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The Amazon Case: a new piece in the puzzle of tax arrangements scrutinized under State Aid Rules

BY VASSILIS KARAYIANNIS, DR. JURA, PARTNER AND ORESTIS PASTELLAS, LL.M.candidate, INTERN

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Editorial:

The Amazon Case: a new piece in the puzzle of tax arrangements scrutinized under State Aid Rules

The European Commission engaged a series of in depth investigations and issued subsequent decisions considering that individual tax arrangements of undertakings with the fiscal authorities of various member states (the so called tax rulings) violated state aid law prohibitions (see C&RR Issue 2015/4). This stance departed from the previous attitude of the Commission granting in practice more “space” to tax authorities of the member states to individualize their fiscal policy and pursue their public budget objectives in the way they judge the better. The Commission now makes clear that tax rulings can have a distortive effect in the market, if an undertaking ends by paying less tax that should otherwise have paid.

Amazon came to an arrangement with the tax authorities of Luxembourg concerning the treatment of two companies in the Amazon group – Amazon EU and Amazon Europe Holding Technologies. Both are Luxembourg-incorporated companies that are fully-owned by

the Amazon group and ultimately controlled by the US parent, Amazon.com, Inc. Amazon EU operates Amazon's retail business throughout Europe. It selected the goods for sale on Amazon's websites in Europe, bought them from manufacturers, and managed the online sale and the delivery of products to the customer (the operating company). Amazon Europe Holding Company (the holding company) is a limited partnership with no employees, no offices and no business activities. It holds only certain intellectual property rights for Europe for which it grants an exclusive license to the operating company, which uses it to run Amazon's European retail business. Under a so-called cost-sharing agreement the holding company makes annual payments to Amazon in the US to contribute to the costs of developing the intellectual property. The appropriate level of these payments has been determined by a US tax court.

Under Luxembourg's fiscal laws, the operating company is subject to corporate taxation in Luxembourg, whilst the holding company is not because of its legal form of limited partnership. Profits recorded by the holding company are only taxed at the level of the partners and not at the level of the holding company itself. However, it is worth

noting that the investigation of the Commission did not question the general rules of the tax system of Luxembourg, but the individual way the fiscal authorities accepted inflated royalties paid by the operating company to the holding company. According to the Commission the amount of these royalties did not reflect the economic reality and did not comply with the at arm's length principal. As a result of these payments considerable profits were shifted to the non-taxable holding company. The Commission estimated that the difference between what the company paid in taxes and what it ought to pay without the tax ruling is around €250 million, plus interest, but the exact amount to recover will be calculated by the authorities of Luxembourg according to the methodology established by the decision of the Commission. To read the full press release click [here](#). To read the full statement by Commissioner Vestager click [here](#).

Antitrust

CJEU: The Court upheld fine imposed on Toshiba for its participation in the gas insulated switchgear cartel

On 06/09/2017 the Court of Justice of the European Union (CJEU) dismissed Toshiba's appeal (case C-180/16 P), making the fine of 61,44 million imposed by the Commission final. According to the CJEU, the General Court of the

European Union (GC) rightly held that, even though the Commission did not send Toshiba, before the second calculation of fines, a new statement of objections, Toshiba's rights of defense were not infringed, and, the fact that, in 2003, Toshiba had no turnover of its own in the GIS sector is a factor which objectively differentiates its situation from that of other undertakings that participated in the cartel, therefore Toshiba cannot assert an infringement of the principle of equal treatment. To read the full press release of the CJEU click [here](#). To read the full judgement of the CJEU click [here](#).

CJEU dismissed AGC Glass' claim that cartel details on the car-glass market should not be published

On 26.07.2017 the CJEU dismissed the appeal of AGC Glass case (C-517/15 P). The Court acknowledged that the General Court erred in law by holding that the hearing officer had been correct to decline competence to answer the applicant's objections to the publication on the basis of the principles of the protection of legitimate expectations and equal treatment. However, this error was not of such a nature so as to justify overturning the General Court's judgment. To read the full judgement of the CJEU click [here](#).

CJEU set aside the judgment of the General Court following Ferriere Nord SpA appeal

On 21.09.2017 the CJEU upheld the appeal of Ferriere Nord SpA case (C-88/15 P), concerning the company's participation in a continuous agreement and/or concerted practices in respect of concrete reinforcing bars and coils having as object and/or effect the fixing of prices and the restriction and/or control of production and sales in the common market. The Court acknowledged that the General Court erred in law by holding that the Commission was not obligated to organise a new hearing with the Hearing Officer before adopting the decision at issue. In so far as the right to such a hearing was not respected, it is not necessary for the undertaking, the rights of which have been infringed in this way, to demonstrate that such infringement might have influenced the course of the proceedings and the content of the decision at issue to its detriment. Therefore the GC decision was set aside and the Commission's decision at hand was annulled. To read the full judgement of the CJEU click [here](#). The same factual and legal issues were decided respectively in cases [C-85/15](#), [C-86-7/15](#) and [C-89/15](#), concerning Feralpi Holding SpA (C-85/15), Ferriera Valsabbia SpA, Valsabbia Investimenti SpA, Alfa Acciai SpA (C-86-7/15) and Riva Fire SpA (C-89/15).

CJEU dismissed the appeals of LG Electronics Inc. and Koninklijke Philips Electronics NV

With its judgment in Cases C 588/15 P and C 622/15 P the Court of Justice of the European Union ruled, on the 14th of September 2017, that it is apparent from the case-law of the Court of Justice that, although Article 23 (2) of Regulation No 1/2003 leaves the Commission certain discretion in determining the amount of the fine, it nevertheless limits the exercise of that discretion by establishing objective criteria to which the Commission must adhere. The exercise of that discretion is also limited by rules of conduct which the Commission imposed on itself, in particular in the Guidelines on the method of setting fines. Therefore, it dismissed the appeals of LG Electronics Inc. and Koninklijke Philips Electronics NV as they were based on false condition. To read the full judgment of the CJEU in Cases C 588/15 P and C 622/15 P, click [here](#).

CJEU decided that the trade between Member States can be affected by the level of rates set by a dominant copyright management organization

With its judgment in Case C-177/2016 in reference for a preliminary ruling the CJEU ruled, on 14th September 2017, that the trade between Member States is capable of being affected by the level of rates set by a copyright management organisation that

holds a monopoly and also manages the rights of foreign copyright holders, with the result that Article 102 TFEU may be applicable. For the purposes of examining whether a copyright management organisation applies unfair prices within the meaning of Article 102 TFEU, it is appropriate to compare its rates with those applicable in neighbouring Member States as well as with those applicable in other Member States adjusted in accordance with the PPP index, provided that the reference Member States have been selected in accordance with objective, appropriate and verifiable criteria and that the comparisons are made on a consistent basis. To read the full judgment of the CJEU in Case C-177/2016, click [here](#).

CJEU set aside the judgment of the GC regarding the fine of €1.06 billion imposed on Intel for abuse of a dominant position

The Court of Justice, with its judgment in Case C-413/14 Intel Corporation Inc. v. European Commission noted that the GC confirmed the Commission's line of argument that loyalty rebates granted by an undertaking in a dominant position were, by their very nature, capable of restricting competition such that an analysis of all the circumstances of the case and, in particular, an as efficient competitor test ('AEC test') were not necessary. The Court of Justice, though, held that the General Court was required to

examine all of Intel's arguments concerning that test (such as, inter alia, the errors allegedly committed by the Commission as regards that test), which the General Court failed to do. The Court therefore set aside the judgment of the General Court as a result of that failure in its analysis of whether the rebates at issue were capable of restricting competition. To read the full press release of the CJEU (No. 90/17) click [here](#). To read the full judgment of the CJEU in Case C-413/14 P, click [here](#).

