

COMPETITION & REGULATION REPORT

C&RR, ISSUE 2023 / 5 October - December 2023

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HIGHLIGHTS

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

- Court of Justice : C-297/22 P - United Parcel Service v Commission
- Court of Justice : C-746/21 P - Altice Group Lux v Commission
- Court of Justice : C-445/22 P - Larko v Commission
- Court of Justice : C-700/22 - RegioJet and STUDENT AGENCY
- Court of Justice : C-693/21 P - EDP España v Naturgy Energy Group and Commission
- General Court: T-494/21 - Ryanair and Malta Air v Commission
- Commission orders Illumina to unwind its completed acquisition of GRAIL.
- Commission fines pharma companies €13,4 million in antitrust cartel settlement.
- Commission approves re-introduction of market conform asset protection scheme for banks in Greece
- Commission approves €833 million Danish and Swedish State aid measure to recapitalise SAS
- C-451/21 P - Luxembourg v Commission
- T-74/21 - Teva Pharmaceutical Industries and Cephalon v Commission
- HCC: Statement of objections on a case concerning the obstruction of a dawn raid
- HCC - Clearance of the notified concentration concerning the acquisition by "MYTILINEOS S.A." of sole control over the entire share capital of "EFA Energeiaki S.A."
- HCC - Clearance of the notified concentration which concerns the acquisition of sole control over AKTOR SA by INTRAKAT SA

Editorial

FIFA and UEFA Rules and the Prohibition of abuse of Dominance (102 TFEU)

The commented preliminary ruling of the Court concerns the (attempted) monopolization of the European football cups by FIFA and UEFA. European Superleague Company, a company established in Madrid wished to set up a new professional football competition project in EU members states and non-EU countries: the Super League. FIFA and UEFA objected to the project, threatening to impose sanctions on clubs and players who might decide to participate. European Superleague Company brought an action against FIFA and UEFA before the Commercial Court of Madrid, arguing that their rules on approval of competitions and the exploitation of media rights are contrary to EU law. Having some doubts on the matter in relation to, inter alia, the fact that FIFA and UEFA hold a monopoly on that market, the Spanish court referred questions to the Court of Justice. That said, A majori ad minus it is not necessary to hold a monopoly (formal – by regulatory in broad sense or factual, e.g. by holding a 100% of the relevant markets' share, case that would be seldom), for article 102 TFEU to apply. Only a simply dominant position is sufficient. The Court focused its analysis to the condition of abuse. Referring most importantly to its previous case-law in [MOTOE](#) (a “Greek origin” preliminary ruling), the Court held that : “Thus, although a Member State is not prohibited per se from granting exclusive or special rights on a market to an undertaking through legislative or regulatory measures, such a situation must not place that undertaking in a position of being able to abuse the resulting dominant position, for example by exercising the rights in question in a manner that prevents potentially competing undertakings from entering the market concerned or related or neighbouring markets”. The Court applied in other words the so-called non-conflict of interests negative condition in a situation such as it gave rise to this important preliminary ruling.

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

To read the Press Release of the Court [click here.](#)

Antitrust

T-590/20 - Clariant and Clariant International v Commission

The General Court dismissed an appeal against a Commission decision which imposed a fine on Clariant for participation in a cartel.

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

Commission carries out unannounced inspections in the online food delivery sector

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

Commission carries out unannounced antitrust inspections in the construction chemicals sector

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

Commission fines Rabobank €26.6 million over Euro-denominated bonds trading cartel

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

Commission adopts antitrust Guidelines for sustainability agreements in agriculture

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

Commission fines ethanol producer Lantmännen €47.7 million over ethanol benchmarks cartel

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

HCC: Press Release - Fine of 628,450 euros to a children's toy company following a Dispute Settlement Process.

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

HCC: Statement of objections on a case concerning the obstruction of a dawn raid

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

HCC - Mapping study on the conditions of competition in the laundry detergent market, under the provisions of article 14(2) subpar. s of Law 4886/2022

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

HCC - Fines totaling 41.756.180,10 Euro imposed on five banks and the Hellenic Banking Association (HBA), along with the imposition of a behavioural remedy, following decision adopted under the settlement procedure

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

HCC - Fine amounting to €278.648 imposed on an undertaking active in the market of large/white domestic electric appliances, following decision adopted under the Settlement Procedure (SP)

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

Merger

C-297/22 P - United Parcel Service v Commission

The CJEU rejected an appeal lodged by UPS claiming damages arising from a Commission decision finding a concentration incompatible with the internal market.

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

C-746/21 P - Altice Group Lux v Commission

The CJEU upheld its 2018 judgment finding that Altice breached its obligations under the EU Merger Regulation by acquiring PT Portugal before notifying and receiving approval by the Commission, while reducing the fine.

