

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

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Annual Competition Law Conference of
the Norwegian Competition Authority
Bergen, 12 June 2025

RECENT DEVELOPMENTS IN EU AND EEA COMPETITION LAW

STRUCTURE OF PRESENTATION

- ◉ ARTICLE 101 CASES
 - RECENT DEVELOPMENTS, PP 2-7
- ◉ ABUSE OF DOMINANCE CASES
 - RECENT DEVELOPMENTS, PP 7-11
- ◉ DIGITAL MARKETS ACT
 - RECENT DEVELOPMENTS, PP 12-14
- ◉ EU MERGER CONTROL
 - RECENT DEVELOPMENTS, PP 21-25
- ◉ IMPORTANT POLICY DEVELOPMENTS
 - RECENT DEVELOPMENTS, PP 18-19

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ARTICLE 101: HORIZONTAL CASES

- CURRENT INVESTIGATIONS ARE LISTED ON P 2
 - NOTE *ATLANTIC FARMED SALMON*: DAMAGES ACTIONS PROCEEDING IN THE UK ON A STANDALONE BASIS (B2B ACTIONS AND A COLLECTIVE PROCEEDINGS CLAIM)
 - NOTE ALSO *NEW REPLACEMENT TYRES*: INVESTIGATION OF PRICE SIGNALLING (*MICHELIN V COMMISSION*)
- CARTEL DECISIONS ARE LISTED ON PP 2-4
 - NOTE IN PARTICULAR *END-OF-LIFE VEHICLES*: WITHHOLDING OF INFORMATION ABOUT THE SUSTAINABILITY/‘RECYCLABILITY’ OF CARS
- NOTE ALSO *ONLINE FOOD DELIVERY/NO-POACH AGREEMENTS* (SEE *FIFA* AND *CD-TONDELA* LATER)

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ARTICLE 101: HORIZONTAL CASES

- ◉ GENERAL COURT JUDGMENTS ARE LISTED ON PP 4-5
- ◉ *SUPERSOEVEREIGN BONDS*: WHEN DOES CULPABILITY BEGIN FOR A BANK (TRADER) WHEN SIGNING INTO A CHATROOM?!
 - *CREDIT AGRICOLE*, PARAS 117-146
- ◉ *EUROPEAN GOVERNMENT BONDS*: CAN THE COMMISSION ADDRESS A DECISION TO BANKS FINDING THEM TO HAVE INFRINGED ARTICLE 101, EVEN THOUGH IT CANNOT FINE THEM?
 - *UBS GROUP V COMMISSION*, PARAS 1583-1640

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ARTICLE 101: HORIZONTAL CASES

- ◉ COURT OF JUSTICE CASES ARE LISTED ON PP 5-6
- ◉ *PERINDOPRIL*: CAN PAY-FOR-DELAY AGREEMENTS BE RESTRICTIVE OF COMPETITION BY OBJECT?
 - NOTE IN PARTICULAR *COMMISSION V SERVIER*: NOT A CONVENTIONAL CASE, REMITTED TO THE GENERAL COURT FOR FURTHER CONSIDERATION
 - NOTE ALSO *COMMISSION V SERVIER* (LATER, UNDER *ILLUMINA*)

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ARTICLE 101: HORIZONTAL CASES

- ◉ **PORTUGUESE BANKS: EXCHANGE OF INFORMATION AS A STANDALONE RESTRICTION OF COMPETITION BY OBJECT**
 - NOTE THAT THE CASE WAS ULTIMATELY DISMISSED BY THE PORTUGUESE COURT OF APPEAL ON LIMITATION GROUNDS, FEBRUARY 2025
- ◉ **FOOTBALL TRANSFERS: SEE *FIFA V BZ*, P 6**
 - NO-POACH AGREEMENTS ARE CAPABLE OF BEING RESTRICTIVE OF COMPETITION BY OBJECT
 - BUT NOTE ALSO *CD TONDELA*, P 20: OPINION OF AG EMILIOU OF 15 MAY THAT THE NO-POACH AGREEMENTS IN THAT CASE MAY NOT BE OBJECT RESTRICTIONS