CJEU rejected an appeal brought by Global Steel Wire SA, Trenzas y Cables de Acero PSC SL, Trefilerías Quijano SA and Moreda-Riviere Trefilerías SA regarding the imputability of violations of article 101 TFEU to successor companies and companies being part of a "single economic entity"

On 26 October 2017, the CJEU confirmed Commission's decision of recognition of a cartel (101(1) TFEU) between TQ, Trenzas y Cables de Acero (Trenzas y Cables and MRT being its successor companies from October 1996 and December 2002 respectively), et Tycsa PSC (being a subsidiary of Trenzas y Cables de Acero and successor company of all Trenzas y Cables activities from mars 2002) for a period between 1992 and 2002. The violation has been imputed to GSW on the grounds of the "single economic entity" doctrine for the whole period. The CJEU confirmed -based on the

GSW holding of 100% of the share capital of the subsidiary companies Trenzas y Cables et de Tyrsa PSC and supplementary indices- presumption of determinable influence based on effective control. The presumption has not been successfully rebutted. The CJEU confirmed imputability of competition violations to the successor companies for the respective periods, notwithstanding existence and parallel responsibility of the predecessor companies. To read the full judgement of the CJEU (C-457/16 P and C-459/16 P till C-461/16 P), click [here](#).

The General Court of the EU reduces Austrian bathroom-fittings cartel fine by €10 million

On 23 June 2010, Laufen Austria and another sixteen bathroom equipment manufacturers were fined €622 million by the European Commission for their participation in a price-fixing cartel. Laufen Austria brought an appeal against the fining decision before the General Court of the EU. By judgment of 16 September 2013, the General Court upheld the Commission's decision and dismissed Laufen Austria's claim. The claimant appealed this judgment before the Court of Justice of the EU, which ultimately found that the Commission's fining methodology had not been sound regarding Laufen Austria's fine. Consequently, it set aside the General Court's judgment and referred the case back to the latter

for review of the claim concerning the reduction of the €32million fine imposed on Laufen Austria AG by the Commission. On 12 September 2017, the General Court adjudicated the matter and concluded that the individual fine that had been imposed on Laufen Austria should be cut down by €10 million. The reason behind the adjustment is the fact that, in light of the proportionality principle, the Commission fining guidelines prevent that cartelists are imposed a fine that exceeds 10% of its turnover. To read the full judgement of the CJEU click [here](#).

GC's ruling on Mandatory Access and Interoperability in Software Industry in abuse of dominance case

The GC's decision of 14 September 2017(T-751/15) relates to a complaint filed with the European Commission by Contact Software, a German software supplier of Product Data Management ('PDM'). Contact Software alleged an abuse of dominance by Dassault Systèmes ('Dassault') and Parametric Technology Corp ('Parametric'), as they refused to provide Contact Software with interface information on their computer-aided design ('CAD') software. Contact Software's main claim was that, by refusing to provide interface information on their CAD software, Dassault and Parametric prevented interoperability between their CAD software and Contact Software's

PDM product. The GC ruled that cost and duration of switching from one supplier's product to another supplier's product is irrelevant. While switching CAD software can be costly and time-consuming, the GC found that this does not mean that each CAD software product is a separate market. The GC noted that Contact Software's arguments advocated supplier-specific product markets based on the idea that customers are tied-in once they have chosen a specific CAD software. However, the GC found that this did not account for new customers, who can still choose between all CAD software products available on the market. To read the full judgement of the CJEU click [here](#).

The General Court dismissed action brought by CEAHR on the grounds of competition abuses by manufacturers in the market for luxury watches

On 23 October 2017, the Court confirmed that selective repair systems and subsequent refusal to supply spare parts to non-authorized repairers constitute neither abuse of dominance (102 TFEU) nor concerted practice (101 TFEU). The manufacturers have not reserved the secondary market to themselves, because selection of authorized repairers took place in view of objective, non-discriminatory and proportionate criteria and refusal could be explained by objective reasons justifying a reduction of price competition (preservation of

quality etc.). Since they were able to repair watches of different brands, effective competition was not eliminated. Furthermore, the selective repair system was not the result of an agreement, but rather of a series of independent commercial decisions adopted by the Swiss watch manufacturers. To read the full judgement of the Court (T-712/14) click [here](#).

The European Commission sent supplementary Statement of Objections to Visa on inter-regional interchange fees

This is a procedural step in the Commission's ongoing investigation under EU antitrust rules into the collective setting of the fees that merchants are charged by the Visa card holder's bank for each Visa card payment carried out at their shops. The cost increase caused by these fees is not charged directly to the Visa card user but is spread across all consumer transactions at different merchants (shops). It could potentially lead to higher prices for consumer goods and services. The supplementary Statement of Objections follows the one adopted in 2012 against Visa. To read the relevant press release of the European Commission click [here](#).

The European Commission confirmed unannounced inspections concerning access to bank account information by competing service providers

The European Commission initiated inquiries on the basis of concerns of anti-competitive practices in breach of EU antitrust rules that prohibit cartels and restrictive business practices and/or abuse of dominant market positions (Articles 101 and 102 TFEU). The expected duration depends on the factors of each case distinctively. Alleged anti-competitive practices are aimed at excluding non-bank owned providers of financial services by preventing them from gaining access to bank customers' account data, although respective customers have given their consent to such access. The Commission is to respect the rights of defense, mainly the right of companies to be heard in antitrust proceedings. To read the full press release click [here](#).

Greece: the HCC published its decision on the operation of the parking areas at the Macedonia airport in Thessaloniki, regarding a violation of article 2 of Law 3959/2011.

The Hellenic Competition Commission (HCC) dismissed the request of the Centre for Consumers' Protection, ruling that the parking charges imposed by the lessee do not exceed reasonable extent, taking into account the balance sheet of the

lessee. As a result, no anticompetitive conditions arise. To read the full press release of the HCC, please visit the website of the [HCC](#).

Greece: the HCC published its decision on the potential violation of articles 1 and 2 of Law 3959/2011 from the companies COLGATE-PALMOLIVE (HELLAS), COLGATE-PALMOLIVE COMMERCIAL (HELLAS) – EURL and retail and wholesale supermarket companies

The HCC imposed on the undertakings fines, after ruling a violation of article 1 of Law 3959/2011 through the adoption of a clause prohibiting parallel imports on the fields of detergents and cosmetics. Regarding article 2 of Law 3959/2011 the HCC stated that COLGATE-PALMOLIVE (HELLAS) and COLGATE-PALMOLIVE COMMERCIAL (HELLAS) – EURL, as well as their holding company abused their dominant position in the Greek market of cleaning products for glass surfaces, imposing a fine. To read the full press release of the HCC, please visit the website of the [HCC](#).

Greece: The HCC decision No. 644/17 on the tenders for the awarding of public projects in the Prefecture of Pella, in violation of article 1 of Law 3959/2011 was published on the Government Gazette.

For the violations of the undertakings involved the HCC

imposed a total fine of 805.591,00 Euros, taking exceptionally into consideration the prolonged financial crisis which has harmed, among others, the construction sector. To read the full decision No. 644/17 as published in the Government Gazette click [here](#).

Greece: HCC ruled that companies controlled by HONDOS family members infringed competition law

By its unanimous Decision No. 645/2017, the HCC decided that the company HONDOS PALLAS AEE has infringed Articles 1 of the Greek Competition Act and 101 TFEU, since it was engaged in horizontal price-fixing and exchanging of confidential information regarding the retail prices of its beauty and broader cosmetic products, for the period 01.7.2003 to 30.06.2006. Therefore, the HCC imposed a fine of 153.726,77 € to the company. The company has infringed for the same period the above mentioned provisions, through its participation to a prohibited vertical agreement, therefore the HCC, by majority vote, addressed recommendation, requiring the undertaking concerned to refrain from direct or indirect resale price maintenance within its network in the future. To read the full press release of the HCC, please visit the website of the [HCC](#).

