

# Competition & Regulation Report

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## Marketing of medicinal Products: Dissemination of misleading information as a per se restriction according to article 101 of TFEU

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### HIGHLIGHTS

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- The European Commission fined Qualcomm €997 million for abuse of dominant market position
- The HCC has accepted commitments by Roma Pizza S.A. to address competition concerns with regard to its franchise distribution system
- The General Court of the EU upholds the Commission's decision ordering France to recover € 1.37 billion in the context of State aid granted to EDF
- The European Commission approved the Greek auction scheme for renewable electricity
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## **Editorial: Marketing of medicinal Products: Dissemination of misleading information as a per se restriction according to article 101 of TFEU.**

By its decision at hand<sup>1</sup> the Court of Justice offered further clarifications as per the ambit of the notion of restriction by object in the frame of article 101 TFEU in a case concerning the commercialization of medicinal products.

Avastin and Lucentis are medicinal products developed by Genentech, a company which belongs to the Roche group. Genentech entrusted the commercial exploitation of Lucentis to the Novartis group by way of a licensing agreement. Roche markets Avastin. Those medicinal products were authorised by the Commission and the European Medicines Agency (the EMA). Lucentis was authorised for the treatment of eye diseases. Avastin, while authorised only for the treatment of tumorous diseases, was also frequently used to treat eye diseases because its price was lower than Lucentis. In 2014 the Italian Competition Authority imposed fines to Roche

and Novartis for having entered into a market sharing agreement for the sale of Avastin and Lucentis by spreading information giving rise to concerns regarding the safety of Avastin used in ophthalmology with a view to provoking a shift of demand to the benefit of Lucentis. After the Regional Administrative Court, Lazio, dismissed the actions that they had brought against those fines, Roche and Novartis lodged an appeal before the Italian Council of State, which referred the matter to the Court of Justice for a preliminary ruling on the interpretation of EU competition law.

First of all, the Court examined whether two medicinal products can be considered as belonging to the same relevant product market although authorised for different use: the Court recalls that, in principle, medicinal products that may be used for the same therapeutic indications belong to the same market<sup>2</sup>. However, side use of a medicinal product such as off-label use, if it is not prohibited by the applicable regulatory framework and its implementation by the competent authorities, can also, according to the Court, be taken into account. Then, the Court notes that, for the treatment of eye diseases, there was a specific relationship of

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<sup>1</sup> CJEU, 23.1.2018, Case C-179/16, *F. Hoffmann-La Roche and others* ECLI:EU:C:2018:25

<sup>2</sup> To that effect see indicatively among the settled practice of the European

Commission, Case IV/36.957/F3 *Glaxowellcome*, OJ L 302/01 of 17.11.2001, points 110-111.

substitutability between Lucentis and Avastin when used off label. The Court concludes that, if the competent authorities and courts have not examined whether the conditions for the repackaging and the off-label prescription of Avastin are unlawful, the Italian Competition Authority was in right to consider that the two products are in the same market and can therefore be regarded as competing medicinal products.

Secondly, the Court notes that an arrangement between two undertakings marketing two competing medicinal products, which consists in the dissemination to the competent authorities, healthcare professionals and the general public of misleading information concerning the off-label use of one of those products with a view to reducing the market pressure it exerts on the other product, constitutes a restriction of competition by object, if there is scientific uncertainty about the exact effects of the side use of the first product. Furthermore, such arrangement cannot be regarded as ancillary <sup>3</sup> to the licensing agreement between the two undertakings.

Lastly, the Court reminds that an arrangement cannot be exempt under Article 101 paragraph 3 of the TFEU if it includes restrictions that are not indispensable. In the

present case, according to the Court, the dissemination of misleading information in respect of a medicinal product could not be considered as “indispensable” and thus exemption was not possible. To read the full Press Release of the Court of Justice, click [here](#). To read the full judgement of the CJEU click [here](#).