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ARTICLE 101: VERTICAL CASES

- ◉ NOTE *BOOKING.COM* ON THE ‘OBJECTIVE NECESSITY’ / ‘ANCILLARY RESTRAINTS’ DOCTRINE
- ◉ *TALLINNA KAUBAMAJA GRUPP*
 - AGREEMENTS VIOLATED ARTICLE 101 ON THE BASIS OF EFFECT, THOUGH NO ACTUAL EFFECTS HAD OCCURRED
- ◉ *BEEVERS KAAAS BV*: WHEN IS AN EXCLUSIVE DISTRIBUTOR (IN THIS CASE IN BELGIUM) PROTECTED FROM ACTIVE SELLING IN OTHER TERRITORIES? THIS INVOLVES AN INTERPRETATION OF THE VBER, ARTICLE 4

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ARTICLE 102: ABUSE OF DOMINANCE

- ◎ CURRENT INVESTIGATIONS ARE LISTED ON PP 7-8
 - NOTE THE *GOOGLE ADTECH STACK* CASE, WHICH IS ALSO UNDER INVESTIGATION IN THE US AND IN THE UK BY THE COMPETITION AND MARKETS AUTHORITY AND THE COMPETITION APPEAL TRIBUNAL
 - COMMITMENTS HAVE BEEN OFFERED IN *MICROSOFT*, 16 MAY 2025
 - NOTE THE DRAFT COMMITMENTS OFFERED IN THE *COVER GLASS* CASE IN RELATION TO EXCLUSIVITY AGREEMENTS, 25 NOVEMBER 2024

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ARTICLE 102: ABUSE OF DOMINANCE

- ◉ COMMISSION DECISIONS ARE LISTED ON PP 9-10
- ◉ GENERAL COURT JUDGMENTS ARE LISTED ON PP 9-10
- ◉ COURT OF JUSTICE JUDGMENTS ARE LISTED ON PP 10-11
- ◉ NOTE IN PARTICULAR *GOOGLE ANDROID AUTO*:
 - SHOULD GOOGLE'S REFUSAL TO ACCEPT ENEL'S 'JUICE PASS' APP ON ITS INFOTAINMENT SCREEN IN ITALIAN CARS BE ANALYSED AS AN ESSENTIAL FACILITIES CASE?

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DIGITAL MARKETS ACT

- ◉ DEVELOPMENTS TO DATE ARE LISTED ON PP 12-14
- ◉ NOTE IN PARTICULAR THE *BYTEDANCE* APPEAL ON P 12; THE CASE IS ON FURTHER APPEAL TO THE COURT OF JUSTICE
- ◉ NOTE ALSO THE COMMISSION' S DECISIONS ON P 15

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MERGER CONTROL

- ◉ NOTE THE *ILLUMINA JUDGMENT OF 3 SEPTEMBER 2024*, P 22
 - NOTE THE WITHDRAWAL OF THE MEMBER STATES' REFERENCE OF *MICROSOFT/INFLECTION* TO THE COMMISSION
 - BUT NOTE ALSO THE REFERENCE FROM ITALY OF *NVIDIA/RUN.AI* AND THE NVIDIA APPEAL
- ◉ NOTE ALSO THE COMMISSION'S INVESTIGATION OF *ZOETIS/ANIMAL HEALTH SECTOR* (P 8) AND *COMMISSION V SERVIER* (P 10)

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IMPORTANT POLICY DEVELOPMENTS

- ◉ SEE PP 18-19: RELATIVELY SHORT LIST IN THE CASE OF ANTITRUST
- ◉ BUT NOTE ALSO P 25: REVIEW OF MERGER GUIDELINES AND CONSULTATION ON FOREIGN SUBSIDIES REGULATION GUIDELINES

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THANK YOU FOR YOUR ATTENTION!