Greece: Settlement Procedure - Infringement decision with fines addressed to undertakings active in the construction sector regarding violations of Article 1 of the Greek Competition Act and Article 101 TFEU

The HCC, by unanimous decision, found that fifteen (15) undertakings active in the construction sector in Greece, participated in at least one of several collusion schemes (i.e. the first spanning from 2005 to 2012, the second from 1989 to 2000 and five individual anti-competitive tenders in the years 1981-1988 and 2001-2002) regarding tenders for public works of infrastructure. The Decision was adopted through a simplified procedure, under the terms of the Settlement Procedure (Article 25a of the Competition Act and Decision No. 628/2016). During the procedures, the first successful application of the Leniency Program in Greece took place. To read the full press release of the HCC, please visit the website of the [HCC](#). To read decision No. 645/2017 of the HCC on the Government Gazette (Issue 2847 B'/11.08.2017), click [here](#).

Greece: The HCC imposed fines due to competition violations by wholesalers of luxurious and expensive cosmetics

The HCC imposed fines on various luxury cosmetics companies on the basis of confirmed violation of article 1 of L. 707/1977 in terms of a horizontal trust determining

discount system and subsequent indirect retail price fixing. The HCC ordered the companies to cease violation and desist in the future, imposing a fee for each day of delay to implement said order. To read the full press release visit the website of the [HCC](#)

UK: CMA fines Ping £1.45m for online sales ban on golf clubs

The Competition and Markets Authority (CMA) has found that Ping broke competition law by preventing 2 UK retailers from selling its golf clubs on their websites. The CMA found that, while Ping was pursuing a genuine commercial aim of promoting in-store custom fitting, it could have achieved this through less restrictive means. Ping is required to bring the online sales ban to an end, and must not impose the same or equivalent terms on other retailers. To read the full press release of the CMA, click [here](#).

Germany: Bundeskartellamt imposed fines totalling approx. 10.9 million euros on account of vertical price fixing in the clothing industry

The Bundeskartellamt has imposed fines totalling around 10.9 million euros on two companies in the clothing industry on account of vertical price fixing. The companies involved are the clothing manufacturer Wellensteyn International GmbH & Co. KG (Wellensteyn) and the retailer Peek & Cloppenburg KG, Düsseldorf

(P&C Düsseldorf). According to the decision, the ability of a retailer to freely set its prices is good for competition and consumers. Agreements between retailers and manufacturers on specific sales prices or minimum price levels are therefore prohibited. Manufacturers may on no account threaten to penalise retailers in order to induce them to observe fixed or minimum price levels. To read the full press release of the Bundeskartellamt, please click [here](#).

Mergers

CJEU ruled that the concept of concentration must cover operations bringing about a lasting change in the control of the undertakings concerned and in the structure of the market

With its judgment in Case C-248/2016 (Austria Asphalt GmbH) in reference for a preliminary ruling the CJEU decided, on 7 September 2017, that it cannot be determined from the wording of Article 3 of the regulation 139/2004 alone whether a concentration, within the meaning of that regulation, is deemed to arise as a result of a transaction by which the sole control of an existing undertaking becomes joint when the joint venture resulting from such a transaction does not perform all the functions of an autonomous economic entity. According to recital 20 of the regulation, the concept of concentration must be

defined in such a manner as to cover operations bringing about a lasting change in the control of the undertakings concerned and therefore in the structure of the market. To read the full judgment of the CJEU in Case C-248/2016, click [here](#).

The General Court of the EU confirmed that acquisition by Marine Harvest ASA of Morpol ASA's controlling stake from a single seller needed to be pre-notified to the EC

On 26 October 2017, Marine Harvest ASA brought an action contesting Commission's Decision C (2014) 5089 final imposing a fine for putting into effect a concentration in breach of Article 4(1) and Article 7(1) of Regulation No 139/2004 with regard to the acquisition of Morpol ASA by Marine Harvest SA. The Court acknowledged that the December 2012 Acquisition had conferred sole de facto control over Morpol, thus qualifying as a concentration raising the obligations of prior notification and subsequent stand-still until declaration of compliance with the internal market by the EC pursuant to Articles 4(1) and 7(1) of Regulation No 139/2004. Given the non-applicability of any exceptions of Article 7(2) (purchase of securities from a single seller) the Court dismissed the action of Marine Harvest ASA. To read the full judgement of the Court (T-704/14) click [here](#).

The European Commission opened in-depth investigation into Knorr-Bremse's proposed takeover of competing brakes manufacturer Haldex

The European Commission has opened an in-depth investigation to assess the proposed takeover of Haldex by Knorr-Bremse under the EU Merger Regulation. The Commission has concerns that the deal may reduce competition for brake systems and related components for commercial vehicles in Europe. Knorr-Bremse and Haldex are two of the world's largest manufacturers of commercial vehicle brake systems and components, together with Wabco, with a particularly significant presence in the European Economic Area. The Commission has concerns regarding a number of markets where Knorr-Bremse and Haldex currently compete, such as electronic braking systems (EBS) and air disc brakes for both trucks and trailers, anti-lock braking systems (ABS) for trailers, valves and air treatment systems. These markets have high entry barriers due to the technical and regulatory requirements for safety-critical equipment, as well as the significant research and development efforts required to enter, or expand, in these markets. To read the full press release of the European Commission click [here](#).

The European Commission conditionally cleared both FMC's acquisition of parts of DuPont's crop protection business and DuPont's acquisition of FMC's Health and Nutrition business

Clearance of this transaction is conditional on the divestment of FMC's sulfonylurea and florasulam businesses in the European Economic Area (EEA). Sulfonylureas and florasulam are herbicides used to control broadleaf weeds in cereal crops. The Commission had concerns that the transaction, as originally notified, would have allowed FMC to unilaterally raise prices in a number of national markets in the EEA by eliminating a close competitor (DuPont). This would have been the case for products to control broadleaf weeds once crop seedlings have emerged (post-emergence control) in cereals. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared creation of joint venture by Hitachi Automotive Systems and Honda Motor Company

The European Commission has approved under the EU Merger Regulation the creation of a joint venture company by Hitachi Automotive Systems Ltd (HIAMS) and Honda Motor Company Co., Ltd, both of Japan. HIAMS supplies automotive products and technologies. Honda manufactures automobiles,

motorcycles and power products. The joint venture will be active in the production and supply of electric motors in Japan, China and the US. The Commission concluded that the proposed acquisition would not raise competition concerns, because the joint venture has no, or negligible, actual or foreseen activities within the EEA. To read the relevant release of the European Commission click [here](#).

The European Commission approved acquisition of Opel by Peugeot

The European Commission has unconditionally approved the acquisition of Opel by Peugeot. Peugeot S.A. ('PSA') will acquire assets and shareholdings linked to Opel. PSA will thus acquire sole control of the whole of Opel. Given that PSA and Opel are both active in the manufacture of passenger vehicles and light commercial vehicles, the Commission looked at the impact of the transaction on the automobile markets at both European and national level. With regard to the manufacture and sale of motor vehicles, the combined market shares of the two companies are relatively small in all the relevant markets. With regard to the wholesale and retail distribution markets, the Commission ruled out the possibility that the transaction might have a detrimental effect because of the different distribution channels used by PSA and Opel and the presence of independent distributors,

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

The European Commission approved the acquisition of the joint control of the financial activities of Opel/Vauxhall automobiles of GM by Peugeot and BNP Paribas

The European Commission approved the acquisition of the joint control of the branches of General Motors responsible for financing of the Opel/Vauxhall automobiles, active throughout Europe, by the companies Peugeot S.A. and BNP Paribas, both established in France. The Commission concluded that the proposed acquisition would raise no competition concerns, because of its limited impact on the market structure, as well as the minor increase of their percentage of the market, following the transaction. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared the acquisition of a joint enterprise by BNP Paribas, CACEIS, Caisse des Dépôts et Consignations, S2IEM, Société Générale, Euroclear and Euronext

The joint enterprise will offer after-negotiation services, in particular registration and settlement services, based on «*distributed ledger technology*» for quoted and unquoted shares of small and medium enterprises. The holding

companies are financial institutions and institutional investors who provide a variety of financial services. The Commission concluded that the new enterprise would not raise any competition issues on the grounds of its limited revenues and the existing competition within the emerging market in which it will operate. To read the relevant release of the European Commission click [here](#).

