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CJ: Judgment in Case C-127/16 P, SNCF Mobilités v Commission: clarifications about the coverage of the MEO test

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Editorial:

CJ: Judgment in Case C-127/16 P, SNCF Mobilités v Commission: clarifications about the coverage of the MEO test

In 2001 the Commission approved under conditions a restructuring aid of 503 million euros to the company Sernam (then wholly-owned by SNCF) – (Sernam 1 decision). A second decision of the Commission (Sernam 2 decision) found that the conditions of the Sernam 1 decision have not been respected and a new aid of 41 million euros has been granted that had to be recovered and imposed new conditions about the compatibility of the first aid. Namely, these conditions required from Sernam either to withdraw within a set time period from the road transport market or to sell its assets by end of June 2005 to a company independent from SNCF. By a third decision the Commission found on the one hand that the aid of 41 million has not been duly recovered and that the conditions set for the initial aid have not been met and, thus, ordered an aggregate recovery of 642 million euros including interest. SNCF appealed this decision before the

General Court who dismissed the action in its entirety¹. By the judgement at hand the CJ uphold fully the judgement of the General Court. It is interesting to notice that in its judgement the Court gave useful clarifications about the applicability of the Market Economy Operator (MEO) test. The Court confirmed that correctly the Commission and the General Court did not apply the MEO test as per the divestment of assets of Sernam. In fact, the compensatory logic of the sale of Sernam's assets en bloc, provided for in the Sernam 2 Decision, differs from the logic of a private operator seeking to maximise its profits or, minimise its losses and thus is not pertinent for the fulfilment of a condition substituting the recovery of an aid, such as the case at hand. To read the Press Release of the Court click [here](#). To read the full judgement of the Court click [here](#).

Antitrust

The European Commission fined eight producers of capacitors €254 million for participating in cartel

The European Commission has fined Elna, Hitachi Chemical, Holy Stone, Matsuo, NEC Tokin, Nichicon, Nippon Chemi-Con,

¹ Case: T-242/12 SNCF v Commission, see also Press Release No 151/15.

Rubycon € 253 935 000. Together with the immunity applicant, Sanyo, they operated a cartel for the supply of aluminium and tantalum electrolytic capacitors between 1998 and 2012. The Commission's investigation found that from 1998 to 2012, nine Japanese companies participated in multilateral meetings and engaged in bilateral or trilateral contacts to exchange commercially sensitive information. The objective was to coordinate future behaviour and avoid price competition. In particular, the companies exchanged information on future prices and pricing intentions, and on future supply and demand information. In some instances, the participants also concluded price agreements and monitored their implementation. To read the full press release of the European Commission, click [here](#).

Greece: The HCC to decide on violation of art. 1 and 2 of Law 3959/2011 by "ELAIS – UNILEVER S.A." in the fields of retail and wholesale of margarine products

The Hellenic Competition Commission (HCC) will convene to decide on violations of art. 1 and 2 of Law 3959/2011 by said company regarding its cooperation agreements in the fields of retail and wholesale of margarine products. According to the Commission's investigation the undertaking has abused its dominant position in the field of margarine sales adopting

contractual terms that would enforce its market position and prevent the development of its competitors. To read the full press release of the HCC, please visit the website of the [HCC](#).

Greece: HCC's ex-officio investigation regarding a public works tender in the Prefecture of Fthiotida

The HCC will convene to examine, following a relevant Statement of Objections, whether 13 undertakings active in the public works sector in Greece, committed an infringement of Art. 1 of the Greek Competition Act. The ex-officio investigation of certain undertakings active in the public works sector was initiated by the General Directorate for Competition (DG) in 2011, following an anonymous complaint in relation to an alleged bid rigging of a tender for the public work "5th Lyceum of Lamia (section A1 and B)" in the Prefecture of Fthiotida with a budget of 8.000.000 euros. To read the full press release of the HCC, please visit the website of the [HCC](#).

GERMANY: Cartel proceeding against metal packaging manufacturers: Bundeskartellamt referred case to the European Commission

As part of the cooperation within the network of European Competition Authorities (ECN), the Bundeskartellamt has referred its ongoing cartel proceeding

concerning metal packaging to the Directorate General for Competition of the European Commission. The Bundeskartellamt had initiated an investigation proceeding under competition law against a number of metal packaging manufacturers on the basis of an anonymous tip-off. The tip-off raised the suspicion that national and European competition law provisions had been violated over several years on the respective markets in Germany. Until a final decision is taken against the companies concerned, the presumption of innocence applies. To read the full press release of the Bundeskartellamt click [here](#).

