

ABSTRACTS

CSONGOR ISTVÁN NAGY

♦ *The dawn of European “private competition law”*

The private enforcement of EU competition law has been in the center of the scholarly and professional discourse. Still, for a long time, it produced more scholarly pieces than judgments. Recently, the Court of Justice of the European Union, in its preliminary ruling in *Vantaa kontra Skanska* and others, opened a new chapter in the history of EU competition law’s private enforcement. It established: as the right to claim compensation for violations of competition rules is secured by EU law, the preconditions of this right are also EU law questions and have to have an autonomous meaning. The judgment is revolutionary in the sense that it grasps private enforcement in a conceptually different way and, thus, foreshadows the advent of a new, uniform European “private competition law”, which limits the role of national rules to the exercise of the right to compensation, while elevates the right to compensation to the level of EU law.

BORBÁLA TÜNDE DÖMÖTÖRFY – BARNABÁS SÁNDOR KISS – JUDIT FIRNIKSZ

♦ *Ostensible dichotomy? By object and by effect restraints in EU competition law, with special regard to the Budapest Bank case*

The purpose of our study is to examine the prohibition of anticompetitive agreements in EU competition law. Our analysis focuses on the frontiers of by object and by effect restraints. After reviewing the development of the definitions of by object – by effect restrictions in EU case law, the paper shortly introduces the main definitions of anticompetitive agreement categories in the USA. The article provides a detailed analysis of the Opinion of Advocate General Bobek in the Budapest Bank case and the two-step test recommended in the Opinion. After a comparison of the aforementioned two-step test with the US experiences, our study summarizes our views about the ostensible nature of the dichotomy.

MÓNIKA PAPP

♦ *EU State Aid Policy: Serving the goals of Research and Development?*

This paper deals with the interface of EU State Aid law and policy on one hand, and Member State competence in research and development policy on the other hand. The relation between the two has become strained in recent years due to the increased importance of improving EU competitiveness; hence, the European

Commission responsible for the implementation of both public policies, is facing the dilemma of how to reconcile them.

ZOMBOR BEREZVAI

♦ *The real and apparent conflicts of industry and competition policies*

This study aims to introduce the aims of competition and industry policies as well as to identify the rootcauses of their conflicts arising from time to time. Competition policy aims to maximize consumer welfare through increasing product market competition. Industry policy also aims to maximize welfare, but it is also shaped by different interest groups. This can lead to suboptimal solutions from a societal point of view. However, it is important to note that a well-designed and well-grounded industry policy can significantly contribute to economic development and to the increase of consumer welfare. However, due to the specialties of political decision making, this is only fulfilled in the fraction of the cases. Therefore, once competition and industry policies are conflicting with each other, instead of a political decision, a more detailed economic analysis taking other factors into consideration can help to come to the right conclusion.

GERGELY CSORBA

♦ *Should European competition policy also change as a reaction to global challenges? Lessons after Siemens/Alstom and the following debate*

The article discusses the experiences from the Siemens/Alstom merger that was blocked by the European Commission in 2019 and triggered a large debate centered around industrial policy. After introducing the assessment criteria of competition policy and the merger in hand, it discusses the competition policy reforms proposed by industrial policy. Concerning the proposals regarding various elements of assessment, we can state that some of these might be indeed revised, but there has been already an ongoing debate on these issues for years and the basic assessment framework is functioning well. Concerning the proposals to change the institutions of decision making in competition policy, the industrial policy recommendations can seriously constraint regulatory independence, which matters a lot on the long run for welfare.

PÁL VALENTINY

♦ *Market and government failures. The changing relationship between industrial and competition policy interventions*

The study follows the past changes both in industrial and competition policy. Coming in the front they were now here now there, the pendulum swung. In all discussed periods the balance of power of ideology, politics and interest groups were distinctly visible and the outcome were frequently unintended. The study covers the rise of monopolies, the period of nascent competition policy and the cohabitation of competition and industrial policy in the past hundred years.

SURD KOVÁTS – GÁBOR SZABÓ

♦ *Competition law interventions by the European Commission in the energy markets*

This paper examines competition law interventions in the energy markets by the European Commission between 2004 and 2019. We analyse both antitrust and merger proceedings focusing on the competition concerns examined and the remedies applied. Market foreclosure and market segmentation have been scrutinized in a number of antitrust proceedings in the energy markets, with the European Commission often settling for commitment decisions altering not only the behaviour of undertakings, but also the structure of the relevant markets. Merger control reviews resulted in one prohibition decision and in 10 further proceedings extensive remedies were applied.

VIVIEN CSONKA

♦ *Analysis of the adverse effects and efficiency gains resulting from the integration of mobile network operators*

Could the efficiencies resulting from the integration of mobile network operators outweigh the adverse effects on competition? Could integration increase the level of innovation and thus social welfare by incentivising companies to invest more? After reviewing relevant theoretical models and case law, the study concludes that network sharing agreements can lead to significant static efficiency gains that play an important role in these agreements being exempted. Thereby, it also follows that the merging parties' arguments regarding static efficiencies might not be sufficient to justify the merger, since they do not meet the criteria of merger-specificity. In terms of dynamic efficiencies, mergers may perform better than network sharing agreements, as they can increase the level of investment via strong synergies, and thus these agreements are only partially considered as an alternative to mergers. On the other hand, case law demonstrates – which may be the main takeaway for competition policy – that the long-term benefits have not been sufficiently substantiated and, have not been sufficiently demonstrated by the parties to be fully taken into account by the authorities.

BALÁZS FELSMANN – ANDRÁS MEZŐSI

♦ *The effect of discount rate on the yearly payment of Paks Nuclear Power Plant into the central nuclear financial fund*

Decommissioning of nuclear power plants are very costly. In most of the countries using nuclear capacities for electricity production, the dismantling of nuclear waste is financed by a nuclear fund. Due to the fact that the decommissioning and the safety nuclear waste disposal costs are incurred after the closure of nuclear plants, the discount rate is a crucial factor. First, we show various theoretical methods of determining the discount rate and also the applied methods using in the European countries are demonstrated. In our analyses we use different approaches on discount rate and calculate the effect of this factor to the yearly payment of Paks Nuclear Power Plant into the Central Nuclear Financial Fund.