The European Commission opened in-depth investigation into proposed acquisition of Monsanto by Bayer

The European Commission has concerns that the merger may reduce competition in areas such as pesticides, seeds and traits. The proposed acquisition of Monsanto (US) by Bayer (Germany) would create the world's largest integrated pesticides and seeds' company. It would combine two competitors with leading portfolios in non-selective herbicides, seeds and traits, and digital agriculture. Both companies are active in developing new products in these areas. Moreover, the transaction would take place in industries that are already globally concentrated, as illustrated by the recent mergers of Dow and Dupont and Syngenta and ChemChina, in which the Commission intervened to protect competition for the benefit of farmers and consumers. To read the full press release of the European Commission click [here](#).

The European Commission approved acquisition of Pelican Rouge by Selecta, subject to conditions

Selecta and Pelican Rouge are both active in the vending services market in the European Economic Area. The Commission examined the effects of the proposed transaction in the vending services market and its sub-segments at national level where the activities of Pelican Rouge and Selecta would overlap, notably in Belgium, Finland, France, Ireland, the Netherlands, Spain, Norway and the UK. The Commission concluded that the proposed transaction would not lead to serious doubts in the market for vending services, including any potential segmentation, in any of these countries with the exception of Finland. Selecta offered to divest all of its vending service activities in Finland. The divestment will entirely remove the overlap between Selecta and Pelican Rouge in Finland and restore the same level of competition as before to the proposed transaction. To read the full press release of the European Commission click [here](#).

The European Commission cleared acquisition of a portfolio of 48 European infrastructure companies by APG

The European Commission has approved the acquisition of a portfolio of 48 European infrastructure companies (the Portfolio), currently controlled by

DIF Management B.V., by APG Asset Management N.V. (APG), of the Netherlands. The Portfolio comprises project companies active in the infrastructure sector, such as wind farms, solar plants, motorways, hospitals, waste treatment, public buildings or housing projects. APG is the asset management business unit of APG GROEP N.V., a collective pension scheme provider. The Commission concluded that the proposed acquisition would raise no competition concerns given the transaction's limited impact on the market structure. To read the relevant press release of the European Commission click [here](#).

The European Commission opened in-depth investigation into proposed merger between Essilor and Luxottica

The proposed merger would combine two leaders in the optical industry. 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. The Commission's initial market investigation raised several issues relating in particular to the combination of Essilor's strong market position in lenses and Luxottica's strong market position in eyewear. At this stage, the Commission is concerned that, following the transaction, the merged entity may use Luxottica's powerful brands to convince

opticians to buy Essilor lenses and exclude other lens suppliers from the markets, through practices such as bundling or tying. To read the full press release of the European Commission click [here](#).

The European Commission cleared the acquisition of Maple by Borealis, Ontario Teacher's Pension Plan Board and SSE

The European Commission has approved, under the EU Merger Regulation, the acquisition of joint control over Maple Topco Limited of the UK by Borealis European Holdings B.V. of the Netherlands, ultimately controlled by the Omers Administration Corporation of Canada, Ontario Teacher's Pension Plan Board (OTPP) of Canada and SSE Plc of the UK. Maple is active in meter asset provision to energy suppliers in the UK. Borealis is a manager for Omers which is the administrator of the Ontario Municipal Employees Retirement System Primary Pension Plan. The Commission concluded that the proposed acquisition would raise no competition concerns because of the limited overlap between the companies' activities. To read the relevant press release click [here](#).

Greece: The HCC approved concentration by way of parallel acquisition of shares in MEVGAL A.E. by two leaders of the relevant market

The HCC approved concentration in the market for milk supply and

chocolate milk production and sale. The approval is conditioned upon implementation of corrective measures of article 8 of L. 3959/2011. More specifically, so as to avoid abuse of dominance, milk is to be supplied at minimum guaranteed prices and on the basis of agreements with producers not exceeding one year in duration, not including exclusivity clauses and/or requiring disproportionate guarantees of producers. In addition, so as to preserve effective competition in view of significant overlapping of activities in the market for chocolate milk, functional independency of MEVGAL A.E. and DELTA TROFIMA A.E. is to be preserved. To read the full press release visit the website of the [HCC](#).

Greece: On 06.10.2017 the concentration by way of acquisition of all shares of Olympic Commercial and Tourism Businesses S.A. by Olympia Group S.A. was notified to the HCC

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

Greece: On 28.07.2017, the concentration by means of which the company “Exin Financial Services Holding B.V.” shall establish joint control of the company “Ethniki Asfalistiki” with the company “National Bank of Greece” was notified to the HCC

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

Greece: On 11.09.2017, the concentration by means of which the company “Attica Group” shall establish exclusive control of the company “Hellenic Seaways” was notified to the HCC

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

State aid

CJEU clarified interpretation of “undertakings in difficulty” under the General Block Exemption Regulation

On 6 July 2017, the Court of Justice delivered its judgment in case C-245/16, Nerea SpA v Regione Marche. The judgment was in response to a request for preliminary ruling by a court in Italy that was dealing with a dispute on the interpretation of the General Block Exemption Regulation [GBER] that was in force until June 2014, Regulation 800/2008. The then GBER, like the current GBER [Regulation 651/2014], excluded

from its scope any State aid that was granted to companies in difficulty. The CJEU ruled that Article 1(7)(c) of Regulation No 800/2008 must be interpreted so as to mean that the fact that an undertaking satisfied the conditions for being subject to collective insolvency proceedings according to national law is sufficient to prevent State aid being granted to it under that regulation or, if such aid has already been granted to it, to hold that it could not be granted in accordance with that regulation provided that those conditions were satisfied on the date on which that aid was granted. However, aid granted to an undertaking in compliance with Regulation No 800/2008 and, in particular, Article 1(6) thereof, cannot be withdrawn solely on the ground that that undertaking has been subject to collective insolvency proceedings subsequent to the date on which that aid was granted to it. To read the full judgement of the CJEU click [here](#).

CJEU dismissed the appeal of the European Commission concerning state aid granted to Frucona Košice by the Slovak state

On 20 September 2017, CJEU delivered its judgment in case C-300/16 P. Frucona Košice, a company active in the production of spirits and spirit-based beverage, benefited from several deferrals of payment of tax debts made up of excise duties for which

it was liable, as well as from a reduction of 65% of the claim of the Slovak tax authorities to be repaid when the company declared bankruptcy. The CJEU concluded that the General Court did not err in law when it stated, that, since the private creditor test was applicable as such, the Commission could not make a distinction, as regards the applicability of the test, based on the various alternatives to the measure at issue. The GC did explain, to the requisite legal standard, first, the extent of the Commission's investigation obligations and, second, the kind of additional evidence the Commission could have requested. The GC did not apply an incorrect legal test and the Commission's claims must be rejected as, in part, ineffective and, in part, unfounded. To read the full judgement of the CJEU click [here](#).

GC dismissed Aid granted by the Portuguese authorities for the resolution of the financial institution Banco Espírito Santo

On 19 July 2017, the General Court of the European Union (GS) delivered its judgment in case T-812/14. According to GC the sole issue in the proceedings before the Tribunal Administrativo de Círculo de Lisboa (Administrative Court, Lisbon) was whether a resolution procedure complies with national law and the sole issue in the present proceedings was whether the

funding of that resolution procedure was compatible with EU law. Therefore any finding by this Court as to whether the Commission had due regard for that Communication can have no effect on the Tribunal Administrativo de Círculo de Lisboa's (Administrative Court, Lisbon) interpretation of Portuguese constitutional rules and the action must be dismissed. To read the full judgement of the GC click [here](#).

The European Commission approved restructuring plan for Vestjysk Bank A/S

The European Commission has approved a restructuring plan for Danish Vestjysk Bank that will ensure the bank's long-term viability without any new aid. The Commission has also given final approval to past aid, which was granted and temporarily approved by the Commission in 2012 under EU state aid rules. As part of the restructuring plan, the Danish State has signed an agreement with a consortium of Danish private investors to acquire the State's entire share in the bank, as a result of which the bank will again be fully private. The investor consortium will make a capital injection into the bank and repay the remaining outstanding state-funded hybrid capital. Vestjysk Bank will focus its activities on its core business and take measures to increase its efficiency. To read the full press release of the European Commission click [here](#).