Mergers

The European Commission cleared Bayer's acquisition of Monsanto, subject to conditions

The European Commission has approved under the EU Merger Regulation the acquisition of Monsanto by Bayer. The merger is conditional on the divestiture of an extensive remedy package, which addresses the parties' overlaps in seeds, pesticides and digital agriculture. As part of its in-depth investigation, the Commission has assessed more than 2,000 different product markets and reviewed 2.7 million internal documents. It concluded that the transaction as notified would have significantly

reduced competition on price and innovation in Europe and globally on a number of different markets. The Commission also had concerns that it would have strengthened Monsanto's dominant position on certain markets, where Bayer is an important challenger of Monsanto. On this basis, the Commission concluded that the divestment package enables a suitable buyer to sustainably replace Bayer's competitive effect in these markets and continue to innovate, for the benefit of European farmers and consumers. 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 cleared merger between Essilor and Luxottica

The European Commission has approved under the EU Merger Regulation the proposed merger between Essilor and Luxottica, two leaders in the optical industry. The Commission concluded that the merger would not adversely affect competition in the European Economic Area or any substantial part of it. The decision follows an in-depth investigation of the proposed merger between Essilor and Luxottica. Essilor is the largest supplier of ophthalmic lenses, both worldwide and in Europe. Luxottica is the largest supplier of eyewear, both worldwide and in Europe,

and has well-known brands in its portfolio such as Ray-Ban and Oakley. Both companies sell their products to opticians who then sell finished spectacles and sunglasses to consumers. To read the full press release of the European Commission click [here](#).

The European Commission cleared acquisition of joint control over Robyg by Goldman Sachs and Centerbridge

The European Commission has approved, under the EU Merger Regulation, the acquisition of joint control over Robyg S.A. of Poland by The Goldman Sachs Group, Inc. and Centerbridge Partners L.P., both of the US. Robyg S.A. is active in the construction and sale of flats and commercial real estate in Poland. 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](#).

The European Commission cleared acquisition of joint control of Bayport Polymers by Borealis, Nova and Total

The European Commission has approved, under the EU Merger Regulation, the acquisition of joint control over the joint venture Bayport Polymers LLC, by NOVA Chemicals Inc., Total Petrochemicals & Refining, all

three of the US, and Borealis AG of Austria. The joint venture will be active in the production and marketing of polyethylene. NOVA Chemicals produces and sells ethylene, polyethylene, styrene and co-products thereof. The Commission concluded that the proposed transaction would raise no competition concerns because the envisaged joint venture will have negligible actual or foreseen activities within the European Economic Area. To read the relevant press release of the European Commission click [here](#).

The European Commission approved joint venture between IBM and Maersk

The European Commission has approved, under the EU Merger Regulation, the proposed creation of a joint venture between International Business Machines (IBM) of the US and A.P. Møller Maersk group (Maersk) of Denmark. The joint venture will engage in the development and commercialisation of a new digitisation solution intended to provide end to end shipment visibility and document management for global trade. The Commission concluded that the proposed transaction would raise no competition concerns given the limited overlap between the joint venture's digitisation solution and the companies' activities. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of parts of Bayer's Crop Science business by BASF, subject to conditions

The European Commission has conditionally approved under the EU Merger Regulation the acquisition of parts of Bayer's Crop Science business by BASF. This transaction is related to the Bayer/Monsanto merger divestment commitments. Bayer committed to divest an extensive remedy package worth well over €6 billion (the "Bayer Divestment Business") to address the competition concerns on overlaps between Bayer and Monsanto in seeds, pesticides and digital agriculture. The Commission concluded that this divestment package would enable a suitable buyer to sustainably replace Bayer's competitive effect in these markets and continue to innovate, for the benefit of European farmers and consumers. To read the full press release of the European Commission click [here](#).

