



## EU Competition

## EU – Phase I merger notifications

Companies	Sector	Further Information
Oko8 AB/Kuwait Petroleum (Danmark)	None yet specified.	<a href="#">Click here</a>
Bain Capital/Scandinavian Installations Refi	Electrical, plumbing and other construction installation activities; and engineering activities and related technical consultancy.	<a href="#">Click here</a>
Kemet/NEC/NEC Tokin	Kemet: manufacture and sale of capacitors. NEC: provision of information technology and network solutions. NEC Tokin: manufacture and sale of capacitors and other electronic components.	<a href="#">Click here</a>
AXA/BNP Paribas/Real Estate	Buying and selling of own real estate.	<a href="#">Click here</a>
KPN/De Persgroep/Roularta/JV	Not yet specified.	<a href="#">Click here</a>
Nordic Capital/Tokmanni	Retail sale of food, beverages and tobacco in specialised stores; and wholesale of household goods.	<a href="#">Click here</a>
Glencore International/Viterra	Glencore: metals, minerals, energy products and agricultural products. Viterra: grain handling and marketing; sale of seed, crop protection products, fertiliser and equipment used by farmers; and production of food and feed ingredients.	<a href="#">Click here</a>
Providence Equity Partners/HSE24	Providence Equity Partners: investment fund of private equity company which manages and controls investment funds. HSE: operation of home and teleshopping broadcasters; and related internet retail offering in Germany and Italy.	<a href="#">Click here</a>

## EU – Key merger clearances

Companies	Sector	Further Information
Bouygues/Amelia	<p>Bouygues: specialist construction company delivering building projects in private and social housing sectors and non-housing sectors.</p> <p>Amelia: new building and refurbishment work; and small scale civil engineering.</p>	<a href="#">Click here</a>
Experian/Cerved/Experian-Cerved Information Services	<p>Experian: credit bureau services; collection and marketing of business information collected from publicly available sources; software solutions and marketing services; and pedestrian counting-centric business information solutions to monitor customer behaviours.</p> <p>Cerved: collection, processing and marketing of information services to support organisations in managing credit risk, assessing credit worthiness, creating target lists for marketing purposes and studying market positioning; credit evaluation, credit management and asset management; and credit collection.</p> <p>Experian-Cerved Information Services: provision of credit bureau services.</p>	<a href="#">Click here</a>
IAG/bmi	Air transport of passengers and cargo; groundhandling services; and maintenance, repair and overhaul services.	<a href="#">Click here</a>
Dow Europe/Aksa Akrilik/Aksa Karbon/JV	<p>Dow: chemicals.</p> <p>Aksa: chemicals, generation and distribution of electricity and textiles.</p> <p>JV: worldwide production of carbon fiber, carbon fiber intermediates and carbon fiber composites for use primarily in the energy, infrastructure and transportation industries.</p>	<a href="#">Click here</a>
Lecta/Polyedra	<p>Lecta: manufacture of coated fine paper and specialty paper; and merchanting of paper.</p> <p>Polyedra: merchanting of paper.</p>	<a href="#">Click here</a>
Elior Concession SA/Áreas Iberoamericana S.L. – Áreas S.A.	Event catering and other food service activities.	<a href="#">Click here</a>
Molson Coors/StarBev	<p>Molson Coors: production, sale, marketing and distribution of beer.</p> <p>StarBev: manufacture and distribution of beer.</p>	<a href="#">Click here</a>
Pratt & Whitney/International Aero Engines	<p>P&amp;W: design, manufacture and servicing of aircraft engines, industrial gas turbines and space propulsion systems.</p> <p>IAE: design, production and sale of the V2500 aircraft engine and related parts.</p>	<a href="#">Click here</a>
Mexichem SIH/Wavin	<p>Mexichem: development, production and global marketing of PVC and plasticisers; production and supply of intermediates; and production of PVC pipe systems, joints and plastic accessories for fluid conduction.</p> <p>Wavin: manufacture and supply of pipe systems.</p>	<a href="#">Click here</a>