The European Commission confirmed Irish air travel tax exemption for transit and transfer passengers did not constitute state aid

The European Commission has found that the exemption for transfer and transit passengers from the Irish air travel tax was in line with EU state aid rules. The exemption did not selectively favor certain airlines and therefore involved no state aid within the meaning of EU rules. This concerned an excise duty, which was in place from March 2009 to April 2014, and applied to airlines operating in Ireland. The tax had to be paid for each passenger flying from an airport located in Ireland. However, departures of passengers in transfer or transit were exempted from the tax. On the basis of its in-depth investigation, the Commission has now concluded that the exemption was in line with the underlying logic of the Irish air travel tax, which was to tax journeys by air originating from Ireland. To read the relevant press release of the European Commission click [here](#).

The European Commission found Belgian support to three airlines incompatible with EU rules

The European Commission has concluded that public support granted by Belgium to three airlines flying from Brussels Airport (Zaventem) gave them an unfair advantage over other airlines, in

breach of EU state aid rules. These airlines are Brussels Airlines, TUI Airlines Belgium and Thomas Cook Airlines Belgium, which received €16.8 million, €2.1 million and €77 000, respectively. The distortion of competition has already been removed because Belgium in March 2017 recovered the aid from each airline (with interest), before the Commission concluded its in-depth investigation. To read the relevant press release of the European Commission click [here](#).

The European Commission approved rescue and restructuring aid scheme for SMEs in Belgium's Wallonia region

The European Commission has found a €20 million Belgian aid scheme aimed at facilitating the rescue and restructuring of small and medium sized companies (SMEs) in the region of Wallonia to be in line with EU State aid rules. Under the scheme, which will run until 2020, the publicly-owned "Société Wallonne de Gestion et de Participation" ("SOGEPA") will be entitled to offer rescue and restructuring support to Walloon SMEs in financial difficulty. SOGEPA will provide support notably if a company's default would likely to trigger social hardship in the region. The Commission found that the support will contribute to economic cohesion and development in the region, without unduly distorting competition in the Single Market. To read the relevant press release of the European Commission click [here](#).

The European Commission asked Spain to recover €5.8 million from Iberpotash

The European Commission has asked Spain to recover €5.8 million of illegal State aid granted to Iberpotash S.A. (renamed ICL Iberia Súa & Sallent in 2014), a company which operates various mines of potash in Catalonia. The Commission's in-depth investigation found that Iberpotash benefitted from illegal support measures. As a result, Iberpotash did not have to bear the costs of environmental protection that competing mining companies have to bear in the Union, thus gaining an undue competitive advantage. On this basis, the Commission concluded that Iberpotash must pay guarantee fees reflecting the true remediation costs of its sites until 2016 and also return the excess investment costs that were entirely borne by the public authorities. To read the relevant press release of the European Commission click [here](#).

The European Commission referred Ireland to CJEU for failure to recover illegal tax benefits from Apple worth up to €13 billion as required

The European Commission decided to file an action against Ireland for failure to implement recovery order (108(2) TFEU) of the EC dated 30 August 2016 in the accorded deadline referring to illegal tax benefits constituting

infringement with regard to state-aid rules. The tax benefit allowed Apple to pay substantially less tax according to the Commission's decision. To read the full press release click [here](#).

The European Commission opened in-depth investigation into UK tax scheme for multinationals

The European Commission initiated investigation to assess state aid compatibility of an exemption in UK's tax avoidance rules (the UK's Controlled Foreign Company Rules, known as CFC). The rules generally provide for reallocation back to the parent company of profits artificially shifted to offshore subsidiaries in the context of intra-group financing agreements. Since 2013, the UK's CFC rules include an exception for certain financing income (i.e. interest payments received from loans) of multinational groups active in the UK, namely the Group Financing Exemption. This exception is to be examined, as it may be the basis of unequal tax treatment of companies. The rule leaves the way open to the -UK taxed- parent company to reduce its taxable base by allocation of profits by means of intra-group transactions in order to be recycled in the form of interest payments etc. To read the full press release click [here](#).

The European Commission approved the compensation granted to La Banque Postale to facilitate access to banking services

The European Commission has concluded that the compensation of €1.83 billion granted to La Banque Postale over six years for the provision of a service of general economic interest of banking accessibility is compatible with EU State aid rules. The aid was granted in order to compensate for obligations that constitute the general interest task entrusted to La Banque Postale of ensuring banking accessibility. The Commission has found that this compensation does not exceed the net cost of discharging these public service obligations. Moreover, if overcompensation should occur, a procedure has been put in place requiring La Banque Postale to repay any excess compensation to the French State. To read the full press release click [here](#).

Energy

The CJEU ruling on the notion of state aid concerning the imposition of a financial penalty on ENEA S.A

With its judgment in Case C-329/2015 in reference for a preliminary ruling concerning the imposition of a financial penalty on ENEA S.A for breach of its obligation to purchase electricity produced by cogeneration with

the production of heat, the CJEU ruled that the article 107 (1) TFEU must be interpreted as meaning that a national measure, such as that at issue in the main proceedings, placing an obligation on both private and public undertakings to purchase electricity produced by cogeneration with the production of heat does not constitute intervention by the State or through State resources. To read the full judgment of the CJEU in Case C-329/2015, click [here](#).

The European Commission approved Hungarian support scheme for renewable electricity

The European Commission has found the new Hungarian support scheme for renewable electricity to be in line with EU state aid rules. The scheme will help Hungary to reduce CO2 emissions, in line with EU energy and climate goals, whilst preserving competition. The Hungarian scheme will be financed through the renewables support levy currently in place in Hungary. In order to avoid any discrimination against foreign renewable energy producers resulting from the financing mechanism, as of 2017 Hungary will partially open up the renewables support scheme to foreign producers. To read the full press release of the European Commission click [here](#).

The European Commission confirmed no aid in Belgian public guarantee for nuclear risks

The European Commission has concluded that the Belgian state guarantee for nuclear operators that do not find sufficient civil liability coverage on private insurance markets does not involve state aid. The Commission found that, in the case of Belgium, the premium to be paid by the nuclear operators to benefit from the state guarantee was set at such a level that it will not give them an economic advantage. The Commission established that the Belgian state guarantee aims to improve compensation of victims of a nuclear incident, without granting any economic advantage to nuclear operators. To read the full press release of the European Commission click [here](#).

The European Commission cleared acquisition of joint control over Redexis Gas by USSL and Goldman Sachs

Redexis Gas is a regulated natural gas company, active in LPG transmission and distribution in Spain. USSL is the corporate trustee responsible for managing a UK private sector pension scheme for academic and comparable staff in UK universities and other higher education and research institutions. Goldman Sachs is a global investment banking, securities and investment management firm that provides a range of financial services

worldwide. The Commission concluded that the proposed transaction would raise no competition concerns as Goldman Sachs previously solely controlled Redexis Gas and USSL is not active in the same market as Redexis Gas. To read the relevant press release of the European Commission click [here](#).

The European Commission concluded that Dutch state guarantees on loans for energy saving projects involve no aid

The European Commission has found that a Dutch scheme granting guarantees to banks that issued subordinated loans to energy-saving projects does not involve state aid within the meaning of the EU rules. The objective of the Dutch "Energy Transition Financing Facility" is to improve access to finance for projects aiming at easing the transition to a low carbon economy, such as geothermal or energy savings in energy intensive industries, for which demand exceeds the supply that banks can offer. The Commission found that the Dutch authorities will ensure a sufficiently high remuneration on the guarantees on such loans and will only issue guarantees on loans financing viable projects. To read the relevant press release of the European Commission click [here](#).

The European Commission approved €45 million Czech support scheme for refueling and recharging stations for low emission vehicles

The scheme provides support of €44.5 million over six years for the construction of publicly accessible recharging and refueling stations for vehicles running on alternative fuels such as electricity, compressed natural gas, liquefied natural gas and hydrogen. The infrastructure network will cover the entire country. Companies already active in the alternative fuels sector can apply for this support, which will be awarded in four separate calls for tender, through an open and transparent procedure. The aid measure was assessed by the Commission under the TFEU, which allows Member States to support the development of certain economic activities - in this case improving energy efficiency and reducing CO2 emissions. This is in line with EU energy and climate goals. To read the full press release of the European Commission click [here](#).