The European Commission approved acquisition of Mefro Wheels by Accuride, subject to conditions

The European Commission has approved, under the EU Merger Regulation, the acquisition of steel wheels manufacturer Mefro Wheels by its competitor Accuride. The decision is conditional on the divestment of Accuride's European business Gianetti Ruote. The proposed remedy maintains the

competitive landscape existing before the transaction, with three independent suppliers of steel wheels for buses and trucks. Therefore, the Commission concluded that the proposed transaction, as modified by the commitments, would no longer raise competition concerns. The decision is conditional upon full compliance with the commitments. To read the full press release of the European Commission click [here](#).

The European Commission cleared Ireland's sugar sweetened drinks tax

The European Commission has concluded that Ireland's sugar sweetened drinks tax does not involve State aid. In particular, the Commission found that the measure's scope and design are consistent with the health objectives pursued by Ireland, namely tackling obesity and other sugar related diseases. The Commission in its assessment found that soft drinks can be treated differently to other sugary products in view of health objectives. To read the full press release of the European Commission click [here](#).

The European Commission opened in-depth investigation into Apple's proposed acquisition of Shazam

The European Commission has opened an in-depth investigation to assess the proposed acquisition of Shazam by Apple under the EU Merger Regulation. The

Commission is concerned that the merger could reduce choice for users of music streaming services. Competing music streaming services could be put at a competitive disadvantage. In addition, while at this stage the Commission does not consider Shazam as a key entry point for music streaming services, it will also further investigate whether Apple Music's competitors would be harmed if Apple, after the transaction, were to discontinue referrals from the Shazam app to them. To read the full press release of the European Commission click [here](#).

The European Commission cleared the creation of joint venture between Viohalco and Koramic

The European Commission has approved, under the EU Merger Regulation, the creation of a joint venture between ElvalHalcor of Greece (controlled by Viohalco of Belgium) and NedZink of the Netherlands (controlled by Koramic of Belgium). The joint venture will be active in developing the production in the area of titanium zinc, by increasing the production capacity of NedZink's lines and combining the long-term experience of NedZink in zinc rolling with that of ElvalHalcor in continuous melting, casting and rolling of zinc as well as other metals. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared the creation of joint venture Fujitsu Client Computing Limited, by Fujitsu and Lenovo

The Commission assessed the horizontal overlap of the parties' activities on the market for the supply of personal computers (desktops, notebooks and tablets) and the potential segments at European and national level. The Commission concluded that the transaction would not have a significant impact on effective competition in the Single Market. To read the relevant press release of the European Commission click [here](#).

Greece: HCC clearance of the proposed acquisition by DIMERA MEDIA INVESTMENTS LTD of sole control over entities (trademarks) within (or parts of) Pigasos Ekdotiki Anonymi Etairia.

To read the Decision No 655/2018 of the HCC, visit the website of the [HCC](#).

Greece: The concentration by means of partial acquisition of the companies «ΝΗΣΙ ΦΑΙΛΑΚΩΝ S.A.» and «ΤΖΕΣΟ ΑΤΤΕ» by the company «ΜΕΤΩΠΗ ΑΕΤΕ » was notified by the HCC.

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

Greece: The concentration by means of acquisition of the full control of the company “HELLENIC SEAWAYS S.A.” by the company “ATTICA GROUP S.A.” was approved by the HCC with the imposition of special terms and conditions (structural measures)

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

State aid

The ECJ set aside judgement on the application of the market economy operator test

In case C-579/16 P, European Commission v FIH Holding A/S and FIH Erhvervsbank A/S, the Court of Justice of the European Union (the “ECJ”) issued a judgment on appeal regarding the application of the market economy operator test in cases where a company has already benefited from a state aid measure. The decision concerned state measures granted to a Danish bank, FIH, in 2012. FIH and its subsidiaries were owned by the other applicant, FIH Holding. Importantly, in 2009, FIH received two state measures. In order to assess whether an economic transaction by a public authority aligns with normal market conditions, the market economy operator test requires that a comparison be made between the behavior of the public body and that of a private economic operator under normal market conditions. Therefore, the ECJ ruled that, if a state has already granted

aid to a company, the risks to which the state is exposed are the result of such aid already administered. In the case concerned, those risks involved obligations arising for the state from loans or guarantees. As a result, such risks are linked to the state's actions as a public authority and are not among the factors that a private operator would, in normal market conditions, have taken into account. To read the full judgement of the ECJ, click [here](#).