## Antitrust

### CJEU decision on multiple bidding and exclusion of tenderers

In its Judgment of 8 February 2018 in Lloyd's of London, C-144/17, the CJEU declared that principles of transparency, equal treatment and non-discrimination must be interpreted as meaning that they do not preclude legislation which does not allow two syndicates of Lloyd's of London to be excluded from participation in the same procedure for the award of a public service contract for insurance merely because their respective tenders were each signed by the General Representative of Lloyd's of London for that Member State, but instead allows their exclusion if it appears, on the basis of unambiguous evidence, that their tenders were not drawn up independently. This means that the compatibility with EU primary (internal market) and secondary (procurement) law of domestic

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<sup>3</sup> See Communication from the Commission,

Notice “Guidelines on the application of Article 81(3) of the Treaty”, 2004/C 101/08, points 28-31.

rules that do not impose the mandatory disqualification of bidders seemingly engaged in multiple bidding due to intra-group corporate links, but rather make any such exclusion decisions conditional upon an investigation of the extent to which they are representative of genuine competition for the contract. To read the full decision of the CJEU, click [here](#).

### **The European Commission fined Qualcomm €997 million for abuse of dominant market position**

The European Commission has fined Qualcomm €997m for abusing its market dominance in LTE baseband chipsets. Qualcomm held a dominant position in the global market for LTE baseband chipsets over the period investigated (i.e. between at least 2011 and 2016). This is based in particular on its very high market shares, amounting to more than 90% for the majority of the period. The market is also characterised by high barriers to entry. Qualcomm has abused this market dominance by preventing rivals from competing in the market. It did so by making significant payments to a key customer on condition that it would exclusively use Qualcomm chipsets. The issue with such an arrangement is not that the customer receives a short-term price reduction, but that the exclusivity condition denies rivals the possibility to compete. The fine in this case of € 997.439.000 takes account of the duration and

gravity of the infringement, and is aimed at deterring market players from engaging in such anti-competitive practices in the future. The fine represents 4.9% of Qualcomm's turnover in 2017. To read the full press release of the European Commission click [here](#). To read the full Statement by Commissioner Vestager click [here](#).

### **The European Commission confirmed unannounced inspection in kraft paper sector**

The inspection took place in one Member State and is part of the same investigation that led the Commission to carry out unannounced inspections in 2016 and 2017 in the sector of kraft paper and industrial paper sacks. The Commission has concerns that the inspected company may have violated Article 101 of the Treaty on the Functioning of the European Union, which prohibits anticompetitive practices such as price fixing and customer allocation. To read the full press release of the European Commission click [here](#).

### **Greece: The HCC has accepted commitments by Roma Pizza S.A. to address competition concerns with regard to its franchise distribution system**

By its unanimous decision no. 639/2017, the Hellenic Competition Commission (HCC), pursuant to article 25 par. 6 of the Greek Competition Act, accepted and made binding the commitments

proposed by Roma Pizza SA, so as to meet the preliminary competition concerns expressed by the HCC regarding the market of informal restaurants – quick service restaurants, following a complaint by several former franchisees. The vertical practices examined concern the terms of the franchise agreements with the members of its network. In case of failure of the said undertaking to comply with these commitments, the HCC may impose fines in accordance with the Greek Competition Act. The HCC rejected the other grounds of the complaint and concluded that there are no grounds to further pursue the investigation. To read the full press release of the HCC, please visit the website of the [HCC](#).

### **The HCC reexamined the complaint by the Union of Autobody Workers and Car Dyers for violations of art. 101 TFEU**

The HCC reexamined the complaint by the Union of Autobody Workers and Car Dyers for violations of art. 101 TFEU following Supreme Administrative Court Decision, finding no violation of art. 101 TFEU. To read the full press release of the HCC, please visit the website of the [HCC](#).

### **Greece: HCC opinion on the modification of art. 49 of L.3959/201 concerning post-decision claims and dose scheduling**

To read the full press release visit the website of the [HCC](#).

### **Germany: ASICS dealers allowed to use price comparison engines - Federal Court of Justice confirmed Bundeskartellamt's decision**

In its decision, published on 19 January, 2018, the Federal Court of Justice decided that ASICS may not forbid its dealers from using price comparison engines. According to the decision, per se prohibitions which are not tied to quality requirements are illegal. The Court found that the infringement of competition law was so obvious that no hearing was required for further clarification and that the case need not be submitted to the European Court of Justice. With its ruling the Federal Court of Justice, upholding the decision of the Düsseldorf Higher Regional Court, thus confirmed a corresponding decision of the Bundeskartellamt against ASICS from 2015. To read the full press release of the Bundeskartellamt, please click [here](#).

