

iKAR's new year (From the Volume Editor)

Articles

Jakub Kociubiński, **Compensatory Reduction of Service Offering in Rescue and Restructuring Aid for Airlines in EU Law – Impact Assessment, Outlook for Change**

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- III. Effects of a Reduction of Service Offering in an Oligopolistic Market
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- VI. Summary – Conclusions *de lege ferenda* in the Face of the Upcoming Reform

Summary: State aid has always been present in the airline industry. From the perspective of competition law, the fact that an undertaking was forced to apply for public support is something unwanted, but certainly not unprecedented. The European Commission is of the opinion that every aid measure disrupts competition and thus that a certain compensatory action is required. These compensatory measures involve the scaling-down of parts of commercially viable operations. They are meant to stimulate the competitive process and to minimize the negative effects of the aid in question.

This paper analysed both the regulatory regime and the impact of the discussed measures, including the possibility of their amendment. In the air transport sector, compensation takes the form of a reduction of the service offering. This translates into fleet culling, withdrawal from profitable routes and the divestiture of slots at coordinated airports. The issue under consideration is presented from the standpoint of the impact of compensatory measures on the overall competitiveness of the airline industry as well as in the context of the values of social market economy upon which the EU's economic model is built. The article closes with conclusions *de lege ferenda* formulated in the light of the EU's ongoing State Aid Modernisation Plan.

Key words: EU law; state aid; rescue aid; restructuring aid; airlines; air transport; compensatory measures; compensation.

Łukasz Stępkowski, **The concept of an undertaking and Regulation 1407/2013 and *de minimis* aid**

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- III. Concept of an undertaking
- IV. Classification of an enterprise as a single undertaking
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Summary: This paper addresses the new *de minimis* regulation and outlines the concept of an undertaking, which is used by this regulation. The paper catalogues the features of an undertaking

and discusses the new possibilities of classifying an enterprise as a single undertaking for the purposes of *de minimis* aid.

Key words: *de minimis* aid; EU law; state aid; enterprise; undertaking.

Szymon Syp, **When to notify? Selected legal issues concerning holders of convertible bonds from the perspective of merger control rules**

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- I. Convertible bonds – a legal perspective
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Summary: This article focuses on the important legal requirement to notify a merger imposed upon the holders of convertible bonds by the Act of 29 June 1995 on Bonds and the Act of 16 February 2007 on Competition and Consumer Protection. Literature has not yet considered administrative obligations resulting from merger control rules based on the execution of the conversion right incorporated in such bonds. With the spread and increasing popularity of convertible bonds, it is to be expected however that a properly determined timeframe for a merger notification (to the President of the Office of Competition and Consumer Protection), as well as the consequences of a failure to notify, may be of importance to holders of convertible bonds. Considered first in the article is the legal and economic characteristics of convertible bonds. Identified next is the source of the duty placed on convertible bondholders to notify a merger. Finally, the article examines the applicable legal solutions from the point of view of the “practical” aspects of the conversion of such bonds carried by their holders.

Key words: competition law; changes in competition law; merger control; convertible bonds; hybrid instruments.

Competition Law in the World

Wojciech Podlasin, **New competition law in Hong Kong**

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- III. Institutional framework
- IV. Prohibition to conclude agreements restricting competition
- V. Prohibition to abuse market power
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- VIII. Concluding remarks

Summary: The article is devoted to the competition law of Hong Kong, Special Administrative Region of the People’s Republic of China, which was enacted in 2012. Described therein are

fundamental substantive issues relating to the prohibition to conclude agreements restricting competition, prohibition to abuse market power and the control of concentrations. Presented also is the relevant institutional framework of Hong Kong's competition protection system and its selected procedural issues. Focus here is placed, in particular, on the imposition of fines, the leniency procedure and private enforcement of competition law.

Key words: Hong Kong; undertaking; agreement restricting competition; abuse of a dominant position; fine; penal sanction; *leniency*; *private enforcement*.

Legislation and Case Law Reviews

Wojciech Dziomdziora, **Notes to the draft Regulation on the European single market for electronic communications**

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- V. Rights of end-users
 1. Abolition of increased tariffs for intra-Union communications
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- VI. Roaming
- VII. Conclusions

Summary: The European Commission's proposed draft Regulation on the single market for electronic communications introduces far-reaching changes to the EU regulatory framework for telecommunication. The article outlines the most important of these changes such as: single EU authorisation, coordination of the use of radio spectrum, European virtual access products, proposed strengthening of the rights of end-users as well as roaming. Presented in addition are the preliminary views of two leading committees of the European Parliament - ITRE and IMCO.

Key words: Single market; single EU authorisation; radio spectrum; interconnections; open internet; traffic management; end-user rights; roaming.

Microsoft's acquisition of Skype does not constitute a significant impediment of effective competition in the EU internal market

Judgment of the Court (Fourth Chamber) of 11 December 2013 in case T-79/12 *Cisco & Messagenet versus European Commission* (Tadeusz Skoczny)

Few needed to form a cartel – some remarks on the liability of a capital group for participation in a prohibited agreement

Judgment of the Court of Justice of the European Union of 4 July 2013 in case C-287/11 *European Commission versus Aalberts Industries NV and others* (Ilona Szwedziak-Bork)

Infringement of procedural duties by the UOKiK President

Judgment of the Supreme Court of 3 October 2013, III SK 67/12 *PKP Cargo* (Dariusz Aziewicz)

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Judgment of the Supreme Court of 3 October 2013, III SK 51/12 *Carrefour Netherland* (Tadeusz Skoczny)

Activities of an organizer of a market from the perspective of the prohibition of an abuse of a dominant position

Judgment of the Court of Appeals in Warsaw of 19 September 2013, VI ACa 170/13 (Konrad Kohutek)

Fine that is significantly too high

Judgment of the Court of Appeals in Warsaw of 16 July 2013, VI ACa 1615/12 (Antoni Bolecki)

Procedural infringements by the UOKiK President (vertical price agreements)

Judgment of the Court of Appeals in Warsaw of 16 July 2013, VI ACa 1454/12 (Małgorzata Kozak)

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Marian Kępiński (ed.), *System Prawa Prywatnego. Tom 15. Prawo konkurencji* [*Private Law System. Volume 15. Competition law*], C.H. Beck/Instytut Nauk Prawnych PAN, Warszawa 2014 (Agata Jurkowska-Gomułka)

Jakub Kociubiński, *Usługi świadczone w ogólnym interesie gospodarczym w prawie Unii Europejskiej. Wyzwania dla europejskiego modelu gospodarczego* [*Services of general economic interest in EU law. Challenges for European economic model*], TNOiK „Dom Organizatora”, Toruń 2013 (Ilona Szwedziak-Bork)

Polish antitrust and regulatory bibliography in 2013 (Agata Jurkowska-Gomułka)

Event and Activity Reports

Conference *Sport and European Union*, Akademia Leona Koźmińskiego, 11 December 2013 (Piotr Semeniuk)

CARS Activity Report 2007–2013 (Agata Jurkowska-Gomułka)