

SUMMARIES

***Groupement des cartes bancaires* judgment – rolling back on the expansion of by object infringements**

Peter Harper

The Court of Justice's judgment in *Groupement des cartes bancaires* (the Judgment) could be a watershed moment in the enforcement of 'by object' infringements of Art 101 of the Treaty on the Functioning of the European Union. It sends a clear message: 'by object' infringements are the exception rather than the rule and so the Commission and the courts should not take an expansive approach to establishing 'by object' infringements. This article considers the legal consequences of the Judgment and its impact on the enforcement of Art 101 particularly by the European Commission and national competition authorities.

Post-*Cartes bancaires*: Restrictions by object and the concept of vertical hardcore restrictions

Maria-Corina Wahlin

The Court of Justice's judgment in *Groupement des cartes bancaire* has further fuelled the quest to gain clarity as regards the delineation between the assessment of 'object' and 'effect' restrictions under Art 101 of the Treaty on the Functioning of the European Union. The judgment concerned the interpretation of the concept of restriction of competition 'by object' with regard to a horizontal agreement by an association of undertakings. It is nonetheless valid to examine whether the latest development can provide guidance in the assessment of vertical agreements. The aim of this article is to venture into an analysis of the recent judgment as regards the interpretation of 'restriction by object' and to assess whether this has any implications on the assessment of vertical hardcore restrictions found in Art 4 of the Vertical Block Exemption Regulation and, if so, what these are.

In defence of rights of defence: The corporate's right to counsel in UK Competition Act investigations

Nicole Kar and Jonathan Ford

This article considers the Competition and Markets Authority's (CMA's) recent stance that in civil competition investigations (ie investigations which can only result in the imposition of sanctions on undertakings), when exercising its newly conferred compulsory interview power

in relation to individuals, 'it will be generally inappropriate for a legal adviser only acting for the undertaking to be present at the interview'. The authors consider the background to the compulsory power recently introduced as part of a suite of amendments to the UK competition regime under the Enterprise and Regulatory Reform Act 2013, the rationale expressed by the CMA for the exclusion of legal counsel acting only for the corporate from compulsory interviews, and the compatibility of such a stance with the European Convention for the Protection of Human Rights and Fundamental Freedoms 1950.

Price concentration analysis: The theory, application and its limitations

David Wirth and Oliver Gannon

The sophistication of the economic analysis used by the UK and EU competition authorities has increased dramatically in recent years. Price Concentration Analysis (PCA) is one such technique which has played an important role in the assessment of mergers, and contributed to adverse findings being reached in various recent UK market investigations, which has led to remedies (including divestments) being imposed. This article seeks to provide a non-technical explanation of the mechanics and uses of PCA, and highlights some of the key issues and pitfalls that commonly arise with this type of analysis.

Minority shareholdings in merger control

Dr Alexander Gaigl and James Kavanagh

Competition authorities across the world are increasingly presented with cases involving partial acquisitions and minority shareholdings. Some jurisdictions, including the UK and Germany, can already address these under their merger rules, but the European Commission cannot, and it has recently consulted on how to close this potential 'enforcement gap'. What are the differences between minority shareholdings and full mergers from a competition perspective? Is *Ryanair/Aer Lingus* a typical case?