## **Mergers**

### **The European Commission to assess the acquisition of Shazam by Apple**

The European Commission has accepted a request from Austria, France, Iceland, Italy, Norway, Spain and Sweden to assess under the EU Merger Regulation the proposed acquisition of Shazam by Apple. The Commission considers the transaction may threaten to adversely affect competition in the EEA. Apple's proposed acquisition

of Shazam does not meet the turnover thresholds set by the EU Merger Regulation for mergers that must be notified to the European Commission because they have an EU dimension. It was notified by Apple for regulatory clearance in Austria, where the transaction meets the national merger notification threshold. The Commission has concluded that it is the best placed authority to deal with the potential cross-border effects of the transaction. To read the full press release of the European Commission click [here](#).

### **The European Commission opens in-depth investigation into proposed merger between Praxair and Linde**

The European Commission has opened an in-depth investigation to assess the proposed merger between Praxair and Linde under the EU Merger Regulation. The Commission is concerned that the merger may reduce competition in the supply of several crucial gases, like oxygen and helium. The transaction would reduce the number of major players active worldwide and in Europe for the supply of these and many other gases to just three. To read the full press release of the European Commission click [here](#).

### **The European Commission approved the proposed acquisition of Abertis by Hochtief**

The European Commission has cleared, under the EU Merger

Regulation, the proposed acquisition of Abertis by Hochtief. Abertis manages and operates toll road infrastructure. Hochtief, ultimately controlled by the ACS Group, is mostly active in the construction sector. The Commission concluded that the merged entity would continue to face effective competition in the relevant markets. To read the full press release of the European Commission click [here](#).

### **The European Commission referred the acquisition of Pini Polonia by Smithfield to the Polish competition authority**

The European Commission has referred the proposed transaction between Smithfield Foods of the US and Pini Polonia of Poland to the Polish Office of Competition and Consumer Protection (UOKiK) at its request. Both companies are active in the slaughtering of pigs in Poland. The evidence gathered by the Commission confirmed that the proposed transaction would only affect competition as regards the slaughtering of pigs in Poland, where Smithfield and Pini Polonia are currently the two largest market players. To read the full press release of the European Commission click [here](#).

### **The European Commission approved Qualcomm's acquisition of NXP, subject to conditions**

The European Commission has approved under the EU Merger Regulation the proposed

acquisition of NXP, based in the Netherlands, by Qualcomm of the US. The approval is conditional on full compliance with commitments offered by Qualcomm. Both firms are important players in the semiconductor industry. The decision followed an in-depth review of the proposed acquisition of NXP by Qualcomm. Qualcomm and NXP have dominant or strong market positions with highly complementary products and own a significant amount of intellectual property relevant to smartphone manufacturers. To read the full press release of the European Commission click [here](#).

**Greece: Following the notification of the concentration of MEBGAL S.A. by means of joint control by DELTA S.A. and members of the Hatzakou family the appointment of BAKER TILLY Greece - Auditing Company as monitoring trustee was notified to the HCC**

To read the full press release visit the website of the [HCC](#).

**Greece: The concentration by means of the intention to acquisition of the full control of the company "IASO GENERAL" by the company "HELLENIC HEALTHCARE" was approved by the HCC.**

To read the full press release visit the website of the [HCC](#).

**Greece: The concentration by means of acquisition of the trademarks of companies «ETHNOS», «E. ETHNOS TIS KIRIAKIS», «IMERISIA» «H IMERISIA» by the**

**company DIMERA MEDIA INVESTMENTS LTD» was notified by the HCC.**

To read the full press release visit the website of the [HCC](#).

**UK: Scrap metal merger could leave businesses worse off**

The Competition and Markets Authority (CMA) has been investigating European Metal Recycling Limited (EMR)'s purchase of Metal & Waste Recycling Limited (MWR). These are two of the largest metal recyclers in the UK. As part of its initial investigation, the CMA found that EMR and MWR were the two main companies offering to purchase waste scrap metal and shred scrap metal in the area around and to the north of London. Following the deal, the merged company will face limited competition from other metal recyclers in this area. The CMA is therefore concerned that this merger could lead to a reduction in choice, price, quality and service to customers. To read the full press release of the CMA click [here](#).

