

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

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RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

STRUCTURE OF PRESENTATION

- ◎ COMMISSION DECISIONS IN HORIZONTAL CASES
 - RECENT DEVELOPMENTS, PP 2-5
- ◎ COURT JUDGMENTS IN HORIZONTAL CASES
 - RECENT DEVELOPMENTS, PP 6-9
- ◎ COMMISSION INVESTIGATIONS OF ABUSE
 - RECENT DEVELOPMENTS, P 10
- ◎ COURT JUDGMENTS ON ABUSE
 - RECENT DEVELOPMENTS, P 11
- ◎ IMPORTANT POLICY DEVELOPMENTS
 - RECENT DEVELOPMENTS, PP 14-16

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

COMMISSION DECISIONS IN HORIZONTAL CASES

◉ ***ETHYLENE***

- PURCHASING CARTEL
- 50% UPLIFT IN THE FINE FOR RECIDIVISM BY CLARIANT
- SETTLEMENT, BUT ON APPEAL BY CLARIANT
- CF *ROLAND V CMA* IN THE UK: SETTLEMENT DISCOUNT OF 20% REMOVED ON APPEAL

◉ ***CLOSURE SYSTEMS FOR CARS***

- SETTLEMENT DECISION
- 13TH CAR PART DECISION

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COMMISSION DECISIONS IN HORIZONTAL CASES

- ***TEVA/CEPHALON: MODAFINIL***
 - PAY-FOR-DELAY CASE
 - NOT A SETTLEMENT DECISION: ON APPEAL
 - RESTRICTION BY OBJECT AND EFFECT
 - ‘COMPLETES THE CYCLE OF PAY-FOR-DELAY CASES’
 - NOTE *LUNDBECK, SERVIER, GENERICS (UK)/PAROXETINE*
- ***CROSS-BORDER RAIL CARGO***
 - SETTLEMENT DECISION
 - RECIDIVIST UPLIFT FOR DEUTSCHE BAHN FOR RECIDIVISM

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COMMISSION DECISIONS IN HORIZONTAL CASES

- ***TWO BONDS CASES, SSA BONDS AND EUROPEAN GOVERNMENT BONDS***
 - NOT SETTLEMENT DECISIONS
 - PREDOMINANTLY THE COLLUSION INVOLVED THE EXCHANGE OF INFORMATION IN ONLINE CHATROOMS
 - *CF FOREX, LIBOR CASES ETC.*
 - TWO BANKS NOT FINED AS OUTSIDE THE LIMITATION PERIOD

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COURT JUDGMENTS IN HORIZONTAL CASES

○ *SPEED SKATING*

- *INTERNATIONAL SKATING UNION V COMMISSION*: THE ISU RULES INFRINGED ARTICLE 101 BY OBJECT AND EFFECT
- NOW ON APPEAL TO THE COURT OF JUSTICE
- CF THE *EUROPEAN SUPER LEAGUE V FIFA AND UEFA*, REFERRED TO THE COURT OF JUSTICE FROM SPAIN
- AND IN THE UK SEE *ST JAMES HOLDINGS LTD V THE FOOTBALL ASSOCIATION PREMIER LEAGUE*
- ALSO A BKA INVESTIGATION OF THE BUNDESLIGA

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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

◉ *HIGH VOLTAGE ELECTRICITY TRANSMISSION LINES*

- WHEN DOES AN INFRINGEMENT OF COMPETITION LAW END?
 - WHEN THE CONTRACT WAS AWARDED, FULLY PERFORMED OR FULLY PAID FOR?

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COURT JUDGMENTS IN HORIZONTAL CASES

○ **STEEL ABRASIVES**

- NOTE *POMETON V COMMISSION*: THE HYBRID STAGGERED SETTLEMENT PROCEDURE IS PERMISSIBLE PROVIDED THAT THERE IS NO INDICATION OF BIAS ON THE PART OF THE COMMISSION

○ **CITALOPRAM**

- PAY-FOR-DELAY AGREEMENTS IN THE *LUNDBECK* CASE RESTRICTIVE OF COMPETITION BY OBJECT, AS IN THE *PAROXETINE* CASE FROM THE UK

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COMMISSION INVESTIGATIONS ON ABUSE

- ◉ NOTE THE INVESTIGATIONS OF AMAZON AND APPLE, AND HOW THEY LINK TO THE OBLIGATIONS PROPOSED IN ARTICLES 5 AND 6 OF THE DRAFT DIGITAL MARKETS ACT
- ◉ NOTE THE JURISDICTIONAL CHALLENGE IN THE AMAZON LOGISTICS CASE: SHOULD THE ITALIAN CASE AGAINST AMAZON PROCEED IN ITALY?
- ◉ ‘GAFA’ FACE NUMEROUS OTHER INVESTIGATIONS IN THE EU AND ELSEWHERE

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COURT JUDGMENTS ON ABUSE

- ◉ NOTE *BALTIC RAIL* AND *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 AND THE COURT OF JUSTICE BOTH SAY YES, FOLLOWING *TELIASONERA*
- ◉ THE SAME POINT IS ARGUED IN *GOOGLE SHOPPING*

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

IMPORTANT POLICY DEVELOPMENTS

- ◉ REVIEW OF THE NOTICE ON MARKET DEFINITION
- ◉ CONSULTATION ON COLLECTIVE BARGAINING FOR SELF-EMPLOYED WORKERS
- ◉ REFORM OF THE VBER
- ◉ REFORM OF THE REGIME FOR HORIZONTAL COOPERATION AGREEMENTS
- ◉ REFORM OF THE REGIME FOR MOTOR CARS/PARTS/REPAIRS
- ◉ THE DIGITAL MARKETS ACT!

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THANK YOU FOR YOUR ATTENTION!