The European Commission authorised four frameworks of aid with the aim to the production of more than 7,5 gigawatts of energy from renewable sources in France

The European Commission has approved four frameworks of state aid aiming at the production of electrical energy through land-based wind installations and solar installations based on buildings

and ground in France. These regimes will allow France to produce more than 7 gigawatts of supplementary energy and reach its goal for 2020, namely to cover 23% of its energy needs through renewable sources. To read the relevant press release of the European Commission click [here](#).

The European Commission authorized the acquisition of common control of two aeolic parcs by the Deposit and Consignations Fund and Engie

The European Commission approved the concentration by virtue of the Concentrations Regulation. The acquisition of control was realized through acquisition of CEOLFALRAM76, that owns two aeolic parks in France. The Commission acknowledged that the planned concentration does not raise competition concerns, taking into account its limited impact in the relevant market. To read the relevant press release click [here](#).

The European Commission authorised acquisition of ENGIE E&P by group Carlyle, CVC and CIC

The European Commission has approved the acquisition by virtue of the Concentrations Regulation. The business activities of the companies partially overlap as far as petroleum and gas exploration, the development, production and wholesale supply of gas and petroleum are concerned. Given the limited overlapping of the

relevant markets and the existence of strong competitors, the EC acknowledged that the concentration raised no competition concerns. To read the relevant press release click [here](#).

The European Commission cleared the creation of a joint venture by AES and Siemens

The European Commission has approved under the EU Merger Regulation the creation of a joint venture by AES Corporation Inc. of the US and Siemens AG of Germany. The Commission concluded that the proposed acquisition would raise no competition concerns because of the limited overlap between the companies' activities. To read the relevant press release click [here](#).

UK: CMA expressed competition concerns for oil and gas engineering services merger

The CMA has found that the Wood Group's purchase of Amec Foster Wheeler gives rise to competition concerns. The CMA has been investigating the planned merger of the 2 companies which supply engineering services to the UK's Upstream Offshore oil and gas sector. At the end of its initial investigation, the CMA has found that the merger could lead to competition concerns in the supply of engineering and construction (E&C) services and operation and maintenance (O&M) services on the UK continental shelf. This is

because the companies currently compete closely with each other, and are 2 of the main suppliers of these services; the merger will reduce the number of major players currently active in these markets from 4 to 3; there are concerns that competition from other suppliers may not be sufficient to mitigate competition worries; and other suppliers seeking to enter the market or expand their UK presence may face significant barriers to doing so. To read the full press releases of the CMA click [here](#) and [here](#).

France: The Competition Authority's decision on practices used by the company Engie in the energy sector

The Competition Authority has preliminarily decided that Engie is considered to have a dominant position in the gas supply markets regarding residential customers and non-residential customers. After that, the Competition Authority ruled on the applicability of European Union law, specifically of the art. 102 TFEU, since Engie's practices have been found to potentially affect trade between the Member States in a significant way. The Competition Authority has examined the behaviour of Engie and identified the following concerns: (a) the pricing practices, as its individualized offers and so-called "catalog" offers were likely to be described as predatory pricing in the context of predatory strategy, (b) the excessive duration, exit conditions and

exclusivity provisions figuring into services contracts which could have an anti-competitive aspect. To read the full decision of the French Competition Authority click [here](#).

Greece: Announcement of results of the Public Consultation concerning the basic principles of the Transitory Compensation Mechanism for Flexible Power in the Interlinked Electric System of Greece on the basis of "Flexibility needs assessment of the System for the period of 2018-2027" of the Administrator

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

Greece: RAE decided that, under the current conditions, there is no need for revision of the Special Duty of Greenhouse Gas Emissions Reduction (ETMEAR).

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

Greece: Results of the public consultation of RAE on the common proposals from all the Nominated Electricity Market Operators (NEMOs)

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

Greece: Results of the public consultation of RAE on the text of the Auction Rules of the Coordinated Auction Office in South East Europe (SEE CAO) for 2018

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

Greece: Call for expression of interest of RAE concerning the provision of universal services in electricity for a three-year-period, starting on 23.03.2018

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

Greece: Call for expression of interest of RAE concerning the provision of last resort services in electricity for a three-year-period, starting on 23.03.2018

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

Greece: RAE decided not to readjust the Special CO2 Reduction Duty

RAE acknowledged no need to readjust the Special CO2 Reduction Duty for the period January-June 2018. RAE's calculations have proven that the Special Account has a surplus and the total liabilities are expected to be paid off by the end of 2017. The read the full press release is available [here](#).

Greece: Announcement of results of the Public Consultation concerning the 2nd Revision of the Regulation on Pricing of Basic ESFA (National System of Natural Gas) activities for year 2018

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

Greece: Announcement of results of the Public Consultation concerning amendment of provisions of the ESFA Administration Code

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

Greece: Announcement of results of the Public Consultation concerning amendment of provisions of the Administration Code of the Hellenic System for the transmission of Electric Energy

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

Greece: Announcement of results of the Public Consultation concerning the proposal of the Market Administrator for amendment of certain articles of the Code on Auction Transactions regarding electric energy term-products

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

Greece: Announcement of results of the Public Consultation concerning the proposal of the Market Administrator for

amendment of article 41 of the Code on Auction Transactions regarding electric energy term-products

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

Greece: Announcement of results of the Public Consultation concerning the proposal of the Market Administrator for readjustment of the yearly amount of electric energy available through Auctions for the sale of electric energy term-products with physical delivery, the allocation of the quantity in various term-products and the Auctions program for 2017

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

Electronic communications

The Court of Justice of the EU dismissed Qualcomm's application for interim measures

On 12.07.2017 the CJEU dismissed Qualcomm's application for interim measures, as neither urgency nor serious and irreparable harm to the applicant's interests were proven. Qualcomm is an American multinational semiconductor and telecommunications equipment company that designs and markets wireless telecommunications products and

services. To read the full judgement of the CJEU click [here](#).

GC: The General Court annulled Commission Decision declaring the concentration involving the acquisition by Liberty Global plc of sole control over Ziggo NV to be compatible with the internal market and the EEA Agreement

On 26 October 2017 the General Court annulled Commission Decision declaring compatibility of the concentration deriving from the acquisition of sole control over Ziggo NV. The decision of the Commission has been found lacking sufficient statement of reasons (296 TFEU). The Commission failed to state reasons for not analyzing the risk of foreclosure by Liberty Global, as a wholesale supplier of Sport1, by denying access to that input by downstream competitors. EC left open the definition of the relevant product market. Further to that, the General Court highlights that the Commission failed to take into account the market positions and competitive relationships of competitor and only based the decision for no competition concerns on the mere existence of competitors in the (undefined) relevant market. To read the full text of the judgement (T-394/15) is available [here](#).

Greece: Decision No. 815/002 of HTPC on the determination of the wholesale market of voice call termination, undertakings with significant market power and their legal obligations was published in the Government Gazette

To read decision No. 815/002 of the Hellenic Telecommunications and Post Commission (HTPC) on the Government Gazette (Issue 2530 B'/20.07.2017), click [here](#).

Greece: The HTPC decided its participation in the implementation of the operation "Subsidised satellite access for permanent residents of remote areas of Greece to the Greek free-access television channels"

To read the full decision No. 819/2016 of the HTPC, click [here](#).

Greece: The HTPC announced the results of the Cost Accounting Audit of OTE S.A. for the years 2016 & 2017

The HTPC announced the results of the Cost Accounting Audit of OTE S.A. for the years 2016 & 2017 (including results of 2014, 2015) for the wholesale and retail markets under regulation to which an obligation for the monitoring of prices, a pricing obligation and other regulation have been imposed. To read the full decision of the HTPC, click [here](#).

