

EU and UK Antitrust/Competition Group London

EU Competition

EU – Phase I merger notifications published in the Official Journal

Companies	Sector	Further Information
KKR/Sorgenias/Sorgenias France	Generation, wholesale and retail trading of gas and electricity and generation of electricity from renewable sources.	Click here
RREEF/SMAG/OHL - Arenales	Building and operating a thermosolar power plant, activities related to fertilizer, ferro-alloys, real estate, energy and the construction of industrial projects and the promotion, construction and operation of thermo-solar power plants.	Click here
Bain Capital/Oaktree/International Market Centers JV)	Operation of showroom and exhibition space.	Click here
Thermo Fisher/Phadia	Laboratory and life science instruments and related products, including in vitro diagnostics systems and immunodiagnostic blood test systems to support the clinical (in vitro) diagnosis and monitoring of allergy and autoimmune diseases.	Click here
Ashland/International Specialty Products	Manufacture and supply of composite polymers, adhesives, process and utility water treatments, cellulose ethers, lubricants and automotive chemicals; and manufacture and supply of specialty chemicals for consumer and industrial markets including personal care, pharmaceuticals and nutrition, beverage, home care, coatings and adhesives, energy, agriculture, plastics and tyres.	Click here
AIF VII Euro Holdings/Ascometal	Manufacture of special long steel products (semi-finished products, hot rolled products and cold finished products) in alloy and non-alloy grades.	Click here
Berkshire Hathaway/Lubrizol	Property and casualty insurance and reinsurance, utilities and energy, freight rail transportation, finance, manufacturing, retailing and services and supply of specialty chemicals, including technologies, additives, ingredients, resins and compounds.	Click here

Companies	Sector	Further Information
F2i/AXA Funds/G6 Rete Gas	Provision of gas distribution and ancillary services, holding distribution concessions.	Click here
Molaris/Commerz Real/RWE/Amprion	Electricity generation, energy trading, gas and electricity transport and supply, financial services, renting and management of real estate, and operation of an electricity transmission system.	Click here
Stanley Black & Decker/Niscayah Group	Hard tools and engineered solutions for industrial, construction, do-it yourself (DIY) use, fastening and assembly systems, and security solutions, fire protection solutions, video-surveillance systems, access control equipment, as well as installation, maintenance, monitoring and alarm response services.	Click here
Antin Infrastructure Partners FCPR/RREEF Pan European Infrastructure Fund LP/Andasol-1 Central Thermosolar Uno, SA AND Andasol-2 Central Thermosolar, Dos SA	Production of electricity using solar thermal technology.	Click here
HOCHTIEF/GeoSea/Beluga HOCHTIEF Offshore JV	Construction, concessions, real estate, and facility and energy management, offshore works, drilling or hammering of large diameter piles, installation of offshore structures and site investigations at sea, renting of special vessels to the offshore industry in connection with the repair, maintenance and operation of offshore facilities.	Click here
Total Energie Developpement/Tenesol	Petroleum, chemicals, coal and renewable energies sectors and manufacture of photovoltaic modules and systems.	Click here

Car price report shows price differentials for new cars in EU narrowing in 2010

On 26 July 2011 the European Commission's ("Commission") published its latest car price report which showed that car prices fell by 2.5% in real terms in 2010 in the European Union as a whole. List prices for new cars also converged slightly. These long-term price trends support the Commission's decision last year that specific competition rules for the sale of new cars are no longer justified. [Read more](#)

UK Competition

CAT stays Deutsche Bahn damages action pending Court of Appeal judgment

On 2 August 2011, the Competition Appeal Tribunal ("CAT") published an order to stay an action for damages brought by Deutsche Bahn and a number of other claimants against members of the carbon and graphite products cartel. On 25 May 2011, the CAT had ruled that the damages action brought against Morgan Crucible had been brought out of time and so should be struck out. On 11 July 2011, the CAT granted the claimants permission to appeal this judgment to the Court of Appeal. The claimants and the remaining defendants have now agreed to stay the damages action pending the determination by the Court of Appeal of the claimants' appeal against the CAT's judgment of 25 May 2011. [Read more](#)

CAT rejects RG Carter’s application to extend time to appeal against OFT

construction decision On 1 August 2011, the CAT published a judgment dismissing an application by RG Carter Limited for an extension of time in which to lodge a notice of appeal against the Office of Fair Trading (“OFT”) decision fining construction companies for infringements of the Chapter I prohibition of the Competition Act 1998. The CAT had handed down nine judgments which substantially reduced the fines imposed by the OFT in respect of 25 appeals against the OFT’s decision brought within the two-month time limit. The applicants did not originally appeal the OFT’s decision, and the CAT did not consider that the circumstances of the case were exceptional such as to justify an extension of time to allow them to appeal it now. [Read more](#)

CAT allows BT’s appeals against Ofcom determination of disputes about termination charges

On 1 August 2011, the CAT handed down its judgment on appeals by BT and Everything Everywhere against determinations by the Office of Communications (“Ofcom”) of disputes relating to changes to BT’s termination charges for 080 and 0845/0870. The CAT held that, contrary to Ofcom’s determination, BT’s price changes are fair and reasonable and that BT had the right to introduce the changes. The CAT largely supported the general approach taken by Ofcom, but found that it applied too strict a test when conducting the welfare analysis. Rather than considering whether the introduction of the charges would result in material disadvantage to consumers, Ofcom had applied a test requiring that benefits to consumers be shown. This did not give due account to other legitimate interests, including BT’s contractual rights. [Read more](#)