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

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

Commission approves Hitachi Rail's acquisition of Thales' ground transportation business, subject to conditions

The Commission demonstrated that the transaction would have reduced competition and led to higher shares and less innovation and proposed that the horizontal overlap in the French and German markets should be removed to preserve competition.

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

Commission orders Illumina to unwind its completed acquisition of GRAIL

The Commission prohibited the acquisition of GRAIL by Illumina in September 2022 and despite that Illumina and GRAIL merged during the Commission's in-depth investigation.

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

HCC - Assessment of the notified concentration which concerns the acquisition of sole control over "AKTOR SA" by "INTRAKAT SA"

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

HCC - Clearance of the notified concentration which concerns the acquisition of sole control over AKTOR SA by INTRAKAT SA

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

HCC - Clearance of the concentration concerning the acquisition by MYTILINEOS SA of sole control over IMERYS BAUXITES SA

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

HCC - Clearance of the notified concentration concerning the acquisition by "MYTILINEOS S.A." of sole control over the entire share capital of "EFA Energeiaki S.A."

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



State Aid

C-445/22 P - Larko v Commission

The CJEU dismissed an appeal brought by Larko, finding that the General Court was correct in its' rule application on the topic of the burden of proof regarding the market economy operator principle.

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

Commission approves €742 million Czech State aid scheme to support sustainable forest management

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

Commission approves €910 million Italian scheme under the Recovery and Resilience Facility to support agro-industrial development

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

C-758/21 P - Ryanair and Airport Marketing Services

The CJEU dismissed an appeal lodged by Ryanair against a General Court judgment rejecting an application for annulment of a Commission decision. In 2016, the European Commission found that certain agreements between an airport and Ryanair were incompatible with the internal market.

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

Commission adjusts phase-out of certain crisis tools of the State aid Temporary Crisis and Transition Framework

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

Commission approves re-introduction of market conform asset protection scheme for banks in Greece

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

Commission approves €1.1 billion Spanish State aid scheme to support investments in equipment necessary to foster the transition to a net-zero economy

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

Commission approves €833 million Danish and Swedish State aid measure to recapitalise SAS

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

C-700/22 - RegioJet and STUDENT AGENCY

The CJEU in its preliminary ruling found that national courts can order recovery of state aid if it has been granted in breach of a prior notification obligation, despite the expiration of the limitation period.

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

C-457/21 P - Commission v Amazon.com and Others

The CJEU upheld a General Court judgment annulling a Commission decision on the basis of the Commission not establishing the tax ruling given to Amazon by Luxembourg as state aid.

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

C-451/21 P - Luxembourg v Commission

The CJEU annulled a Commission decision concerning selective tax advantages granted to two companies in Luxembourg found incompatible with the EU law.

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

T-494/21 - Ryanair and Malta Air v Commission

The General Court annulled Commission decisions confirming state aid granted to Air France as compatible with EU law.

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

T-415/21 - Banca Popolare di Bari v Commission

The General Court dismissed claim for compensation after the Commission erred in finding that there was state aid incompatible with the internal market in the Italian banking sector.

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

T-166/21 - Autorità di sistema portuale del Mar Ligure occidentale and Others v Commission

The General Court partially annulled a Commission decision regarding state aid. The Commission found that Italy was granting selective tax advantages to Italian port authorities by way of tax exemptions when performing specific economic activities.

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

Commission adopts new general rules for small amounts of State aid and for services of general economic interest

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

Commission clears French compensation for La Poste's universal service obligation

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

Commission approves up to €1.2 billion of State aid by seven Member States for an Important Project of Common European Interest in cloud and edge computing technologies

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

Energy

C-11/22 - Est Wind Power

The CJEU in its' preliminary ruling clarified the concept of the "start of works" found in the Commission Guidelines on State aid for environmental protection and energy.

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

C-331/21 - EDP - Energias de Portugal and Others

The CJEU clarified the notion of potential competition by interpretation of Article 101 TFEU, ruling that an agreement between a distributor of food and consumer goods and an electricity supplier may constitute a non-competition clause, if significantly harmful to competition.

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

C-693/21 P - EDP España v Naturgy Energy Group and Commission

The CJEU annulled a General Court judgment which upheld a Commission decision finding a Spanish "environmental incentive" to be state aid and potentially incompatible with the internal market.

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

T-136/19 - Bulgarian Energy Holding and Others v Commission

The General Court annuled a Commission decision which found abuse of a dominant position by Bulgargaz exclusively operating Romanian Pipeline 1 and fined Bulgarian Energy Holding (BEH), its gas supply subsidiary Bulgargaz and its gas infrastructure subsidiary Bulgartransgaz (together the BEH group).