GC dismissed appeal against Commission decisions on Hungarian food chain inspection fee and tobacco sales tax

In 2014, Hungary amended its Food Chain Act to introduce specific rules for calculating the inspection fee charged to stores selling fast moving consumer goods (FMCGs) on the Hungarian market. The purpose of the fee is to contribute to the financing of the food chain inspection agency. In 2015, a new Hungarian tax on tobacco products came into force. This imposed a tax, known as the health contribution, on the annual turnover derived from the production and trade of tobacco products in Hungary. It applied to authorised warehouse keepers, importers, or registered traders of tobacco products. Hungary raised a number of grounds of appeal, such as error of assessment and proportionality, equal treatment and sincere cooperation, which the GC dismissed as incompatible

with state aid rules. To read the full judgement of the GC, click [here](#).

The European Commission concluded Dutch guarantee scheme to support fast growing medium and large-companies involves no aid

The European Commission has found that the "Extended Growth Facility" (also known as "GO"), a Dutch guarantee scheme to support medium and large companies, does not involve State aid. The objective of the GO scheme is to improve access to finance for companies with a considerable growth potential. The Dutch authorities expect that this scheme will encourage banks to issue these loans on a larger scale than currently. The Commission found that the guarantees give the Dutch State an appropriate remuneration level, ensuring that the scheme is self-financing, including administrative costs and the remuneration of virtual capital. This is the capital that a company operating on market terms would set aside as a precaution if it issued such a guarantee. Therefore, the Commission concluded that the Dutch State guarantee scheme does not constitute State aid to the banks, nor to the borrowing companies. To read the full press release of the European Commission click [here](#).

The European Commission published the non-confidential version of decision to open in-depth investigation into the

Netherlands' tax treatment of Inter IKEA

The Commission has published the non-confidential version of its decision, adopted on 18 December 2017, to open an in-depth investigation into the Netherlands' tax treatment of Inter IKEA, one of the two groups operating the IKEA business. The Commission has concerns that two Dutch tax rulings may have allowed Inter IKEA to pay less tax and given them an unfair advantage over other companies, in breach of EU State aid rules. The opening of an in-depth investigation gives the Netherlands and interested third parties an opportunity to submit comments. It does not prejudice the outcome of the investigation. To read the relevant press release of the European Commission click [here](#).

The European Commission approved Portuguese tonnage tax and seafarer scheme

The tonnage tax scheme requires that if a shipping company wants to benefit from the scheme, a significant part of its fleet must fly the flag of a European Economic Area (EEA) state. This will encourage shipping companies to register their ships in the EEA and will prevent any discrimination between shipping companies and registries of different EEA states, thus preserving the internal market rules on freedom of establishment. The European Commission concluded that the Portuguese

scheme is in line with EU State aid rules because it will provide incentives to maintain the maritime industry and jobs within the EU, whilst preserving competition within the EU Single Market. To read the full press release of the European Commission click [here](#).

The European Commission approved €44 million Italian scheme to support economic recovery in regions affected by earthquakes in 2016 and 2017

The aid takes the form of a tax credit for all companies making initial investments in the area. Support to large companies will be limited to aid for setting up a new company, diversifying a company's activity or acquiring the assets of a company that has closed. The scheme has an overall budget of €43.9 million and will run from 2018 to 2020. Given its limited duration, budget, and geographical scope, the Commission found that the aid scheme will contribute in a proportionate manner to the promotion of economic development and recovery in central Italy. On this basis, the Commission concluded that the scheme is in line with EU State aid rules. To read the full press release of the European Commission click [here](#).

Energy

The European Commission approved Greek measures to ensure fair access to lignite-fired electricity generation for PPC's competitors

In its decision of March 2008, the Commission found that Greece had infringed competition rules by giving the state-owned electricity incumbent, PPC, privileged access rights to lignite, and called on Greece to propose measures to correct the anti-competitive effects of that infringement. Due to appeals at both the General Court and European Court of Justice, such corrective measures have not been implemented so far. The market test carried out by the Commission indicated that the proposed remedies are a satisfactory way of addressing the Commission's concerns. The assets to be divested will allow the purchasers to compete immediately and more effectively in the Greek wholesale electricity market. To read the full press release of the European Commission click [here](#).