## EU Developments

### **Challenges in antitrust enforcement: Speech by Joaquín Almunia on challenges**

**in antitrust enforcement** On 8 June 2012, the European Commission published a speech by Almunia, Vice President of the Commission responsible for competition policy, on the challenges faced by the Commission in relation to antitrust enforcement. He provided an update on the Commission's recent activity in the following areas: (1) the Commission's State aid modernisation initiative (see *State aid* below); (2) the EU and Swiss Confederation's cooperation agreement; (3) the European Competition Network's report on the food market; (4) cartel enforcement; (5) procedure and the evolution of the Commission's competition enforcement system to guarantee high standards of fairness and impartiality; (6) addressing challenges in the fast-moving technology and digital markets; (7) ensuring payment systems are open, secure and innovative; and (8) protecting IP rights without abusing the system. In relation to cartels, Almunia noted that last year the Commission took four decisions, imposing total fines of €614m, a significant reduction from 2010; however, he also recognised the growing success of the Commission's settlement procedure and referred to the Commission's commitment to protecting its leniency policy. He ended by stating that Commission is dealing with both old and new challenges to ensure a level playing field and healthy competition during these difficult times for Europe. [Read more.](#)

### **Cartel appeal dismissed: General Court dismisses Imperial Chemical**

**Industries Ltd's appeal against European Commission acrylic glass cartel decision** On 5 June 2012, the General Court dismissed ICI's appeal against the Commission's decision in the acrylic glass (methacrylates) cartel. It found that the Commission had been correct to find that ICI's participation in certain cartel meetings was sufficient to establish a breach of Article 101 of the Treaty on the Functioning of the European Union, and that the Commission was correct in its calculation of the fine imposed on ICI (over €91m, including a 50% increase as ICI was a repeat cartel offender) and this fine should not be reduced. It was sufficient that the Commission could show that ICI had participated in meetings where anti-competitive agreements were concluded, without physically opposing them, and statements provided by other cartel participants in the course of leniency applications could be used against ICI. In relation to the other cartel participants, the General Court has already reduced fines imposed on Arkema and Quinn Barlo, and dismissed an appeal by Lucite in its entirety. [Read more.](#)

### **Renewable energy policy: European Commission publishes Communication on**

**renewable energy policy** On 6 June 2012, the Commission published a Communication on its renewable energy policy which emphasises the importance of the EU's aim to achieve a 20% share of renewable energy by 2020. In its Communication, the Commission is calling for a more coordinated approach between Member States in establishing and reforming support schemes; and for an increase in renewable energy trading. The Communication identifies four principal areas on which to focus until 2020 to achieve renewable energy goals while remaining cost-efficient: (1) completing the internal energy market; (2) favouring support schemes which encourage cost reductions and avoid over-compensation; (3) encouraging an increased use of cooperation mechanisms; and (4) further energy cooperation in the Mediterranean. To avoid slumping renewable energy growth, the Communication also puts forward proposals to start the process on preparing future policy options and milestones for 2030. [Read more.](#)

## UK Competition

**Remote communities consultation: Office of Fair Trading report on price and choice in remote communities** On 8 June 2012, the OFT published a report setting out the findings of its consultation on the operation of markets in remote communities. The OFT's call for evidence in this sector received complaints about high fuel and grocery prices, limited or high cost delivery services, inadequate public transport, slow internet speeds and poor mobile phone coverage. The OFT concluded that higher prices and limited choices in these remote areas generally result from low sales volumes and weak competition where some businesses have local monopolies. The OFT is now reinforcing steps to address concerns by: analysing trends in fuel prices in the Scottish islands; publishing guidance on farming cooperation agreements; tackling consumer protection issues in the heating oil and liquefied petroleum gas sectors; and working with the Highland Trading Standards to improve consumer protection in relation to delivery services. The OFT is also encouraging initiatives in local communities to address challenges, and identifies ways in which businesses and government can play complementary roles in ensuring fair dealing between businesses and consumers. [Read more.](#)

