

RECENT DEVELOPMENTS IN EU/EEA IN COMPETITION LAW

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RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

STRUCTURE OF PRESENTATION

- ◎ **HORIZONTAL CASES UNDER ARTICLE 101**
 - RECENT DEVELOPMENTS, PP 2-8
- ◎ **ABUSE OF DOMINANCE CASES**
 - RECENT DEVELOPMENTS, PP 9-12
- ◎ **DIGITAL MARKETS ACT**
 - RECENT DEVELOPMENTS, PP 13-15
- ◎ **EU MERGER CONTROL**
 - RECENT DEVELOPMENTS, PP 21-24
- ◎ **IMPORTANT POLICY DEVELOPMENTS**
 - RECENT DEVELOPMENTS, PP 17-18

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

ARTICLE 101: HORIZONTAL CASES

- CURRENT INVESTIGATIONS ARE LISTED ON P 2
 - NOTE THE EXTENSION OF *ONLINE FOOD DELIVERY* TO INCLUDE NO-POACH AGREEMENTS
 - SEE ALSO THE CMA RESEARCH REPORT ON LABOUR MARKETS, 25 JANUARY 2024 AND SPEECH OF SARAH CARDELL ON THE SAME DAY
- CARTEL DECISIONS ARE LISTED ON PP 3-4
 - ONLY FOUR DECISIONS
 - NOTE THAT *ETHANOL* IS A STAGGERED HYBRID DECISION, AS WERE *EIRD* AND *TRUCKS* (LATER IN THE HANDOUT)

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

ARTICLE 101: HORIZONTAL CASES

- ◉ GENERAL COURT JUDGMENTS ARE LISTED ON PP 4-5
- ◉ *ETHYLENE* CONTAINS INTERESTING POINTS ON FINING UPLIFTS FOR RECIDIVISM
- ◉ *MODAFINIL* IS OF INTEREST ON OBJECT RESTRICTIONS AND ‘ECONOMIC CONTEXT’
 - ON ‘ECONOMIC CONTEXT’ SEE *AG RANTOS* IN CASE C-298/22 *BANCO BPN V BIC PORTUGUÊS*, RD P 19
- ◉ IN THE COURT OF JUSTICE NOTE *PORTUGUESE ENERGY* ON POTENTIAL COMPETITION, P 6

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ARTICLE 101: HORIZONTAL CASES

- THE SPORTS CASES: SEE PP 6-7
- **EUROPEAN SUPER LEAGUE**
 - COMPETITION LAW AND SPORT: PARAS 82-94
 - ARTICLE 165 TFEU: PARAS 95-107
 - ARTICLE 102 TFEU: PARAS 120-152
 - ARTICLE 101 TFEU: PARAS 153-179
 - JUSTIFICATION: PARAS 182-209
 - NB: *WOUTERS* NOT AVAILABLE FOR OBJECT RESTRICTIONS OR 'OBJECT' ABUSES
 - THIS POINT IS REPEATED IN PARA 98 OF *NOTARIES*, P 7
- NOTE ALSO ***INTERNATIONAL SKATING UNION***, PP 6-7

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ARTICLE 101: HORIZONTAL CASES

- ◉ NOTE ALSO *BELGIAN FOOTBALL LEAGUE*
 - QUERY: MIGHT ARTICLE 101(3) TFEU BE AVAILABLE IN THAT CASE?
 - SEE PARAS 129-134 OF THE JUDGMENT

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ARTICLE 101: VERTICAL CASES

- SEE PP 7-8
- FINE OF €337 MILLION ON *MONDELÉZ* FOR RESTRICTING PARALLEL TRADE
- NOTE THE TWO JUDGMENTS OF THE COURT OF JUSTICE ON VERTICAL AGREEMENTS AND OBJECT RESTRICTIONS
 - *PC VIDEO GAMES*
 - *PORTUGUESE DRINKS MARKET*

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ARTICLE 102: ABUSE OF DOMINANCE

- CURRENT INVESTIGATIONS ARE LISTED ON PP 9-10
 - NOTE THE DISPARAGEMENT CASES, *TEVA* AND *VIFOR*
 - COMMITMENTS HAVE BEEN OFFERED IN *VIFOR*, 19 APRIL 2024
 - NOTE THE STATEMENT OF OBJECTIONS IN *GOOGLE*: MIGHT THIS CASE LEAD TO A DIVESTITURE?
 - NOTE ALSO THE *ZOETIS* INVESTIGATION: SEE LATER ON MERGER CONTROL
- TWO COMMISSION DECISIONS ARE LISTED ON P 10
- ON *APPLE*, NOTE THE COMMISSION'S DMA INVESTIGATION, P 15

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

ARTICLE 102: ABUSE OF DOMINANCE

- ◉ NOTE THE COURT OF JUSTICE JUDGMENTS ON P 12
- ◉ JUDGMENT IS AWAITED IN THE *FACEBOOK V BUNDESKARTELLAMT* CASE FROM THE GERMAN COURT
- ◉ JUDGMENT HAS NOW BEEN HANDED DOWN IN THE *EUROPEAN SUPERLEAGUE* CASE FROM THE SPANISH COURT

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DIGITAL MARKETS ACT

- ◉ DEVELOPMENTS TO DATE ARE LISTED ON PP 13-15
- ◉ NOTE IN PARTICULAR THE APPEALS ON P 13
- ◉ AND THE COMMISSION INVESTIGATIONS ON P 15

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

MERGER CONTROL

- ◉ NOTE THE LATEST IN *ILLUMINA*: THE OPINION OF AG RANTOS IN CASE C-611/22, 21 MARCH 2024
 - NOTE THAT THERE HAVE BEEN SIX DECISIONS IN *ILLUMINA/GRAIL*, LISTED ON PP 21-22
 - THESE INCLUDE THE FINE OF €432 MILLION FOR GUN-JUMPING
- ◉ NOTE THE REFERENCE BY AG RANTOS TO THE COURT OF JUSTICE'S JUDGMENT IN *TOWERCAST V AUTORITÉ DE LA CONCURRENCE*
- ◉ NOTE ALSO ARTICLE 14 DIGITAL MARKETS ACT

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MERGER CONTROL

- ◉ NOTE ALSO THE COMMISSION'S DECISION IN *BOOKING HOLDINGS/FLUGO GROUP HOLDINGS (ETRAVELI)*, P 22, ON APPEAL TO THE GENERAL COURT
- ◉ AND NOTE ALSO THE COURT OF JUSTICE'S JUDGMENT IN *HUTCHISON/O2*, P 24, NOW REFERRED BACK TO THE GENERAL COURT

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THANK YOU FOR YOUR ATTENTION!