The European Commission invited comments on TenneT's proposed commitments to increase cross border electricity capacity with Denmark

The European Commission has invited comments on commitments by the German grid operator TenneT to increase

capacity on the electricity interconnector between Western Denmark and Germany. The commitments are in response to Commission concerns that capacity restrictions may breach EU antitrust rules. The Commission has concerns that TenneT may have limited the capacity at the electricity interconnector between Western Denmark and Germany, preventing Danish producers from selling electricity in Germany. The limitation of cross-border capacity by grid operators could lead to discrimination between domestic and foreign electricity producers and consumers, as well as distorting electricity prices in the region. To read the full press release of the European Commission click [here](#).

The European Commission approved reductions on offshore surcharge for electro-intensive and railway companies in Germany

The European Commission has found German plans to grant reductions on an offshore surcharge to electro-intensive users and railways to be in line with EU State aid rules. The measure will contribute to the competitiveness of these companies without unduly distorting competition in the Single Market. Following an amendment to the German Energy Act, as of 2019 the costs of connecting

offshore wind installations to the main electricity grid will be financed via an offshore surcharge, to be paid by electricity consumers. The amended German Energy Act also provides for reductions from this offshore surcharge for certain electro-intensive industrial users, as well as for railway companies. The reductions will confer an advantage to these companies, as it will lower their financial burden compared to other companies that will not benefit from them. To read the full press release of the European Commission click [here](#).

The European Commission opened in-depth investigation into restructuring support for Romanian energy producer CE Hunedoara

In 2015, the Commission approved temporary rescue aid of €37.7 million to the Romanian energy producer CE Hunedoara, which has been in financial difficulty since 2013. In the context of this decision, Romania committed to submit a restructuring plan aimed at ensuring the future viability of CE Hunedoara, if the company were unable to pay back the rescue aid in six months' time. In addition, in a separate decision in 2015, the Commission concluded that CE Hunedoara had to repay around €6 million of incompatible State aid. At this stage, the Commission has doubts whether the proposed restructuring plan could restore the

long-term viability of the company without continued State aid. To read the full press release of the European Commission click [here](#).

The European Commission approved €4.7 billion public support scheme for advanced biomethane and biofuels in Italy

The Italian scheme supports the production and distribution of advanced biofuels and advanced biomethane, also known as second and third-generation biofuels, for use in the transport sector. The scheme has an indicative budget of €4.7 billion and will run from 2018 until 2022. Advanced biofuels and biomethane are the most sustainable and environmentally friendly biofuels. They are produced from feedstock that do not require agricultural land for their production, such as waste, agricultural residues, and algae. Therefore, they pose a significantly lower risk of indirect CO₂ emissions caused by the use of additional land to grow crops for biofuels rather than for food and feed, and are particularly suited to help the EU achieve its climate and energy objectives. To read the full press release of the European Commission click [here](#).

The European Commission approved the Belgian regime of compensation for indirect costs of the emissions based on greenhouse gas emissions trading scheme

The Commission authorized, under the European rules for state aid law, the Belgian regime which aims at providing to enterprises-big consumers of energy a partial compensation for the higher electricity prices caused by indirect costs of the emissions based on greenhouse gas emissions trading scheme. The regime benefits the enterprises based in the area of Wallony, active in sectors which are particularly exposed to international competition. The objective of the measure is to prevent a global rise of the greenhouse gas emissions and the relocation of EU-based enterprises to non-EU states with less strict environmental legislation. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of a joint venture by General Electric and Rosneft

The joint venture will focus on the development, implementation, marketing, licensing and/or operation of industrial Internet of Things (IoT) applications based on the Predix Platform offered by GE. GE is a global, diversified manufacturing, technology and services company active in a variety of sectors including, among others, oil & gas manufacturing, technology, services and digital solutions. To read the relevant press release of the European Commission click [here](#).

The European Commission approved the creation of a joint venture between Vapo and the OP Financial Group in the supply of power and heat solutions

The Commission concluded that the proposed transaction would raise no competition concerns because the joint venture has no, or negligible, actual or foreseen activities within the European Economic Area. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of Eurogrid by Elia

The European Commission has approved, under the EU Merger Regulation, the acquisition of sole control of Eurogrid International CVBA by Elia System Operator N.V./S.A., both of Belgium. To read the relevant press release of the European Commission click [here](#).

Greece: Announcement of results of the Public Consultation on DESFA's recommendation with regard to the necessary transitional arrangements for the adaptation of the relevant provisions of the NNGS Code of Conduct during the period of shutdown of the LNG Station

To read the full press release of Regulatory Authority for Energy (RAE), click [here](#).