**France: The Autorité de la concurrence has, for the first time, examined the merger of two online platforms**

The German group Axel Springer, which owns, in particular, the online property portal Seloger.com, notified the Autorité de la concurrence of its plan to acquire the French company

Concept Multimédia, which itself publishes the portal "logic-immo.com" and the property advertising magazines "Logic-Immo" and "Lux Résidence". After an in-depth examination, the Autorité unconditionally cleared the acquisition of Concept Multimédia (Logic-Immo.com) by the Axel Springer Group (SeLogger.com), as the transaction will not significantly modify the competition conditions in the market. To read the full press release of the Autorité de la concurrence, click [here](#).

## State aid

### **The CJEU found Greece in violation of state aid**

The Court found that recovery of State aid should normally take place within 4 months after a recovery decision has been taken by the Commission and notified to the Member State involved. This may require registering the recovery claim as a liability as part of an insolvency process within that time frame, or requesting an extension by the Commission otherwise if starting such procedure would inevitably require more time. If authorities are unable to recover the entire amount, this procedure should end up in the winding-up of the undertaking and a definitive cessation of its activities. From the above, it can be deduced that - as far as a recovery claim is concerned - only

collecting part of that claim, but not the entire amount, is not an option. Greece failed to implement the state aid recovery decision of European Commission against United Textiles SA and also failed to inform the Commission adequately of the measures taken pursuant to that decision (C-363/16 of 17 January 2018, Commission v Greece). To read the full judgement of the CJEU click [here](#).

### **CJEU decision in the ZPT de minimis case**

On February 28, 2018, the CJEU rendered its decision in the ZPT case (C-518/16), relating to de minimis aid and whether fiscal aid invested in assets used for the manufacture of products constitutes compatible State aid. The CJEU does not consider that the Bulgarian rules regarding corporate tax reductions affect the validity of the relevant Commission Regulation (EC) No. 1998/2006 and differs in that respect from AG Wathelet's opinion in that case. To read the full judgement of the CJEU click [here](#).

### **The European Commission approved Polish investment aid to SMEs in the shipbuilding sector and opened investigation into Polish tax incentive for shipyards**

The European Commission has approved under EU State aid rules Polish support to SMEs in the shipbuilding sector. This measure will encourage new investment

and benefit regional development in Poland. The Commission found that the aid will encourage new investment to modernise a sector that has traditionally been very important for the local economy. The Commission also found that the aid was limited to the minimum necessary. Separately, the Commission opened an in-depth investigation into a Polish tax scheme for shipyards. It has concerns that the scheme would give some shipyards a selective advantage over competitors. The Commission has concerns that the proposed flat-rate sales tax constitutes so-called operating aid, which uses public funds to relieve shipyards from costs they would otherwise have to bear in their day-to-day activities. To read the full press release of the European Commission click [here](#).

**The European Commission published the non-confidential version of the final negative decision concluding that Luxembourg granted undue tax benefits worth around €250 million to Amazon**

To read the relevant press release of the European Commission click [here](#).

**The European Commission approved PLN 5 billion Polish support for closing coal mines**

The European Commission has found amendments to Poland's plans to provide public support of PLN 5 billion (approximately €1.25

billion) to alleviate the social and environmental impact of closing uncompetitive coal mines by 2018 to be in line with EU State aid rules. The Commission concluded that potential competition distortions are limited as a result of the support. To read the relevant press release of the European Commission click [here](#).

**The European Commission opened in-depth investigation on Slovenia's new proposed commitments for Nova Ljubljanska Banka**

The European Commission has opened an in-depth investigation to assess whether new measures proposed by the Slovenian authorities regarding the restructuring of Nova Ljubljanska Banka (NLB) sufficiently compensate for delaying the bank's sale beyond end 2017. The partial sale of Slovenia's shares in NLB is a key commitment to ensure NLB's long-term viability, on the basis of which the Commission was able to approve significant State aid of up to €2.32 billion to NLB in December 2013. In May 2017, Slovenia requested a gradual sale of its shares in NLB in two tranches, which the Commission approved. However, after putting the sale of NLB on hold in June 2017, Slovenia did not complete the sale of a first tranche of its shares in NLB before the end of 2017. Since Slovenia failed to comply with its commitments, the aid granted to NLB in 2013 has not been lawfully implemented. To read the full press

release of the European Commission click [here](#).