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

T-53/21 | EVH, T-55/21 | Stadtwerke Leipzig, T-56/21 | TEAG, T58/21 | Stadtwerke Hameln Weserbergland, T-59/21 | eins energie in sachsen, T-60/21 | Naturstrom, T61/21 | EnergieVerbund Dresden, T-62/21 | GGEW, T-63/21 | Stadtwerke Frankfurt am Main, T-64/21 | Mainova and T-65/21 | enercity v Commission

11 German municipal authorities filed actions against the European Commission approval for distribution and retail energy business and generation assets of Innology by EON were dismissed on the basis of the Commission not making any errors in the assessment of finding compatibility of that concentration, which is part of an asset swap, with EU competition law.

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

Commission approves €400 million Bulgarian State aid measure to support Bulgargaz EAD in the context of Russia's war against Ukraine

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

Commission approves €2.5 billion Czech scheme to support the decarbonization and energy efficiency of industrial processes to foster the transition to a net-zero economy

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

Commission approves €193 million Lithuanian scheme to support offshore wind farms to foster the transition to a net-zero economy

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

Commission approves €100 million Italian scheme to support the production of electrolyzers to foster the transition to a net-zero economy

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

Commission approves €300 million French scheme to support investments in the use of solid recovered fuels to foster the transition to a net-zero economy

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

Commission approves €3 billion Austrian State aid 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](#).

Commission approves €1.3 billion French State aid scheme to support non-fossil technologies to ensure electricity supply matches demand

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

Commission approves €17.7 billion Italian State aid scheme to support development of centralised electricity storage system

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

Commission approves €2.6 billion German State aid measure to support Stahl-Holding-Saar decarbonise its steel production through hydrogen use

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

Commission approves €1 billion Slovak State aid scheme to support investments in equipment necessary to foster the transition to a net-zero economy

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

Commission approves €2.6 billion State aid to RWE for early closure of lignite-fired power plants in Germany

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

Commission approves €4.12 billion French State aid measure to support the rollout of offshore wind energy to foster the transition to a net-zero economy

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

Transport

C-421/22 - DOBELES AUTOBUSU PARKS and Others

The CJEU clarified the obligations authorities must observe when compensating SGEI (Services of General Economic Interest) providers in land transportation.

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

C-186/22 - Sad Trasporto Locale

The CJEU in its' preliminary ruling regarding the interpretation of Article 1(2) of Regulation 1370/2007 on public passenger services by rail and by road and Article 107(1) TFEU, ruled that when offered as a direct award of a public passenger transport service contract, compensation for public service obligations should not be considered as state aid.

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

C-758/21 P - Ryanair and Airport Marketing Services

The CJEU dismissed an appeal lodged by Ryanair against a General Court judgment rejecting an application for annulment of a Commission decision. In 2016, the European Commission found that certain agreements between an airport and Ryanair were incompatible with the internal market.

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

Commission approves €659 million French State aid measure to support Verkor in researching and developing innovative batteries for electric vehicles

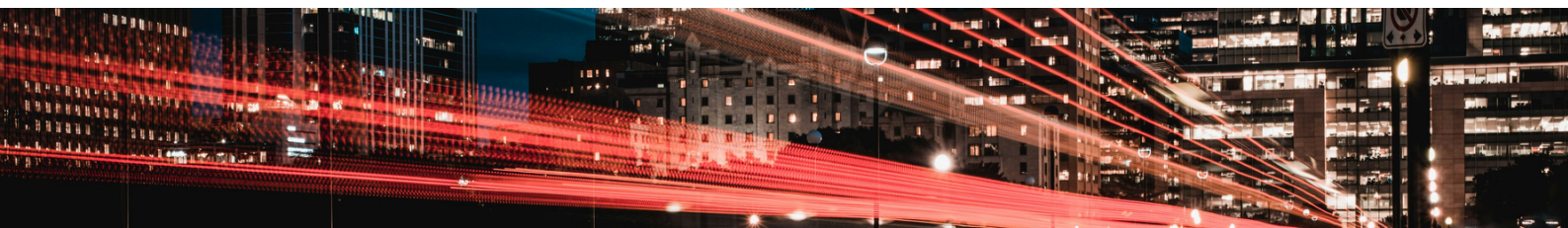
To read the full press release, [click here](#).

Commission decides not to extend antitrust block exemption for liner shipping consortia

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

Commission finds assets transfers within Ferrovie dello Stato Group and part of Trenitalia compensation for certain public rail freight transport services in line with State aid rules

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



Pharmaceuticals

T-74/21 - Teva Pharmaceutical Industries and Cephalon v Commission

The General Court dismissed an action for annulment against a Commission decision which fined Teva and Cephalon for agreeing to delay the market entry of a drug after the expiration of a patent.

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

Commission fines pharma companies €13,4 million in antitrust cartel settlement

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

Commission approves acquisition of Seagen by Pfizer

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



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