Greece: Proclamation of Permanent competitive processes for RES projects.

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

Greece: Announcement of the results of the Public Consultation concerning on the Five-Year Development Plan 2017-2021 of the Distribution Network of the rest of Greece

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

Greece: Announcement of the results of the Public Consultation concerning on the Five-Year Development Program 2018-2022 of the Distribution Networks of Thessaloniki and Thessaly

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

Greece: Announcement of the results of the Public Consultation concerning on the Five-Year Development Program 2018-2022 of the Distribution Networks of Attica

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

ACER published guidance on capacity hoarding in intraday electricity markets that could constitute market manipulation

To read the full press release of the Agency for the Cooperation of Energy Regulators (ACER) click [here](#).

Electronic Communications & Post**The European Commission fined Altice €125 million for breaching EU rules and controlling PT Portugal before obtaining merger approval**

EU merger rules require that merging companies notify planned mergers of Union dimension for review by the Commission ("the notification requirement") and do not implement them until cleared by the Commission ("the standstill obligation"). The standstill obligation prevents the potentially irreparable negative impact of transactions on the market, pending the outcome of the Commission's investigation. The Commission has concluded that Altice actually exercised decisive influence over aspects of PT Portugal's business having "jump the gun". To read the full press release of the European Commission click [here](#).

The European confirmed unannounced inspections concerning distribution of sports media rights and other related rights

The European Commission can confirm that on 10 April 2018 its officials carried out unannounced inspections in several Member States at the premises of companies active in the distribution of media rights and related rights pertaining to various sports events and/or their broadcasting. To read the full press release of the European Commission click [here](#).

The European Commission approved compensation granted by France to the French post office for its territorial coverage

The Commission examined the measure under EU State aid rules on public-service compensation, adopted in 2011, according to which companies can be compensated for the extra cost of providing a public service subject to certain criteria. Member States can also grant State aid for the provision of public services, while at the same time making sure that companies providing such services are not overcompensated, which minimises distortions of competition as far as possible and guarantees an efficient use of public resources. The Commission's assessment showed that the scheduled compensation did not exceed the amount needed to cover the net cost of this public-service mission.

On this basis, the Commission concluded that the measure is in line with EU rules on State aid. To read the full press release of the European Commission click [here](#).

Greece: The HCC cleared the proposed acquisition by Vodafone Greece S.A. of sole control over Cyta Hellas S.A.

By its unanimous Decision No. 656/2018, the Chamber of the HCC approved the proposed acquisition by Vodafone Greece S.A. of sole control over Cyta Hellas S.A., a company active in the telecoms market in Greece, with regard to the subject-matters falling within its competence. According to the decision, the notified transaction does not raise serious doubts as to its compatibility with competition rules on the market for the acquisition of audio-visual TV content, including rights of transmission of other TV channels, and on the market for the provision of Pay-TV services. To read the full press release visit the website of the [HCC](#).

Greece: The new Regulation for the Management and Assignment of .gr or .el of the HTPC has been published in the Greek National Gazette.

To read the full decision No. 843/2 as published in the Government Gazette click [here](#).

Greece: Announcement of the results of the Public Consultation

concerning the Draft Regulation for the Operation of the Retail Price and Telecommunications Observation System for Postal Services

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

Pharmaceuticals

The European Commission published its eighth report on patent settlements in the pharma sector

The European Commission published its eighth monitoring report on pharmaceutical patent settlements. The report covers the 107 patent settlements concluded between originator and generic companies in the pharmaceutical sector in 2016. The eight monitoring exercises have shown that the Commission's enforcement activities in this area do not discourage companies from settling their patent disputes. The number of settlements that might attract competition law scrutiny has progressively decreased since the 2008 pharmaceutical sector inquiry and has stabilised at a low level of around 10%. To read the full report of the European Commission click [here](#).