**Local bus merger: Competition Commission issues statement on McGill's Bus Services/Arriva Scotland West merger** On 7 June 2012, the Competition Commission published an issues statement as part of its investigation into McGill's completed acquisition of Arriva. The statement clearly identifies the key questions the inquiry is examining, including: what might have happened to Arriva if there had been no merger; and whether the acquisition will lead to a loss of competition and competitors in the local areas of Renfrewshire or East Renfrewshire which were previously served by both McGill's and Arriva. The issues statement does not imply that the Competition Commission Inquiry Group has identified any competition concerns. The Competition Commission is inviting responses to its issues statement by 20 June 2012, and is expected to publish its final report by 2 October 2012. [Read more.](#)

**Right to appeal CAT judgment: Competition Appeal Tribunal grants Everything Everywhere permission to appeal against judgment on wholesale mobile call termination charge control appeals** On 7 June 2012, the CAT published an order granting EE permission to appeal to the Court of Appeal against the CAT's judgment which dismissed appeals by BT, Vodafone, H3G and EE against Ofcom's 2011 decision on the wholesale mobile voice call termination price control. While it rejected some of EE's grounds of appeal, the CAT felt there was a compelling reason to hear an appeal on its conclusions relating to the institutional role and procedures of the Competition Commission when determining price control matters within section 193 of the Communications Act 2003. Although the CAT is convinced that its judgment is correct on these issues, it also recognises that they raise points of public importance on which there is currently no Court of Appeal authority. [Read more.](#)

**Intervention between appeals: Competition Appeal Tribunal publishes directions and confidentiality orders in appeals against local loop unbundling and wholesale line rental charge control decisions** On 1 June 2012, the CAT published an order giving case management directions in Sky, TalkTalk and BT's appeals to challenge Ofcom's final statement to set charge control for LLU and WLR services. The CAT granted Sky and TalkTalk permission to intervene in BT's appeal and BT permission to intervene in Sky/TalkTalk's appeal; however, Everything Everywhere's applications to intervene were dismissed. The permission to intervene has been limited to issues which are of particular concern to each party, and parties should liaise to ensure there is no unnecessary duplication between their oral or written submissions. In relation to the BT appeal, BT should provide an agreed draft of questions to be referred to the Competition Commission or if it cannot reach an agreement, inform the CAT of outstanding matters for the CAT to resolve. In relation to the Sky/TalkTalk appeal, BT and Ofcom must disclose certain documents which Sky and TalkTalk, upon receipt, may file and serve a draft amended notice of appeal. [Read more.](#)

**Developments in communications sector: Department for Culture, Media and Sport update on review of communications sector** On 7 June 2012, DCMS published an update on its work on reviewing the communications sector in order to update and reform its legislation and to help secure the UK's place as the technology hub of Europe. The responses to DCMS' open letter demonstrated that there was no need to completely reform communications legislation but recognised the need for new regulation which is up to date with the digital age. Regulations should provide the sector with flexibility to allow it to take advantage of opportunities for growth which are presented by new technology and business models. Updates in this sector include: the government is working to implement recommendations from the UK intellectual property review; Lord Justice Leveson is expected to publish a report on his Inquiry in autumn; a White Paper will be published in early 2013; a Communications Bill will be introduced by the final session of this Parliament; and the government is working on providing greater protection for children from inappropriate content in video games and on the internet. [Read more.](#)

## State aid

**State aid modernisation: Speech by Joaquín Almunia on State aid modernisation** On 7 June 2012, the European Commission published a speech by Almunia, Vice President of the European Commission responsible for competition policy, on the modernisation of the Commission's State aid policy. The initiative follows some of the principles and lessons learnt from the services of general economic interest (SGEI) reform but is much broader in scope. The intention is to turn State aid policy into a simpler, stronger and smarter instrument to coordinate European governments' efforts to boost growth in a time of financial difficulty, and by launching the initiative now, it is hoped it will help EU Member States tackle challenges. Almunia puts forward three pillars of initiative: (1) encouraging more focused and better quality aid; (2) simplifying guidelines and notices; and (3) shifting the focus of control from case-to-case to a more structured policy approach. Almunia puts forward many proposals which form part of the initiative, including streamlining State aid control; updating the Procedural Regulation; clarifying the notion of aid; simplifying analysis of cases with limited effect on trade; updating sectoral guidelines in relation to regional, broadband, aviation and cinema among others; and reviewing rescue and restructuring of non-financial firms. He stated that the modernisation initiative will only have a real impact if national authorities step up to a higher level of cooperation and compliance. The package will be gradually introduced between autumn 2012 and the end of 2013. [Read more.](#)

