive practices. To read the communication and the full HCC's press release, click [here](#).

Statement of Objections following an HCC's ex officio investigation in the market of Press distribution

HCC's Plenary Session convened on 29 December 2020 to examine alleged infringements of Articles 1 and 2 of Law 3959/2011 ("Greek Competition Act") and/or Articles 101 and 102 of TFEU, upon the relevant Statement of Objections (SO), following an ex officio investigation by the HCC's General Directorate for Competition in the market of Press distribution, as well as an ex officio investigation initiated pursuant to HCC's Decision 659/2018. To read the full HCC's press release, click [here](#).

Statement of Objections in the Greek market for general purpose gas appliances by DIMKA SA

HCC's Plenary Session convened on 22 December 2020 to examine, upon the relevant Statement of Objections, alleged infringements by DIMKA SA (currently RESOUL SA) of Articles 1 and 2 of Law 3959/2011 ("Greek Competition Act") and Articles 101 and 102 TFEU in the Greek market for general purpose gas appliances, following a complaint by STAMATOULIS SA and an ex officio investigation by the HCC's General Directorate for Competition in the abovementioned market. To read the full HCC's press release, click [here](#).

Teleconference/Public consultation in the context of the HCC Fintech sector inquiry

The HCC, in the context of the Phase A' of its sector inquiry into Fintech which is undertaken with the collaboration of the Bank of Greece has successfully completed its teleconference/public consultation with various stakeholders. The teleconference followed the written submissions by the companies and institutions concerned, and served as an interactive forum for exchanging views on the competitive conditions prevailing in the Fintech sector. To read the full HCC's press release, click [here](#) and to watch the teleconference video [here](#).



HCC's Publication of the Manual of Operational Procedures

This Manual is part of an extensive internal Code of Procedures which, for the first time, concretises and standardises the procedures of the HCC. To read the full HCC's press release, click [here](#) and for the HCC's Manual, [here](#).

HCC's Settlement decision on the infringement of competition law by the companies BRINK'S SECURITY SERVICES S.A., BRINK'S AVIATION SECURITY SERVICES S.A, MEGA SPRINT GUARD S.A, DRASIS SECURITY GROUP S.A, DIAS SPRINT GUARD and STEFANIDIS D. KONSTANTINOS

To read the full HCC's press release and decision, click [here](#).

Statement of Objections in relation to alleged infringements of Articles 1 of Law 3959/2011 and 101 TFEU in the Greek market for the sale/ distribution of wristwatches

HCC's Plenary Session will convene on 15 February 2021 to examine, upon the relevant Statement of Objections, alleged infringements of Article 1 of Law 3959/2011 ("Greek Competition Act") and Article 101 of the Treaty on the Functioning of the EU ("TFEU") by companies active in the importation and distribution of wristwatches in Greece, following a complaint by the company KOSTARELOS SA and an ex officio investigation by the HCC's General Directorate for Competition ("GDC") in the Greek market for the sale/ distribution of wristwatches. To read the full HCC's press release, click [here](#).

HCC's Decision on the ex-officio investigation in the relevant market of tenders for public works contracts of the prefecture of Fthiotida

The HCC found the existence of a horizontal concerted practice of bid rigging by some of the firms which participated in the tender of the project "5th Lyceum of Lamia (Departments A1 and B). The said violation, constitutes one of the most egregious violations of Art. 1, para 1 of Law No. 703/1977 [as well as of Law No. 3959/2011 currently in force]. To read the full HCC's press release and decision, click [here](#).

Merger

Commission clears Altice, Allianz and Omers' joint acquisition of Covage, subject to conditions

The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of Covage by SFR FTTH, a company jointly controlled by Altice, Allianz and Omers. The two companies are leading fibre networks operators in France. The approval is conditional on full compliance with a commitments package offered by the Altice, Allianz and Omers. To read the full press release, click [here](#).

Commission opens in-depth investigation into proposed acquisition of Willis Towers Watson by Aon

Aon and Willis Tower Watson are both insurance and re-insurance brokers, as well as providers of other professional services to corporate customers. To read the full press release, click [here](#).

Commission approves the merger of Fiat Chrysler Automobiles N.V. and Peugeot S.A., subject to conditions

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

Commission approves DIC's acquisition of BASF Colors & Effects, subject to conditions

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

Clearance by HCC of the concentration TEMES/ I.STASINOPOULOS/ STADIO 2020

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

State Aid

C-445/19 - Viasat Broadcasting UK v V2/Danmark A/S and Kingdom of Denmark

The ECJ issued its judgment in which it concluded that TV2/Danmark A/s should pay ‘illegality interest’ on State aid it received from the Danish government because it was not properly notified. The fact that the aid was subsequently deemed by the European Commission to be legal and that TV2/Danmark A/S offered a service of general economic interest did not change that conclusion. To read the full judgement, click [here](#).

