

# Brussels Brief

A weekly overview of the regulatory, legal and political developments of the institutions and the issues facing the European Union



12 October 2007

## Key Developments

### **Competition: Commission Conditionally Approves Acquisition of ABN AMRO Assets by Fortis**

Andrea Hamilton

The European Commission has approved, subject to conditions, the acquisition by Fortis Bank, a Belgian/Dutch financial services group, of certain assets of ABN AMRO. ABN AMRO, an international banking services group, is significantly active in the Netherlands, where Fortis is also prominent. In the proposed acquisition, Fortis will acquire ABN AMRO's Business Unit Netherlands, Business Unit Private Clients, and Business Unit Asset Management. The Commission had expressed concern that the acquisition would reduce competition in certain markets, including the Dutch commercial banking and factoring markets. The Commission ultimately approved the transaction, however, subject to the up-front divestiture of ABN AMRO's Dutch factoring subsidiary and part of its commercial banking business.

### **Telecommunications: Consumer Roaming Prices Now Reduced by 60 Per Cent**

Kate DaSilva

Consumers in the European Union are paying up to 60 per cent less for using their mobile phones abroad following the introduction of the "Eurotariff". Eurotariffs must be no higher than 49 eurocents per minute for calls made abroad and no higher than 24 eurocents for calls received abroad, excluding VAT. Mobile operators have generally complied with the requirements to provide a Eurotariff for all their roaming customers from 30 July 2007 and 200 million subscribers are now benefiting from it. A number of operators throughout Europe have been offering Eurotariffs below the maximum levels permitted, which could be an indication of the emergence of competition.

### **Mergers: Commission Opens Second Phase Proceedings in Thomson-Reuters Deal**

Yannis Virvilis

The European Commission has initiated second phase proceedings in the proposed acquisition by the Canadian company, Thomson, of UK based Reuters. Both companies

are, among other things, leading financial information providers as they source, aggregate and provide market data to financial professionals. The Commission's initial investigation showed that the transaction might be problematic with regard to a number of financial information markets. It is also expected that vertical effects and, in particular, foreclosure scenarios will be further investigated. This is because the two companies supply financial information to third companies who are, at the same time, both their customers and competitors. These companies also integrate such information downstream into their own products.

### **Environment: Commission to Help Small and Medium Sized Companies Become Greener**

Elena Kostadinova

The European Commission has published a programme to help small and medium sized companies (SMEs) to implement European environmental legislation. SMEs are companies that employ fewer than 250 people. They represent approximately 57 per cent of the European Union's total economic added value. The proposed Environmental Compliance Assistance Programme includes disseminating information designed for SMEs, promoting support networks and organising training to build local environmental expertise. The measures under the programme would be funded by the LIFE+ Programme (EUR 5 million for 2007-2013), the Competitiveness and Innovation Framework Programme and the EU Structural Funds.

### **Taxation: Commission Investigates Spanish Tax Scheme on Foreign Stake's Acquisitions**

Geert Dierickx

The European Commission has opened a formal investigation under EU State aid rules into the Spanish corporate tax scheme for amortisation of financial goodwill. Pursuant to Spanish tax law, the financial goodwill resulting from the acquisition of a significant participation in a foreign company may be amortised over 20 years following the acquisition. Such amortisation allows a Spanish company to deduct from its tax base the difference between the acquisition costs of the shares and the market value of the underlying assets of the acquired participation. The scheme allows amortisation even when the acquiring and acquired companies are not combined in a single business. In addition, the scheme only applies to acquired

shareholdings in a foreign company of at least 5 per cent. The Commission is concerned that the scheme could distort competition as it attracts international holding activities to locate in Spain, while seemingly excluding the creation of domestic groups from its scope.

### **Internal Market: Pension Directive on Track**

Benoît Keane

The European Commission has adopted a proposal for a directive on the pension rights of workers who work in more than one EU Member State during their career. The proposed directive will set minimum requirements for access to pension rights and set out the rights of preservation of pension funds. It will make it easier for workers to retain their pension rights and get access to their pensions upon retirement. The aim of the proposed directive is to enable workers to move freely around the European Union without losing important occupational pension benefits. The Commission position adopted, for the most part, the proposals put forward by the European Parliament on the previous draft. The proposed directive will now be considered by the Council of Ministers before entering the second reading stage and eventual adoption.

### **Mergers: Commission Approves Proposed Acquisition of Getronics by KPN**

Chen Dingsheng

The European Commission has cleared the proposed acquisition of Dutch company Getronics by KPN of the Netherlands. Getronics is an international provider of IT services. KPN's main activities are the provision of fixed telephony and broadband internet access over its fixed telecommunication infrastructure in the Netherlands. The main overlaps in the business areas of both companies are in development and integration services and in IT management services. The Commission's examination showed that the horizontal overlaps are limited and that, in relation to all products concerned, they would continue to face several strong, effective competitors after the proposed takeover. After examining the operation the Commission concluded that the transaction would not significantly impede effective competition in the European Economic Area.

### **State Aid: In-depth Investigation into Possible Aid in Privatisation of Romanian Car Producer**

Juan Gutiérrez

The European Commission has opened a formal investigation into possible aid granted in the privatisation of Automobile Craiova (formerly Daewoo Romania) and its sale to Ford Motor Company in September 2007. The Romanian authorities attached specific conditions to the privatisation. In particular, these included the achievement of a minimum production level of 200,000 cars in the fourth year following the privatisation;

the continuation for four years of the current activity; and the maintenance of the 3,900 former employees of Automobile Craiova and Daewoo Romania. The Commission is concerned that privatisation through a conditional tender might have resulted in a lower sales price than if the privatisation had been unconditional. If this is the case, the privatisation could involve elements of State aid.

## **Next Week's Events**

**Monday 15 October – Friday 19 2007**

### **COUNCIL MEETINGS**

- General Affairs and External Relations Council (GAERC) (15 October 2007)
- Lisbon Informal Summit / Session of the Intergovernmental Conference (18 October 2007)

### **COURT OF JUSTICE**

#### **Judgments**

##### Agriculture

- C-464/06 Avena Nordic Grain

##### Community own resources

- C-19/05 Commission v Denmark

##### Customs union

- C-62/05 P Nordspedizionieri di Danielis Livio and Others v Commission
- C-173/06 Agrover

##### Freedom of movement for persons

- C-299/05 Commission v Parliament and Council

##### Social policy

- C-411/05 Palacios de la Villa

##### State aid

- C-441/06 Commission v France

##### Taxation

- C-97/06 Navicon

#### **Opinions**

##### Approximation of laws

- C-306/06 01051 Telecom

##### Freedom of movement for persons

- C-125/06 P Commission v Infront WM

##### Social security for migrant workers

- C-103/06 Derouin

## COURT OF FIRST INSTANCE

### Judgments

#### Intellectual property

- T-425/03 AMS v OHMI - American Medical Systems (AMS Advanced Medical Services)

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