OFT consults on the market for statutory audit services to large companies

On 29 July 2011, the OFT published a consultation on its provisional decision to refer the market for statutory audit services to large companies in the UK to the Competition Commission for a market investigation under the Enterprise Act 2002. The OFT has identified a number of features of the market that it believes prevent, restrict or distort competition. In particular, the audit market for large companies in the UK is highly concentrated, with substantial barriers to entry and low levels of switching. The combination of these features gives rise to a stable market with limited opportunities for rivalry and few changes in market shares over time. The OFT considers that a reference would be proportionate to the scale of the problems identified, that undertakings in lieu are unlikely to be appropriate, and that there is a reasonable chance that appropriate remedies would be available to the Competition Commission. The OFT invites comments on its provisional decision by 9 September 2011. [Read more](#)

CAT rules on the OFT’s investigation into Ryanair’s acquisition of minority stake in Aer Lingus

On 28 July 2011, the CAT handed down its judgment on Ryanair’s application for review of the OFT’s decision that it is “in time” to investigate Ryanair’s acquisition of a minority stake in Aer Lingus. The CAT concluded that the OFT was correct to consider that there was a potential for conflicts between the outcome of any reference taken under the Enterprise Act 2002 and the outcome of appeals by Ryanair and Aer Lingus before the General Court. The UK authorities are required to avoid such conflicts under the EU duty of sincere co-operation. [Read more](#)

Ofgem announces fine on British Gas for breach of complaint handling rules On 27 July 2011, the Office of Gas and Electricity Markets (“Ofgem”) announced that it intends to fine British Gas £2.5 million for breach of The Gas and Electricity (Consumer Complaints Handling Standards) Regulations 2008. The Regulations entered into force on 1 October 2008 and set out the service that domestic and micro-business energy customers should expect from energy companies if they raise a complaint. [Read more](#)

OFT decision to seek undertakings in lieu in acquisition by GB Oils of Pace Fuelcare On 20 July 2011, the OFT published the full text of its decision to seek undertakings from GB Oils Limited in lieu of referring its anticipated acquisition of Pace Fuelcare Limited to the Competition Commission under the Enterprise Act 2002. The OFT found that the merger will reduce the number of distributors of heating oils and transport fuels on the Isle of Wight from two to one. The threat of supply from the Mainland would not, on its own, be an effective constraint on the merged entity. Therefore, the OFT believes that there is a realistic prospect of a substantial lessening of competition. However, the OFT believes that its competition concerns can be fully addressed by undertakings in lieu requiring the divestment, to a suitable up-front purchaser, of the Isle of Wight distribution business of either GB Oils or Pace and of Pace’s terminal in Cowes. [Read more](#)

Competition Commission final conclusion on requirement to divest BAA airports On 19 July 2011, the Competition Commission published its final decision that there are no material changes of circumstances or special reasons that would justify amending its decision to require BAA to divest Stansted Airport and either Glasgow or Edinburgh Airport. The Competition Commission has concluded that BAA must proceed with, first, the divestment of Stansted, and then the chosen Scottish airport in accordance with the Competition Commission’s final report, published in March 2009, on its investigation into the supply of airport services by BAA in the UK. [Read more](#)

State Aid

Commission opens in-depth investigation into state aid to Royal Mail On 29 July 2011, the Commission announced that it has decided to open an in-depth state aid investigation into UK measures to restructure Royal Mail. The UK intends to relieve Royal Mail of its pension deficit and to strengthen its balance sheet. The Commission is not currently convinced that the restructuring plan for Royal Mail provides for adequate measures to mitigate any distortions of competition brought about by the state intervention and to ensure a sufficient contribution by the company to the cost of restructuring. The Commission also has doubts whether the relief of the pension deficit can be justified on the basis that it is needed to relieve Royal Mail from an exceptional burden resulting from its past status as public sector monopoly. [Read more](#)

ECJ dismisses appeals against General Court rulings on Basque tax credit measures On 28 July 2011, the European Court of Justice (“ECJ”) handed down its judgments in appeals by the Basque provinces of the Territorios Históricos of Álava, Vizcaya and Guipúzcoa against rulings of the General Court upholding decisions by the European Commission finding that Basque tax credit measures providing 45% tax credits on certain investments and reductions in the tax base for corporation tax for newly-established firms infringed EU state aid rules. The CFI dismissed the appeals in their entirety. [Read more](#)

ECJ dismisses appeal by Mediaset about state aid for digital decoders in Italy

On 28 July 2011, the ECJ dismissed an appeal by Mediaset SpA against a judgment of the General Court that upheld a Commission decision finding that subsidies granted to consumers in Italy for the purchase of certain digital terrestrial decoders constituted unlawful state aid. The ECJ held that the General Court had been correct to find that the aid measure was selective, conferred an economic advantage and distorted competition by virtue of the fact that it was not technologically neutral.

[Read more](#)

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