### **The European Commission found Irish National Asset Management Agency did not breach EU rules**

Following a complaint, the European Commission has assessed whether the Irish National Asset Management Agency (NAMA) has benefited from illegal State aid and whether it granted undue advantages to certain property developers. NAMA was created by the Irish government in 2009 in the context of the financial crisis to restore stability to the Irish banking system. For this purpose, NAMA acquired large portfolios of non-performing commercial loans secured by land and development property from five Irish credit institutions. The Commission has concluded that NAMA did not breach EU State aid rules. To read the full press release of the European Commission click [here](#).

### **The European Commission cleared rescue aid for Croatian shipbuilder Uljanik**

The European Commission has found Croatian plans to grant Uljanik shipyard a State guarantee for a €96 million loan are in line with EU State aid rules. The measure will allow the company to meet urgent liquidity needs while preparing a restructuring plan, whilst competition distortions are limited. The Commission found that the aid is necessary to prevent Uljanik from going out of business immediately

and avoid significant job losses. Moreover, the company's liquidity needs over the next months are based on reasonable assumptions and will be monitored by an independent auditor on the basis of weekly liquidity plans. Finally, Croatia committed to notify a restructuring plan for the company within a maximum of six months. To read the full press release of the European Commission click [here](#).

### **The European Commission concluded that the introduction of the Road Act Amendment in the Czech Republic does not involve State aid**

The European Commission has found that the prohibition of outdoor advertising such as billboards alongside motorways and main roads, which was introduced by the Czech Republic through the "Road Act Amendment" and entered into force on 1 September 2017, does not involve State aid. To read the relevant press release of the European Commission click [here](#).

### **The European Commission published 2017 State Aid Scoreboard**

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

## Energy

### **The General Court of the EU upholds the Commission's decision ordering France to recover € 1.37 billion in the context of State aid granted to EDF**

The General Court examined, essentially, whether the Commission was entitled to find in its new decision that the private investor test was not applicable. In that regard, the General Court recalled that the role of the State as shareholder of an undertaking, on the one hand, and the role of the State acting as public authority, on the other, must be distinguished and that the applicability of the private investor test ultimately depends on the State having conferred, in its capacity as shareholder and not in its capacity as public authority, an economic advantage on an undertaking belonging to it. The GC concluded that the Commission was right to find that the private investor test was not applicable, given that neither EDF nor France submitted evidence to establish unequivocally that the French State had taken the decision to make an investment in EDF and had evaluated, as a private investor would have done, the profitability of the investment that would be made by conferring such an advantage on EDF. To read the full press release of the GC click [here](#). To read the full judgement T-747/15 of the GC click [here](#).

### **Advocate General's Opinion in Case Dyson Ltd, Dyson BV v BSH Home Appliances NV**

Since 2014, all vacuum cleaners sold in the EU have been subject to energy labelling requirements, the detailed rules of which have been fixed by the Commission in a regulation supplementing the Directive on energy labelling. The energy labelling is aimed at informing consumers of energy efficiency levels and cleaning performances of vacuum cleaners. Advocate General Saugmandsgaard Øe proposed that the Court held that suppliers and dealers of vacuum cleaners may not use supplementary labels which reproduce or clarify the information contained in the energy label provided for in an EU regulation. In addition, the Directive on unfair commercial practices does not apply to the specific aspects of unfair commercial practices governed by the regulation, since it does not leave any leeway to the traders concerned. . To read the full press release of the Advocate General's Opinion click [here](#). To read the full Opinion in Case C-632/16 click [here](#).

### **The European Commission approved the Greek auction scheme for renewable electricity**

The European Commission has found the Greek auction scheme for the production of electricity from renewable sources and high efficiency cogeneration to be in

line with EU State aid rules. The scheme will further EU energy and climate goals whilst preserving competition. Under the scheme Greece will organise regular, competitive auctions to grant support to renewable energy sources. In 2018, Greece will organise separate auctions for wind and solar installations in order to determine their market potential. As of 2019, joint auctions for both wind and solar installations will be held to increase competition and reduce the cost for consumers of renewable energy in Greece. State support for other renewable energy technologies will be subject to auctions as soon as they become more mature in the Greek electricity market, i.e. when they reach a predefined level of market penetration. Moreover, Greece will evaluate the bidding processes in 2020, before designing bidding processes for the period 2021-2025. To read the full press release of the European Commission click [here](#).

