
Summaries

The National Audit Office's Report on the UK Competition Regime: how well is the regime performing?

Richard Whish

In February 2016 the NAO published a report on the UK competition regime, UK competition authorities: the UK regime; subsequently a seminar was held to discuss its findings. This article discusses the NAO's report and addresses some of the concerns expressed in it, in particular that it would be desirable to establish a steady flow of new enforcement decisions. The article notes the increased number of decisions and investigations by the Competition and Markets Authority in 2016 and considers how the success of the competition regime will be measured in 2020.

Return to calm seas: the Supreme Court salvages the CMA's decision that it had jurisdiction over Eurotunnel's purchase of SeaFrance assets

George Peretz QC

This article considers the Supreme Court's judgment in *Société Coopérative de Production SeaFrance SA v CMA and Another*, the final step in the long-running dispute as to whether Eurotunnel's purchase of three ships and a number of other assets from SeaFrance fell within the jurisdictional scope of the UK merger control regime.

Recent Competition and Markets Authority practice in the control of small mergers

Matthew O'Regan

The 'share of supply' jurisdictional test contained in the Enterprise Act 2002 gives the Competition and Markets Authority (CMA) the ability to investigate mergers in which the target enterprise is a small business with a limited turnover or which affect competition in small, often local markets. This article examines the CMA's recent practice in investigating such mergers, which have raised a variety of procedural and substantive issues and many of which were not notified to it voluntarily.

Reforms to private actions in the Competition Appeal Tribunal – taking stock one year on

David George

This article examines the reforms made by the Consumer Rights Act 2015 (CRA 2015) to the private enforcement functions of the Competition Appeal Tribunal (CAT) – in particular the introduction of a new ‘fast-track’ procedure and a new collective redress regime allowing for ‘opt-out’ actions. It surveys the key cases and decisions at the CAT since the CRA 2015 entered into force. The article then considers whether the reforms have met their stated aim of making the CAT a ‘major venue’ for competition litigation in the UK.

To seize or not to seize; the competition regulator’s dilemma

Laura Durning

This article summarises the recent decision of the Irish High Court – currently under appeal – finding that bulk copying of electronic material during a dawn raid (for later off-site review) by the Irish competition authority was unlawful.

OECD Roundtable on public interest considerations in merger review: UK submission

Alex Chisholm and Nelson Jung

Merger control in the UK is performed primarily by the Competition and Markets Authority (CMA). The CMA currently conducts an economics-based competition assessment and the question before it is whether the merger has resulted, or may be expected to result, in a substantial lessening of competition (SLC) within any market or markets in the UK for goods or services.

The UK’s regime governing public interest considerations is in line with international evolution of merger control policy. It has been tried and tested for more than a decade and has proven capable of being able to deal even with extraordinary circumstances.

Broadening the UK public interest tests would likely have a negative impact on foreign investment and the UK economy overall, as it would risk fragmenting the UK merger control system to the detriment of the legal certainty, predictability and therefore business confidence.

One price for all? Differentiated pricing in online markets

Aline Blankertz and Gareth Shier

Policymakers and competition authorities across the world are watching online markets closely. In May 2015, the European Commission adopted its Digital Single Market strategy and initiated its e-commerce sector inquiry. One of the main issues under investigation is the availability and pricing of goods and services online across borders. Economics has much to say on the merits and risks of differential pricing online and its potential effect on both businesses and consumers. This article examines the economics of price discrimination and the issues that it raises in relation to online sales.