Greece: The HTPC imposed a fine of 6,3 million on OTE S.A. for abuse of dominant position

The HTPC imposed a fine of 2,8 million for violation of the legal obligation for non-discrimination and 3,5 million for violation of the free competition legislation. For setting the fines the HTPC took the following conditions into account: the duration of the violation, as well as, its nature and severity, the benefit gained by the company OTE S.A., the financial damage induced on its competitors, the proportionality doctrine, the prevention of such practices in the future and the general repercussions of discrimination on the market and the consumers. To read the full decision of the HTPC, click [here](#).

Greece: On 20 September 2017 the concentration concerning the acquisition of sole control over "RADIOTILEOPTIKI S.A." by Cypriot company «DIMERA MEDIA INVESTMENTS LTD» of DIMERA group was notified to the HCC

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

France: The Competition Authority's decision regarding practices used in the television advertising sector

The Competition Authority has examined the practices allegedly used by the group TF1, denounced by the group Canal+ in the light of art. 102 of the TFEU and concluded

that the existence of abusive coupling practices is not established. In its decision, the Competition Authority noted that the regulatory framework applicable to cross-promotion draws a distinction between the channels depending on whether they belong to the same audio-visual group or not. Therefore, TF1 Publicité cannot be criticized for having treated differently channels in different situations, since cross-promotion is allowed between television channels belonging to the same audio-visual group provided that the promotion is of a purely informative nature. To read the full decision of the French Competition Authority click [here](#).

Pharmaceuticals**The European Commission sent Statement of Objections to Teva on 'pay for delay' pharma agreement**

The European Commission has informed pharmaceutical company Teva of its preliminary view that an agreement concluded with Cephalon was in breach of EU antitrust rules. Under the agreement, Teva committed not to market a cheaper generic version of Cephalon's drug for sleep disorders, modafinil. The Commission's preliminary view is that the transferred value served as a significant pay-for-delay inducement for Teva not to compete with Cephalon's modafinil worldwide, including in the European Economic Area. The

Statement of Objections alleged that the patent settlement agreement between Cephalon and Teva may have caused substantial harm to EU patients and health service budgets. This is because they may have delayed the entry of a cheaper generic medicine, leading to higher prices for modafinil. To read the relevant press release of the European Commission click [here](#).

The European Commission cleared acquisition of PharMerica by KKR and Walgreens Boots Alliance

The European Commission has approved, under the EU Merger Regulation, the acquisition of PharMerica Corporation by KKR & Co. L.P. and Walgreens Boots Alliance, Inc. ("WBA"), all three of the US. The Commission concluded that the proposed acquisition would raise no competition concerns, because PharMerica has no actual or planned activities in the European Economic Area. To read the relevant press release click [here](#).

Transport

The GC confirmed that the capital injection and the privatisation measures adopted by France in favour of SNCM constitute unlawful State aid incompatible with the internal market

The Société Nationale Corse - Méditerranée ('SNCM') was a French shipping company which provided regular services from

mainland France. SNCM had, since 1976, been entrusted with certain public transport service obligations in exchange for financial compensation from the French State. The Commission considered that capital contribution as compatible with the common market. The General Court, on a previous ruling, annulled the decision, holding that the Commission had committed a number of errors of assessment both in respect of the capital contribution and the privatisation plan, judgment upheld by the Court of Justice. The Commission then adopted a new decision in order to comply with the judgments of the General Court and the Court of Justice. France and SNCM each brought an action before the General Court seeking the annulment of that decision. By today's judgments, the General Court dismissed the actions brought by France and SNCM and thus confirmed that the capital contributions at issue constituted State aid, incompatible with the internal market. To read the full press release (No. 76/17) of the GC click [here](#). To read the full judgement of the GV, click [here](#).

The European Commission approved Danish scheme to promote rail transport interoperability

Between 2018 and 2023, all regional and long-distance rail tracks operated by the Danish State will gradually be converted

to the European Rail Traffic Management System (ERTMS), the European standard for Automatic Train Protection (ATP) that allows an interoperable railway system in Europe. ERTMS is a safety system that enforces a train's compliance with speed restrictions and signaling status. It will enable the creation of a seamless European railway system, and increase the safety and competitiveness of the European rail sector. The Commission concluded that the aid granted is necessary to achieve the intended objective of promoting interoperability of railway systems in the EU, in line with the Directive on rail interoperability, and that it is proportionate, in accordance with EU state aid rules. To read the full press release of the European Commission click [here](#).

The European Commission required Belgium and France to put an end to tax exemptions for ports

The Commission considered that the corporate tax exemptions granted to Belgian and French ports provide them with a selective advantage, in breach of EU state aid rules. In particular, the tax exemptions did not pursue a clear objective of public interest, such as the promotion of mobility or multimodal transport. The tax savings generated can be used by the port operators to fund any type of activity or to subsidise the prices charged by the ports to customers, to the detriment of competitors and fair competition. The two

Commission decisions made clear that if port operators generate profits from economic activities these should be taxed under the normal national tax laws to avoid distortions of competition. . To read the full press release of the European Commission click [here](#).

The European Commission cleared acquisition of London City Airport by OTPP, AIMCo, Borealis and the Kuwait Investment Authority

The European Commission has approved, under the EU Merger Regulation, the acquisition of the London City Airport (LCY) of the UK by Ontario Teachers' Pension Plan Board (OTPP) and Alberta Investment Management Corporation (AIMCo) both of Canada, Borealis European Holdings (Borealis) of the Netherlands, and the Kuwait Investment Authority (KIA) of Kuwait. The Commission concluded that the proposed acquisition would raise no competition concerns, because of its limited impact on the market structure. To read the relevant press release of the European Commission click [here](#).

The European Commission fined Scania €880 million for participating in trucks cartel

The European Commission has found that Scania broke EU antitrust rules. It colluded for 14 years with five other truck manufacturers on truck pricing and on passing on the costs of new

technologies to meet stricter emission rules. The Commission has imposed a fine of €880 523 000 on Scania. In July 2016, the Commission reached a settlement decision concerning the trucks cartel with MAN, DAF, Daimler, Iveco and Volvo/Renault. Scania decided not to settle this cartel case with the Commission, unlike the other five participants in the trucks cartel. As a result, the Commission's investigation against Scania was carried out under the standard cartel procedure. The Commission's investigation revealed that Scania, as a producer of heavy trucks, had engaged in a cartel relating to a) coordinating prices at "gross list" level for medium and heavy trucks in the European Economic Area (EEA), b) the timing for the introduction of emission technologies for medium and heavy trucks to comply with the increasingly strict European emissions standards c) the passing on to customers of the costs for the emissions technologies required to comply with the increasingly strict European emissions standards. In setting the level of fines, the Commission took into account Scania's sales of heavy trucks in the EEA, as well as the serious nature of the infringement, the high combined market share of all participating companies, the geographic scope and the duration of the cartel. 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 German rescue aid to Air Berlin

On 15 August, Germany notified the Commission of its intention to grant a bridging loan to Air Berlin. This followed Etihad, Air Berlin's main shareholder, withdrawing its financial backing for the loss-making company. The purpose of the loan is to allow Air Berlin to continue operations in the coming months, with the aim of maintaining its services while it concludes ongoing negotiations to sell its assets. At the end of the process, Air Berlin is expected to cease operating and exit the market. The Commission found that the measure will help to protect the interests of air passengers and to maintain air passenger services. At the same time, the strict conditions attached to the loan, its short duration and the fact that Air Berlin is expected to cease operations at the end of the process, will reduce to a minimum the distortion of competition potentially triggered by the state support. To read the full press release of the European Commission click [here](#).

The European Commission imposed fines on Lithuanian Railways €28 million for hindering competition on rail freight market

The European Commission acknowledged abuse of dominant position of Lithuanian Railways -a state owned company- that used its control over the national rail

infrastructure by dismantling a rail track that was convenient –as a shorter route- for a major costumer (Orlen) and therefore hindering the business of its competitor rail operator (102 TFEU). The company failed to provide for any objective justification for said behavior. Regarding the level of the fine, the Commission took into account, in particular, the value of sales relating to the infringement, the gravity of the infringement and its duration. To read the full press release click [here](#).