Transport

GC ruling on exclusive use of publicly funded infrastructures without concession contract

The applicant, Naviera Armas, maintains maritime connection between the ports of Gran Canaria and Tenerife. This port was adapted to commercial traffic in the mid-1990s. Since the end of the 1990s, its infrastructure makes it possible to receive fast ferries. The shipping company Fred Olsen, one of the applicant's main competitors, is the only shipping company that has a commercial line for passenger and freight transport between Puerto de Las Nieves and the port of Santa Cruz de Tenerife. Since 1994, the applicant has repeatedly requested mooring permission in Puerto de Las Nieves. Those requests were rejected based on the limited capacity of Puerto de Las Nieves to receive ships and on safety reasons. The applicant lodged a complaint with the European Commission arguing that various measures by the Spanish authorities constitute unlawful state aid to Fred Olsen. According to the Commission, there is no State aid. The GC (T-108/16, *Naviera Armas v Commission*) annulled the Commission's decision in so far as it established that the exclusive use of the port infrastructure of Puerto de Las Nieves by Fred Olsen, had not entailed any State aid to that company. To read the full decision of the GC click [here](#).

The European Commission cleared the acquisition of a newly created joint venture by Singapore Airlines and CAE

The European Commission has approved the acquisition of joint control over a newly created full function joint venture by Singapore Airlines Limited ("SIA") of Singapore and CAE International Holdings Limited ("CAE") of Canada. The joint venture will establish, develop and operate a commercial flight training centre in Singapore. The Commission concluded that the proposed acquisition would raise no competition concerns given that the joint venture has no actual or foreseen activities within the European Economic Area. To read the relevant press release of the European Commission click [here](#).

The European Commission approved investment plan for Italian motorways

The plan involves, in particular, the prolongation of two major motorway concessions held by Autostrade per l'Italia (ASPI) and by Società Iniziative Autostradali e Servizi (SIAS). ASPI's concession covers its network of motorways in Italy, and SIAS' concession concerns the SATAP A4 Torino-Milano motorway. Furthermore, SIAS will use revenues from its prolonged concession to complete the Asti-Cuneo A33 motorway, which is also operated by SIAS. EU rules in this context have made sure that the State support avoids excessive toll increases for

motorway users and overcompensation of the concessionaires, whilst ensuring effective competition in the market. To read the full press release of the European Commission click [here](#).

The European Commission opened in-depth investigation into Italian State loan to Alitalia

In order to ensure financing of Alitalia during the period of extraordinary administration, the Italian State granted a €600 million bridge loan to Alitalia in May 2017. In October 2017, this loan was increased by an additional €300 million. The extraordinary administrators also started a tender procedure aimed at finding a buyer for Alitalia's assets. The Commission has concerns that the duration of the loan, extending from May 2017 until at least December 2018, exceeds the maximum duration of 6 months allowed for a rescue loan under the Guidelines. Furthermore, the Commission has doubts as to whether the aid is limited to the minimum necessary. The Commission will now investigate further to determine whether or not these initial concerns are confirmed. To read the full press release of the European Commission click [here](#).

The European Commission approved public service compensation to Sumburgh airport in the UK

The public funding will facilitate regional connectivity and contribute to the area's development without unduly distorting competition in the Single Market. The approved public compensation amounts to approximately GBP 6 million (€6.7 million) annually until 2022. The Commission found that without the airport, the Shetland Islands would face significant disadvantages in terms of connectivity and economic development compared to other European regions, as the airport is the most important connection hub for its population. Without prejudice to any provisions of the Withdrawal Agreement, which is under negotiation, this Commission decision only applies until the UK ceases to be a Member State. To read the relevant press release of the European Commission click [here](#).

The European Commission approved €56 million public support scheme to promote shift of freight from road to rail in Sweden

The Commission found that the scheme is beneficial for the environment and mobility, supporting rail transport, which is less polluting than road transport, while also decreasing road congestion. The Commission concluded that the measure is

compatible with EU State aid rules. To read the relevant press release of the European Commission click [here](#).

The European Commission clears acquisition by PPF of sole control over Skoda Transportation, VUKV, Skoda Investment, Bammer Trade, JK and Satacoto

The Commission concluded that the proposed transaction would raise no competition concerns given the negligible overlaps between the companies' activities in the European Economic Area. To read the relevant press release of the European Commission click [here](#).

News of the Markets

The HRADF announced the completion of the international tender process for the sale of 5% of OTE and the exercise by Deutsche Telekom AG of its right of first refusal

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

The HRADF announced the transfer of the 67% of the Port of Thessaloniki's shares to the South Europe Gateway Thessaloniki Limited was completed

To read the full press releases of the Hellenic Republic Asset

Development Fund (HRADF) click [here](#).