**The European Commission approved six electricity capacity mechanisms to ensure security of supply in Belgium, France, Germany, Greece, Italy and Poland**

The European Commission has approved under EU State aid rules electricity capacity mechanisms in Belgium, France, Germany, Greece, Italy and Poland. The Commission found that the measures will contribute to ensuring security of supply whilst

preserving competition in the Single Market. The six capacity mechanisms approved concern more than half of the EU population. They cover a range of different types of mechanism that address the specific need in each Member State, namely strategic reserves, market-wide mechanisms and measures specifically promoting demand response. To read the full press release of the European Commission click [here](#).

**The European Commission authorised the creation of an enterprise of solar panel parts jointly controlled by Canadian Solar and EDF**

The joint enterprise will develop, manufacture and provide ingots, bricks and solar wafers. The Commission has concluded the proposed operation does not pose any competition problems taking into account the limited position of the enterprises concerned in the relevant markets. To read the relevant press release of the European Commission click [here](#).

**The European Commission cleared acquisition of Impello by Shell**

The European Commission has approved, under the EU Merger Regulation, the acquisition of Impello Limited by the Shell Petroleum Company, both of the UK. Impello is an independent energy supplier to household customers in the UK and Germany, active under the brand First Utility. The Commission concluded that

the proposed acquisition would raise no competition concerns because of the limited positions of the companies on the markets for the wholesale and retail supply of electricity, as well as gas in the UK and Germany. To read the relevant press release of the European Commission click [here](#).

**The European Commission approved Belgian certificates schemes for renewable electricity and high-efficiency cogeneration in Flanders**

The European Commission has concluded the certificates schemes for renewable electricity and high-efficiency cogeneration implemented in Flanders (Belgium) to be in line with EU State aid rules. The two schemes contribute to reaching EU energy and climate goals whilst preserving competition. To read the full press release of the European Commission click [here](#).

**Greece: Announcement of results of the Public Consultation concerning the proposal for amendment of the calculation methodology regarding the charges of the transmission system operator of the Hellenic Electricity Transmission System**

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

**Greece: Announcement of results of the second Public Consultation concerning the 1st Amendment of the Code for Natural Gas Distribution Network Management**

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

**Greece: Publication of Decision No 65/2018 of Regulatory Authority for Energy concerning the amendment of the program for conducting auctions for futures energy products for 2018**

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

**Greece: Briefing regarding the enactment of new European codes for system connection**

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

**Greece: HCC decision on the compliance of DEPA with the 551/VII/2012 Decision of the HCC**

The Hellenic Competition Commission, following an ex officio investigation decided that DEPA had complied with 6 out of 7 of its commitments pursuant to the 551/VII/2012 Decision of the HCC. The HCC ruled that DEPA failed to comply with its obligation to offer its clients natural gas contracts without the provision of natural gas transportation services and without differentiating coupled and

decoupled contracts in terms of natural gas supply tariffs. To read the full press release of the HCC, visit the website of the [HCC](#).

## **Electronic communications & Post**

### **The European Commission approved Discovery's acquisition of Scripps, subject to conditions**

The European Commission has approved, under the EU Merger Regulation, the proposed acquisition of Scripps by Discovery, both US based global media companies. The decision is conditional on full compliance with commitments offered by Discovery. Discovery and Scripps are both active as providers of basic pay-TV channels to TV distributors in the European Economic Area (EEA). Scripps is particularly active in the UK, where it operates UKTV jointly with the BBC; and in Poland, via TVN, a Polish media company acquired by Scripps in 2015. To read the full press release of the European Commission click [here](#).

### **The European Commission approved partial compensation granted to Post Office Limited for the operation of a network of post offices across the UK**

The European Commission has concluded that the financial compensation granted by the UK

to Post Office Limited (POL) is in line with EU State aid rules. The support relates to the operation of a network of post offices across the UK that is larger than what POL would have chosen to operate purely for commercial reasons. To read the relevant press release of the European Commission click [here](#).