The European Commission approved proposed acquisition of Abertis by Atlantia

The European Commission approved the acquisition by Atlantia as compatible to EU State Aid rules, raising no competition concerns for the markets for motorway concessions. Presence of significant competitors in the overlapping markets, limited geographic overlap and the highly regulated character of the market were crucial elements of the assessment. Furthermore, the concerns weren't raised with regard to the food market –relative market of the majority shareholder of the acquiring company-. To read the full press release, click [here](#).

News of the Markets

The HRADF announced the sale of Modiano Enclosed Market

The sale of Modiano Enclosed Market to "One Outlet S.A." was completed, following the signing of the relevant agreement, by which HRADF transferred 43.63% of the indivisible ownership of the property to the Investor. To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

The HRADF announced the sale of TRAINOSE

The sale of TRAINOSE to Ferrovie Dello Stato Italiane S.p.A. for a total consideration of 45 million was completed. To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

The HRADF announced the extension of the Athens international airport concession agreement

The Signing of the 20-year extension of the Athens international airport concession agreement over 600 million was completed. To read the full press release of the Hellenic Republic Asset Development Fund (HRADF) click [here](#).

Energean approved to develop field offshore Greece

According to press information, Energean, Greece's sole oil producer, had obtained approval to develop the Kataloko field in Western Greece, its third such project in the Eastern Mediterranean.

Four Seasons to operate Astir Palace at Vouliagmeni

According to press information, the international chain Four Seasons Hotels and Resorts will operate its first luxurious hotel complex in Greece at the Astir Palace resort at Vouliagmeni, after the completion of extensive renovations to the existing installation in spring 2018.

Wind and Nova to examine sharing agreement

According to press information, an important deal could change the landscape of the Greek pay-TV sector. Already a heavyweight phone and internet services provider, Wind Hellas is examining a possible cooperation with alternative provider Forthnet (which operates leading pay-TV platform Nova) as part of planning for the former's pay-TV debut. The objective of both parties is for Wind to offer its customers (as well as others) Nova's TV content. If they do reach such a deal, it would be the first time a content supplier sells wholesale (i.e. to another service provider) content that it hitherto

supplied exclusively to its own customers.

Grimaldi to send complaint about Hellenic Seaways case to Brussels

According to press information, Italian group Grimaldi is preparing to send a complaint to the competition department of the European Commission) against what it sees as the threat of concentration conditions in the Greek coastal shipping sector. The company will argue that the acquisition of 50.3 percent of Hellenic Seaways by Attica Group, which operates Blue Star and Superfast Ferries, does not adhere to the rules of open competition.

Arbitration over Eldorado mine plans to have started on August

According to press information, Greece expressed determination to start an arbitration process in August to settle its differences with Canada's Eldorado Gold Corporation over a gold mine development. Eldorado is developing the Skouries and Olympias projects in northern Greece, where it also operates the Stratoni mine. Skouries has been a flash point with authorities, with differences persisting for years over testing methods applied to comply with environmental regulations. The arbitration process is expected to finish by the end of the year.

NBG to sell Vojvodjanska Banka to OTP

According to press information, the National Bank of Greece announced it had signed an agreement to sell its Vojvodjanska Banka unit in Serbia and NGB Leasing as well as its corporate loan portfolio in Serbia to Hungary's OTP Bank for 125 million euros. The transaction is expected to be completed by the end of 2017.

Greece launched new offshore oil and gas tenders

According to press information, Greece launched two tenders on August for offshore oil and gas exploration and exploitation in the west and south of the country. The move follows expressions of interest by a consortium of Total, Exxon Mobil and Hellenic Petroleum for exploration in two sites off the island of Crete, and by Greece's Energean for a block in the Ionian Sea in western Greece. Greece has launched a program to discover more oil and gas, encouraged by recent large gas finds off Israel and Cyprus and spurred on by its protracted financial crisis.

Mytilineos won \$40 million compensation in arbitration against Serbia

According to press information, Mytilineos has won about \$40 million in compensation from Serbia over a past deal with the

country's copper miner RTB Bor, resolving a major dispute. A Geneva-based international arbitral tribunal ruled that Serbia had breached its obligations to Greece and Mytilineos under an international treaty by taking a series of legislative measures from 2004 to 2012 which granted RTB Bor immunity from enforcement under the pretext of restructuring which never occurred. The tribunal ruled that Serbia indirectly expropriated Mytilineos's investment without compensation and frustrated its legitimate and reasonable expectations as an investor to be afforded fair and equitable treatment by the Serbian state.

Samsung buys out small Greek firm specializing in text-to-speech

According to press information, one high-technology company in Greece has been bought out by foreign investors, as South Korean giant Samsung is taking over Innoetics, a small local firm specializing in voice technologies. The Greek company announced that Samsung is acquiring 100 percent of Innoetics for an undisclosed sum and that its seven Greek employees will from now on work for the Korean company. Sources say that the technology Innoetics has developed will be used by Samsung in its rivalry with other technological giants like Apple and Google, in voice technologies included in modern appliances such as smartphones and tablets.

NBG to sell Banca Romaneasca

According to press information, National Bank of Greece has signed the agreement for the sale of its Romanian subsidiary Banca Romaneasca to OTP Bank Nyrt, the Hungarian lender said in a statement Thursday. The acquisition will boost OTP's market share in Romania to about 4 percent. The transaction, whose financial terms were not disclosed, is expected to close by early 2018.

Energean to sell more gas to Israel

According to press information, Israel's Oil Refineries (ORL) is in talks to buy 17 billion cubic meters of natural gas from Greek exploration and production firm Energean. ORL, together with Israel Chemicals and OPC Rotem, are negotiating non-binding memorandums of understanding to buy gas supplies from Energean. The deals would be the second for Energean for selling gas from the Tanin and Karish fields offshore Israel.

Bulgaria, Greece, Romania and Hungary to link gas grids

According to press information, gas companies from Bulgaria, Greece, Romania and Hungary agreed to link their gas networks to increase security of supplies in southeastern Europe. Grid operators Bulgartransgaz, DESFA, FGSZ and Transgaz as well as Greek-Bulgarian ICGB signed a memorandum of understanding

for the project in Bucharest on August.

Bid deadline for railway maintenance company pushed back

According to press information, the deadline for the submission of binding bids for its railway maintenance company ROSCO by three months has been pushed back. The HRADF decided to extend the deadline again, to February 14, after a request by one of the bidders. The previous bid deadline was due to expire on Nov. 3 after a four-month extension.

RAE limits exports of power from auctions

According to press information, after the first power auctions the only beneficiaries have been traders who acquire cheap energy from PPC and channel it to the Bulgarian and Italian markets, securing high capital gains in the process. For this reason, RAE has decided to set limits on the amount of power anyone will be allowed to sell abroad: Participants in auctions will have to channel at least 30 percent of the amount they acquire to the domestic market.

Gastrade signed LNG deal with DEPA

According to press information, the state-controlled natural gas firm

DEPA signed a cooperation agreement with natural gas company Gastrade to participate in the development of a liquefied natural gas terminal in northern Greece. Greece currently has one LNG terminal on Revythousa, an islet off Athens. Gastrade, part of Greek energy group Copelouzos, is planning a second LNG terminal near the northern city of Alexandroupoli.

Greece to seek final bids for gas grid sale before year-end

According to press information, Greece aims to get binding offers from investors shortlisted for a 66 percent stake in state-controlled natural gas grid DESFA by the end of the year. Greece is selling a 31 percent stake in DESFA and Hellenic Petroleum is selling its 35 percent stake in the grid. Spain's Regasificadora Del Noroeste (Reganosa) and a consortium of Italy's Snam, Spain's Enagas, Belgium's Fluxys and Dutch Gasunie got the green light last month to carry out a due diligence process before they submit binding bids.

KLC Law Firm

10 Kapsali Str. 10674 Athens, Greece

T. +30 210 7264500

F. +30 210 7264510

www.klclawfirm.com