C-431/19 P and C-432/19 P - Inpost Paczkomaty v Commission

The General Court dismissed actions for annulment of the Commission decision in State aid Case SA.38869 and subsequently, upon appeal, the ECJ issued its judgment in which it dismissed it in its entirety. To read the full judgement on the joined cases, click [here](#).

C-160/19 P - Comune di Milano v Commission

The case was initiated by an appeal of an Italian city against the General Court’s judgment in Case T-167/13 which dismissed an action for annulment of the Commission’s decision which found, among other things, that capital injections carried out by SEA Handling’s state-owned shareholders gave it undue economic advantage over its competitors (SA.21420). The ECG rejected the appeal considering that the General Court had correctly applied the criterion of private investor to the aid granted in the form of capital increases. To read the full judgement, click [here](#).

C-85/20 P - Lazarus v Commission

Appeal of decisions of the European Commission declaring a measure implemented by Hungary in favor of undertakings which employed disabled workers compatible with the internal market, was dismissed by ECJ, in part as clearly inadmissible and in part as clearly unfounded. To read the full order, click [here](#).

T - 486/18 - Danske Slagtermestre v Commission

Appeal of decision noting the absence of State aid in a contribution scheme for the collection of wastewater, was dismissed as inadmissible. To read the full order, click [here](#).

Commission approves €120 million Greek support to compensate Aegean Airlines for damages suffered due to coronavirus outbreak

The European Commission has found a Greek grant of €120 million to Aegean Airlines to be in line with EU State aid rules. The measure aims at compensating the airline for the losses directly caused by the coronavirus outbreak and the travel restrictions imposed by Greece and other destination countries to limit the spread of the coronavirus. To read the full press release, click [here](#).

Commission approves €20 million voucher scheme to support access to broadband services by students in Greece

The European Commission has approved under EU State aid rules a €20 million voucher scheme to help students in Greece access broadband services and benefit from remote online learning. To read the full press release, click [here](#).

Commission puts forward initiatives to further facilitate implementation of recovery and coronavirus support measures

The European Commission has today published [guiding templates](#) to assist Member States in the design of their national recovery and resilience plans in line with EU State aid rules. Second, to further facilitate the implementation of InvestEU and EU and national funds allocated for the recovery, the Commission is consulting Member States on a possible extension of the [General Block Exemption Regulation](#). Finally, the Commission is conducting a survey with all Member States to seek their views on the implementation of the State aid [Temporary Framework](#). To read the full press release, click [here](#).

Energy

Commission approves competitive tender mechanism to compensate for early closure of hard coal-fired power plants in Germany

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

Commission approves €150 million Romanian scheme to support investments in district heating systems based on renewable energy sources

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

Commission approves €30 billion Dutch scheme to support projects reducing greenhouse gas emissions

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

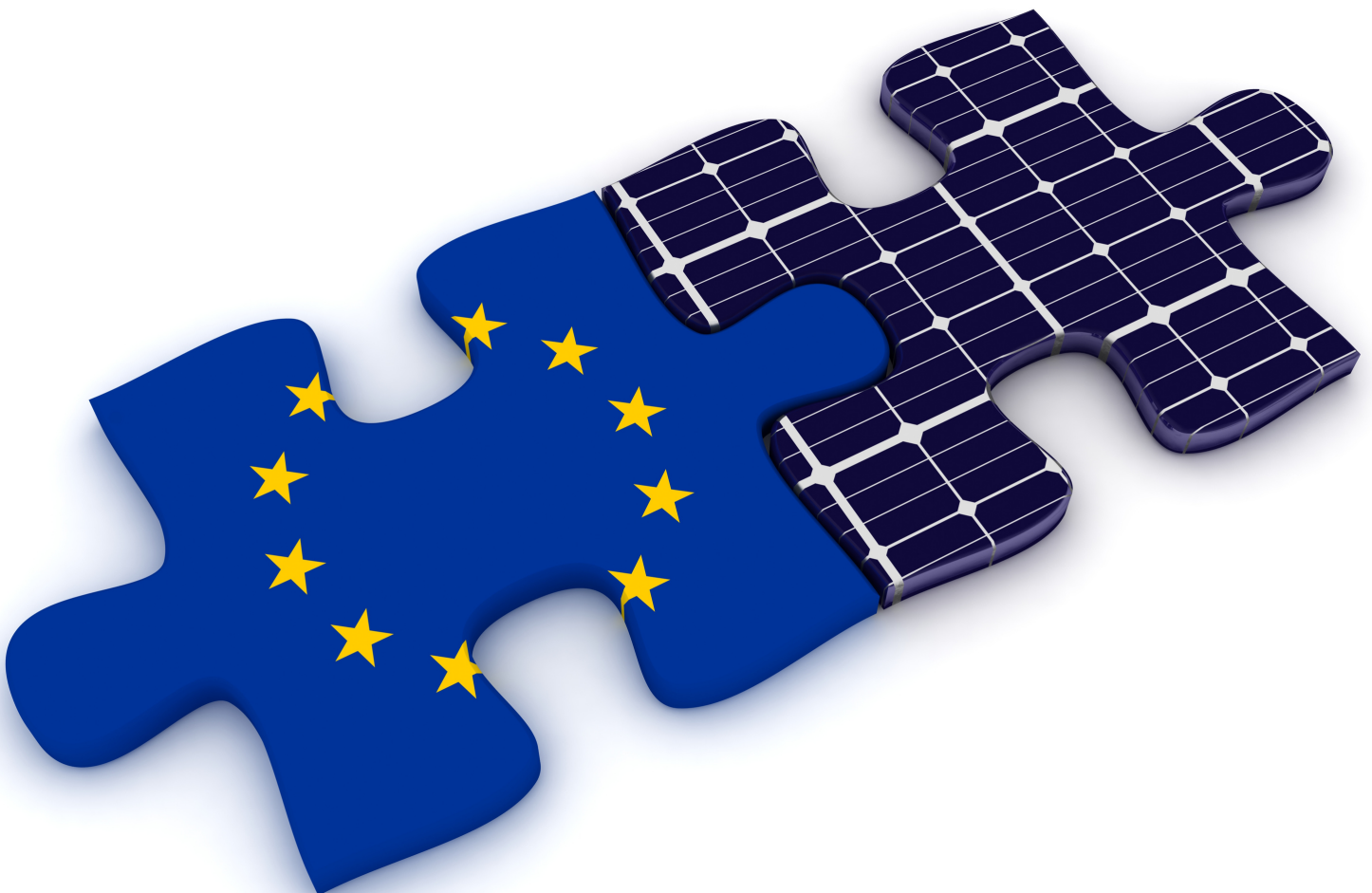
HCC's Investigation for non - notification of a concentration into the Greek market of electricity production