### **The European Commission approved State financing for Czech Post's universal service obligation**

The European Commission has found State support to Czech Post for the provision of the postal universal service obligation in the Czech Republic between 2013 and 2017 to be in line with EU State aid rules. In particular, Czech Post delivers universal postal services throughout the country at affordable prices and at certain minimum quality requirements. Czech Post will be compensated through direct grants from the State budget of a maximum of CZK 2.6 billion (approximately €97.63 million) for the entire period. . To read the relevant press release of the European Commission click [here](#).

**Greece: On 22.2.2018 the concentration by means of acquisition of full control of the company "CYTA HELLAS TELECOMMUNICATIONS S.A." by "Vodafone Panafone S.A." was notified to the HTPC**

To read the full press release visit the website of the [HTPC](#).

### **UK: CMA provisionally finds Fox/Sky deal not in the public interest**

The Competition and Markets Authority (CMA) has been investigating the deal on two grounds: media plurality and commitment to broadcasting standards. The CMA has provisionally found that Fox taking full control of Sky is not in the public interest due to media plurality concerns, but not because of a lack of a genuine commitment to meeting broadcasting standards in the UK. The media plurality concerns identified mean that, overall, the CMA provisionally concludes that the proposed transaction is not in the public interest. To read the full press release of the CMA click [here](#).

## **Pharmaceuticals**

### **France: Autorité de la Concurrence decision on possible abuse of dominant position by the National Order of Nurses**

The Autorite de la Concurrence declared itself incompetent regarding the practices of the National Order of Nurses (Ordre national des infirmiers) in the sector of supply of services to nurses and rejected the accusations of 4 associations of Nurses concerning discrimination practices on the grounds of absence of reasonable evidence. To read the full decision

of the Autorite de la Concurrence click [here](#).

## **Transport**

### **CJEU dismissed appeals in freight forwarding cartel case**

On 1 February 2018, the Court of Justice of the European Union delivered four judgments dismissing the appeals brought by participants involved in the air freight forwarding cartel. By way of background, in 2012, the European Commission adopted a decision in which it found that a number of undertakings had fixed pricing mechanisms and surcharges for a variety of freight forwarding services, which the Commission considered to amount to four distinct infringements of the EU competition law rules. The Commission imposed fines on corporate entities in the following groups in relation to these infringements. In its judgments on appeal, the CJEU held that the General Court correctly concluded that the Commission was entitled to base its calculations on the value of sales associated with freight forwarding services as a package of services on the trade routes concerned, rather than only on the turnover generated from the surcharges concerned by the cartel agreements. Finally, the CJEU rejected arguments in relation to the attribution of liability of the fines imposed and pleas concerning the alleged disproportionate and unequal nature of the fines (Cases C-

261/16, Kühne + Nagel International, C-263/16, Schenker, C-264/16, Deutsche Bahn and C-271/16 P, Panalpina World Transport). To read the full press release of the CJEU click [here](#).

### **The European Commission fined maritime car carriers and car parts suppliers a total of €546 million in three separate cartel settlements**

In three separate decisions, the European Commission has fined four maritime car carriers €395 million, two suppliers of spark plugs €76 million, and two suppliers of braking systems €75 million, for taking part in cartels, in breach of EU antitrust rules. For almost 6 years, from October 2006 to September 2012, the five carriers formed a cartel in the market for deep sea transport of new cars, trucks and other large vehicles such as combine harvesters and tractors, on various routes between Europe and other continents. All companies acknowledged their involvement in the cartels and agreed to settle the cases. To read the full press release of the European Commission click [here](#). To read the full Statement by Commissioner Vestager click [here](#).

### **The European Commission approved €70 million public support scheme for electric buses and charging infrastructure in Germany**

The European Commission has found German plans to support the purchase of electric buses and

related recharging infrastructure by public transport operators to be in line with EU state aid rules. The measure contributes to reducing CO2 emissions while limiting distortions of competition. To read the full press release of the European Commission click [here](#).

### **The European Commission opened in-depth investigation into restructuring aid for Polish Regional Railway**

The Commission has concerns that the company may already have received State aid in the past. EU rules only allow a company to receive restructuring aid once over a 10-year period. The Commission acknowledges that the Polish domestic rail passenger sector is different from other economic sectors in certain respects, in particular because it provides an important public service on a market that is not yet fully open to competition at EU level. The Commission will consider how to take account of those differences in the assessment of restructuring aid to Polish Regional Railways. To read the relevant press release of the European Commission click [here](#).

