

RECENT DEVELOPMENTS IN EU COMPETITION LAW

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RECENT DEVELOPMENTS IN EU COMPETITION LAW

STRUCTURE OF PRESENTATION

- ◉ CURRENT COMMISSION CARTEL INVESTIGATIONS
- ◉ COMMISSION DECISIONS IN HORIZONTAL CASES
- ◉ COURT JUDGMENTS IN HORIZONTAL CASES
- ◉ VERTICAL INFRINGEMENTS UNDER ARTICLE 101
- ◉ COMMISSION DECISIONS ON ABUSE
- ◉ COURT JUDGMENTS ON ABUSE
- ◉ SOME INTERESTING PROCEDURAL ISSUES
- ◉ COMMISSION MERGER DECISIONS

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CURRENT COMMISSION CARTEL INVESTIGATIONS

- ◉ *OIL AND BIOFUELS* - HYBRID SETTLEMENT CASE: DISPUTE OVER ACCESS TO THE FILE
- ◉ *MOTOR CAR INSURANCE IN IRELAND* - ACCESS TO DATA
- ◉ *GERMAN CAR MANUFACTURERS* - COLLUSION ON USE OF TECHNOLOGY
- ◉ *METAL PACKAGING* - TRANSFER OF CASE FROM GERMANY TO THE COMMISSION: LOSS OF IMMUNITY - *SILGAN CLOSURES V COMMISSION*

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COMMISSION DECISIONS IN HORIZONTAL CASES

◉ *MASTERCARD II*

- DECISION BY AN ASSOCIATION OF UNDERTAKINGS
- SINGLE MARKET VIOLATION: PREVENTING THE USE OF CROSS-BORDER ACQUIRING SERVICES
- NON-CARTEL SETTLEMENT DECISION
- 50% UPLIFT IN THE FINE FOR RECIDIVISM

◉ *FOREX*

- SETTLEMENT DECISIONS
- STAGGERED HYBRID SETTLEMENT CASE

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COURT JUDGMENTS IN HORIZONTAL CASES

◉ *POWER CABLES*

- NOTE *GOLDMAN SACHS V COMMISSION*: GOLDMAN SACHS JOINTLY AND SEVERALLY LIABLE FOR THE BEHAVIOUR OF PRYSMIAN, IN WHICH IT HAD INVESTED

◉ *PERINDOPRIL*

- PAY-FOR-DELAY AGREEMENTS RESTRICTIONS BY OBJECT (SEE SIMILARLY *LUNDBECK*). BOTH CASES NOW IN THE COURT OF JUSTICE (AS IS *PAROXETINE* FROM THE UK)
- NB: FINDING OF ABUSE OF DOMINANCE OVERTURNED IN *PERINDOPRIL*: WRONG MARKET DEFINITION

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VERTICAL INFRINGEMENTS UNDER ARTICLE 101

- ◉ THERE ARE SEVERAL INVESTIGATIONS INTO ASPECTS OF E-COMMERCE FOLLOWING THE SECTOR INQUIRY
- ◉ ALL SIX COMMISSION DECISIONS ARE NON-CARTEL SETTLEMENT DECISIONS
- ◉ NOTE IN *GUESS* THAT THE RESTRICTION ON DISTRIBUTORS NOT TO USE GUESS TRADE NAMES IN ONLINE ADVERTISING WAS A RESTRICTION BY OBJECT/*PIERRE FABRE*

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COMMISSION DECISIONS ON ABUSE

- ◉ NOTE THAT THERE WERE FOUR FINING DECISIONS
- ◉ *GOOGLE ANDROID* IS A LEVERAGING ABUSE:
GOOGLE DOMINANT IN LICENSABLE OPERATING SYSTEMS FOR MOBILE PHONES AND IN APPS;
LEVERAGING INTO THE BROWSER AND SEARCH ENGINE MARKETS
- ◉ NOTE THAT *AB INBEV* IS A 'CLASSIC' SINGLE MARKET/PARALLEL IMPORT CASE
- ◉ NOTE ALSO THE BKA DECISION IN *FACEBOOK!*

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COURT JUDGMENTS ON ABUSE

- ◉ NOTE *SLOVAKIAN BROADBAND*: CAN THE PRICES AT WHICH A SERVICE IS SUPPLIED OR THE TERMS AND CONDITIONS ON WHICH IT IS SUPPLIED BE ABUSIVE **ABSENT** A PRIOR EXAMINATION OF THE ESSENTIAL FACILITIES CRITERIA OF *OSCAR BRONNER*?
- ◉ THE GENERAL COURT SAYS YES, FOLLOWING *TELIASONERA*, WHICH IS NOT LIMITED TO MARGIN SQUEEZE
- ◉ ON APPEAL TO THE COURT OF JUSTICE; THE SAME POINT IS ARGUED IN *GOOGLE SHOPPING*

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SOME INTERESTING PROCEDURAL ISSUES

- ◉ PARTIALLY SUCCESSFUL CHALLENGE TO AN INSPECTION WARRANT IN *CESKE DRAHY*
- ◉ DAMAGES AVAILABLE ON THE BASIS OF ECONOMIC CONTINUITY IN *VAANTAA KAUPUNKI V SKANSKA INDUSTRIAL SOLUTIONS*
- ◉ PORTUGUESE LIMITATION RULE OVERRULED IN *COGECO COMMUNICATIONS V SPORT TV PORTUGAL*
- ◉ NO *NE BIS IN IDEM* IN *PZUZ V POLISH COMPETITION AUTHORITY*

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COMMISSION MERGER DECISIONS

- ◉ *APPLE/SHAZAM*: JURISDICTION CONFERRED BY MEMBER STATES: EUMR THRESHOLDS DID NOT APPLY
- ◉ TWO PROHIBITIONS: *SIEMENS/AHLSTOM* AND *WIELAND/AURUBIS*; *TATA STEEL/THYSSEN KRUPP* TO FOLLOW?
- ◉ COMMISSION INVESTIGATING VARIOUS PROCEDURAL OFFENCES

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THANK YOU FOR YOUR ATTENTION!