PPC plant sale process programmed begin in May and end in October

According to press information, the bill on the sale of Public Power Corporation's lignite-powered units is expected to be put up for consultation, with its submission to Parliament to follow, after the draft has been completed by the Energy Ministry in cooperation with the European Commission's Directorate-General for Competition. The bill also incorporates the commitments the ministry has made to the Commission in the context of the third bailout review.

Eldorado Gold S.A. filed new technical report for Skouries

According to press information, Canada's Eldorado Gold Corp filed a new technical report for its contentious Skouries gold mine project in Greece. The Skouries report updates a 2011 plan with industry-best practices for wastewater management and tailings in order to reduce the environmental disturbance from tailings and waste rock.

Papastratos factory inaugurated at Aspropyrgos

According to press information, Greek tobacco giant Papastratos's new production plant was officially launched at

Aspropyrgos in western Attica. The 300-million-euro investment is the second unit in the world exclusively destined for the manufacture of PMI's new IQOS heated tobacco products.

Court ruling pro liquidation of Skaramangas shipyards

According to press information, Athens court has approved an appeal by the Greek state and Piraeus Bank to prepare the Skaramangas shipyards for liquidation. As long as there are no objections from the key shareholder Privinvest the government will be able to start auctioning the shipyard's assets via an international tender.

Mytilineos to build new power plant

According to press information, the Mytilineos group's decision to construct a new combined cycle unit fueled by natural gas represents a change in the electricity market landscape, which today is dominated by retail developments and the sale of Public Power Corporation lignite plants. The future for EU power companies after 2030 lies in the combination of renewable energy sources with storage in high-capacity batteries, with gas being the bridging fuel for this transition.

Total and Edison to begin exploration

According to press information, Greece's Parliament permitted to companies including France's Total and Italy's Edison to explore for oil and gas in the west of the country. Licenses for four blocks were awarded in 2016 but had to be ratified by Parliament for exploration work to begin.

The HRADF announced the launch of tender process for the sale of majority stake in HELLENIC PETROLEUM S.A. (HELPE)

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

The HRADF announced that the consortium of "Snam S.p.A.", "Enagás Internacional S.L.U." and "Fluxys S.A." was nominated Preferred Investor for the acquisition of the 66% of DESFA SA.

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

NBG to continue Ethniki Insurance tendering procedures

According to press information, National Bank (NBG) announced the continuance of the process concerning the sale of its insurance subsidiary Ethniki Insurance. National Bank has started this project as part of a restructuring

plan that the European Union has approved to exit non-banking operations. Four investors had initially expressed their interest to buy a majority shareholding in Ethniki.

Alpha Bank deal with Douzoglou concerning the sale of South Polis

According to press information, Alpha Bank and the Greek-Venezuelan entrepreneur Th. Douzoglou have signed a provisional agreement for the sale of the South Polis complex at Faliro Bay in southern Athens. The complex includes Village Roadshow cinemas, a Jumbo store and Arrow Shipping and DVB Bank offices. There is also a 2,000 sq.m. empty space, which is suitable for offices with a sea view.

Alexandroupoli's port to be conceded

According to press information, TAIPED (HRADF) is going to proceed to the utilization of the port authorities of Alexandroupoli, Igoumenitsa and Corfu, in that order. It is not yet decided whether the ports will be conceded in their entirety in each case or only partially, as this depends on what the fund's consultants will recommend. The consultants are expected to be selected by May, so that the first tender can be called in August or September.

Energean Oil & Gas to boost East Med output

According to press information, Energean Oil & Gas is boosting its Greek output and expects first gas from its fields in Israel in the early 2021, succeeding this way to become one of the biggest independent energy firms of the Eastern Mediterranean.

Uber quitted its service in Greece because of new legislation

According to press information, Uber functioning opposes to the new regulations, because it is required that each trip take place strictly in the Uber partner's designated headquarters or parking area. The new regulations provide that a digital registry of all ride-sharing platforms and passengers shall be created.

CVC Capital Partners bought Iaso General

According to press information, CVC Capital Partners and domestic associates bought for 19.44 million euros a majority stake of 97.2 percent in Iaso General.

Greece and Paneuropean Oil and Industrial Holding for the Hellenic Petroleum

According to press information, Greece and Paneuropean Oil and

Industrial Holding have reached to an agreement to divest a combined 50.1 percent stake, at least, in Hellenic Petroleum.

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