**Broadband networks: European Commission consults on draft Guidelines for broadband networks** On 1 June 2012, the Commission announced it is inviting comments by 3 September 2012 on the application of EU State aid rules to the public funding of broadband networks. Key to this discussion is how to adapt the current guidelines to the objective of the EU Digital Agenda. In line with the Commission's State aid modernisation initiative (see article above), the proposed changes aim to facilitate well-designed aid targeted at market failures and the objectives of the Europe 2020 growth strategy, streamlining rules and taking faster decisions. The revised Guidelines propose the possibility of supporting ultra-fast broadband networks in certain circumstances; increasing transparency by requiring Member States to publish information on broadband schemes receiving State aid; and to focus investments on passive infrastructure which can be expensive and is not directly related to transmitting services such as ducts or dark fibre. In relation to this last proposal, it is hoped that by financing passive infrastructure, this will allow other service providers to enter the market and increase competition thereby reducing prices for consumers. The Commission hopes to adopt the Broadband Guidelines in December 2012. [Read more.](#)

**Refinancing guarantee: European Commission temporarily approves €10bn increase of guarantee for Dexia SA and Dexia Credit Local** On 6 June 2012, the Commission announced its temporary approval to increase the ceiling of a refinancing guarantee granted by Belgium, France and Luxembourg to Dexia and its subsidiary, DCL. The approval of a €10bn increase has raised the ceiling to a maximum amount of €55bn. The three Member States have jointly granted temporary guarantees to cover Dexia's refinancing for up to three years. It is hoped the guarantee will help the bank finalise its resolution plan and preserve the financial stability of the three countries concerned. However, the Commission currently has doubts that the measure is compatible with EU State aid rules on support for banks during crisis, especially as this new support is added to a large sum of aid already granted towards Dexia's restructuring plan. The Commission has approved the measure until 30 September 2012 in order to preserve financial stability and will take a final decision whether it is compatible with EU State aid rules when it has finalised its assessment of Dexia's resolution plan. [Read more.](#)

**Greenhouse emission allowance: European Commission publishes Guidelines on State aid in the context of greenhouse emission allowance trading scheme** On 5 June 2012, the final version of the European Commission's guidelines on State aid in the context of the greenhouse gas emission allowance trading scheme post-2012 was published in the Official Journal. The guidelines outline the criteria for State aid measures which will be introduced to compensate for the changes which will take place following the introduction of the EU Emissions Trading Scheme from 2013, and which will affect certain businesses. The State aid measures include: (1) aid to compensate electro-intensive users for increases in electricity prices; (2) investment aid to highly efficient power plants; (3) aid to grant transitional free allowances for modernisation of electricity generation; and (4) the exclusion of certain small installations from the Energy Trading Scheme if greenhouse gas emission reductions can be achieved outside of the scheme at lower administrative costs. [Read more.](#)

**Private market economy investor: European Court of Justice dismisses European Commission's appeal on the application of private market economy investor test** On 5 June 2012, the ECJ dismissed an appeal by the Commission against the General Court's judgment relating to the application of the private investor in a market economy test. The ECJ agreed with the General Court that the Commission had made an error in not applying the private investor test to assess whether the tax waiver granted by France to EDF, which was 100% owned by France at the time, constituted incompatible aid. The private investor test is a way of establishing whether, by injecting capital into a state-owned company, a Member State is pursuing an economic objective which might also have been pursued by a private shareholder, and the Member State is therefore, acting as an economic operator rather than as a public authority. The ECJ found that if a Member State wants to rely on the private investor test, it must establish and provide evidence to show that the fiscal measure it took was to make an investment. As a result, the ECJ confirmed the General Court's annulment of the Commission's decision that France's tax waiver to EDF constituted State aid, and confirmed that the Commission should have applied the private investor test. [Read more.](#)

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