### **The European Commission found that two contracts between Lübeck airport and Ryanair did not involve State aid**

The European Commission has found two agreements concluded in 2010 between the Lübeck airport operator and Ryanair to be in line

with EU State aid rules. The Commission assessed the contracts under its 2014 Aviation Guidelines, and found that the agreements were carried out at conditions that a private investor would have accepted and thus do not involve State aid. To read the relevant press release of the European Commission click [here](#).

### **The European Commission cleared acquisition of OCTE by Avis Budget Group and Koç Holding**

The European Commission has approved, under the EU Merger Regulation, the acquisition of OCTE of Greece by Otokoç ABG Holland BV of the Netherlands, which will be jointly controlled by Avis Budget Group Inc. ('ABG') of the US and Koç Holding A.S. ('Koç') of Turkey. OCTE trades as Avis Hellas and, since 2010, has been appointed as Avis' franchisee in Greece for the Avis and Budget brands. The Commission concluded that the proposed acquisition would raise no competition concerns, given the absence of horizontal overlaps or vertical links between the companies' activities in Greece. To read the relevant press release of the European Commission click [here](#).

### **The European Commission cleared acquisition of joint control over PSA Panama International Terminal S.A. by PSA International Pte. Ltd. and Terminal Investment Limited Sàrl**

The European Commission has approved, under the EU Merger Regulation, the acquisition of joint control over PSA Panama International Terminal S.A. of Panama by PSA International Pte. Ltd of Singapore, and Terminal Investment Limited Sàrl of Switzerland. PSA Panama International Terminal S.A. is a company operating a container terminal in the Port of Rodman, Panama. The Commission concluded that the proposed acquisition would raise no competition concerns because of the limited impact it would have on the market. To read the relevant press release of the European Commission click [here](#).

## **News of the Markets**

### **The HRADF announced that ten investment schemes expressed their interest for granting the right to use and exploit the Alimos Marina.**

To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

### **The HRADF announced that it received two binding offers for the acquisition of 66% DESFA's share capital**

To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

**The HRADF announced that nine investment schemes submitted Expressions of Interest for Egnatia Odos motorway**

To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

**The HRADF announced that three investment schemes submitted Expressions of Interest for the Marina of Chios**

To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

**The HRADF announced that it launched the international tender process for the acquisition of 5% stake of OTE S.A.**

To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

**Athens Medical interested in Henry Dunant**

According to press information, Athens Medical Center Commercial SA had expressed its interest in buying out the Henry Dunant Hospital Center in Athens to the Piraeus Bank board of directors.

**Israel to grant oil and gas exploration licence to Energean**

According to press information, Israel gave its final approval to Energean to explore for oil and gas in Israeli waters in the eastern Mediterranean. Energean was granted three-year licenses to explore five offshore blocks, with a possibility for an extension for another three years as long as it carries out work and promises to drill.

**The European Commission to scrutinize AIA contract extension**

According to press information, the European Commission has led to the 20-year contract extension of Athens International Airport grinding to a halt. That procedure was scheduled to begin in March, but this is no longer seen as possible, given that the 20-year extension contract has been stalled by the European Union's competition authorities. The Commission's Directorate General for Competition (DGComp) is constantly asking for additional information regarding the new contract, examining whether AIA has received a state subsidy.

**PPC to part with power network operator DEDDIE**

According to press information, banks may force PPC to part with power network operator DEDDIE. The issue of debt refinancing has re-emerged as the creditor banks are setting strict terms due to close

monitoring by the European Central Bank's Single Supervisory Mechanism (SSM). The lenders have no margin for any flexible handling of such a sizable loan.

### **Tesla Inc interested in setting up R&D office in Athens**

According to press information, California-based electric vehicle manufacturer Tesla Inc plans to set up a small research and development office in Athens with the purpose of developing new electric motor technologies.

### **Carlsberg buys out rest of Olympic Brewery shares**

According to press information, danish beer giant Carlsberg announced it has acquired the remaining 49 percent of Olympic Brewery in Greece, following the 2014 merger through which Carlsberg had gained a 51 percent stake in the Greek firm.

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