HCC will convene on January 8th, 2021 to examine, based on the related Statement of Objection, the ex officio investigation for failure to notify and violation of the standstill obligation regarding the creation of a joint venture by the companies Public Power Cooperation (PPC) Renewables SA and TERNA ENERGY SA into the Greek market of electricity production. To read the full HCC's press release, click [here](#).

HCC's Decision on the request put forth by DEPA COMMERCIAL S.A. for review of Commitment

The HCC accepted DEPA's [request](#) for its exemption from the obligation to implement the program of distribution of natural gas quantities through electronic auctions, as set out in Decision No. 631/2016.

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



Electronic Communications & Post

C-132/19 P - Groupe Canal + v Commission

The Court of Justice annulled a Commission decision making binding the commitments offered by company in order to preserve competition on the markets. It was highlighted that the fact that it is possible, for the contracting partners of a company which has made commitments not to comply with certain contractual clauses, to bring proceedings before the national court cannot remedy the effects of the Commission decision which made those commitments binding over the contractual rights of those contracting partners. To read the full judgement, click [here](#).

Commission approves German nation-wide scheme to support deployment of Gigabit networks in Germany

The European Commission has approved, under EU State aid rules, a German scheme to support the deployment of very high capacity broadband networks offering Gigabit speeds in Germany. The aid will bring these networks to customers in areas where the market does not provide them, in line with the EU broadband connectivity objectives. To read the full press release, click [here](#).

Commission approves €55 million German scheme to support roll-out of infrastructure for mobile communication services in German Land of Brandenburg

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

Transport

T-430/18 - American Airlines v Commission

The case was initiated by an appeal to the General Court of the European Commission's decision to grant grandfathering rights over slots made available as part of the commitments under the EU Merger Regulation accepted in Case M.6607 US Airways/American Airlines. With its judgement, the General Court dismissed the appeal and validated the interpretation adopted by the EU Commission in relation to the acquisition of prior rights under commitments to sell slots on the London-Philadelphia route of American Airlines. To read the full judgement, click [here](#).

T-814/17 - Lietuvos geležinkeliai AB v Commission

The General Court upholds the Commission's decision finding that the national railway company of Lithuania abused its dominant position on the Lithuanian rail freight market. The fine imposed on the company for the infringement in question is, reduced from € 27.873.000 to € 20.068.650. To read the full judgement, click [here](#).



Passport

Pharmaceuticals

Commission fines Teva and Cephalon €60.5 million for delaying entry of cheaper generic medicine

The European Commission has fined the pharmaceutical companies Teva and Cephalon €60.5 million for agreeing to delay for several years the market entry of a cheaper generic version of Cephalon's drug for sleep disorders, modafinil, after Cephalon's main patents had expired.

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

HCC's ex officio investigation and Examination of the complaint of the company INTERMED SA against company FREZYDERM SA

HCC's Plenary Session will convene on February 4th, 2021, to examine on the basis of the related Statement of Objection, a) the ex-officio investigation of the General Directorate of Competition and b) the complaint of INTERMED SA, against the company FREZYDERM SA, for possible violations of articles 1 and 2 of law 3959/2011 and articles 101 and 102 of the TFEU, in the relevant market for the production and marketing of cosmetics, personal and baby care products, "parapharmaceuticals" and other related products.

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

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