

Brussels Brief

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



19 December 2008

Please note that due to the closure of the Commission and other EU institutions over the Christmas period, the next Brussels Brief will be sent on Friday 9 January. The following issue will be sent on Friday 23 January and Brussels Brief will resume weekly thereafter.

Key Developments

Finance – State Aid: Commission Adopts Temporary Framework to Tackle Credit Squeeze

Jacques Pieters

On 17 December 2008 the European Commission announced a new temporary framework allowing EU Member States to tackle the adverse effects of the credit squeeze on the real economy without infringing State aid rules. The framework is part of the European Economic Recovery Plan of 26 November 2008 and focuses on government measures with regard to problems faced by companies (especially small and medium enterprises, or SMEs) that obtain bank loans for their operations. The framework strongly emphasises the temporary character of the measures.

Member States are allowed to assist companies using a number of measures that can be summarised as follows:

- A lump sum of aid of up to EUR 500,000 per company for the next two years, to relieve it from current difficulties;
- State guarantees for loans at a reduced premium;
- Subsidised loans, in particular for the production of green products;
- Risk capital aid of up to EUR 2.5 million per SME per year in cases where at least 30 per cent of the investment cost comes from private investors.

The Commission will review the situation by the end of 2010 and decide whether the measures taken under the framework should be continued beyond this date.

Energy: Commission Adopts Ecodesign Regulation Limiting Standby Energy Consumption

Leigh Smith

On 17 December 2008, the European Commission adopted a Regulation to reduce standby energy consumption in electrical products. The measures are expected to result in a 73 per cent reduction in such consumption by 2020. It is the first of five regulations currently planned under the Ecodesign Directive.

The Regulation will affect all household and office products that feature a standby mode, such as televisions and computers. At present, devices left in standby mode use approximately 50 TWh of electricity each year in the European Union. The Regulation will cap the amount of electricity that products can use in standby mode to bring about an energy saving by 2020 equivalent to Denmark's annual electricity consumption. It will also save 14 Mt of carbon dioxide emissions.

The Regulation will enter into force in the first quarter of 2009.

Air Transport – Mergers: Commission Clears KLM/Martinair Deal

Philip Torbøl

After an in-depth investigation, the European Commission has given Dutch air carrier KLM the green light to acquire sole control of Martinair, also a Dutch air carrier. KLM already owned 50 per cent of Martinair. The Commission opened the in-depth investigation because it was concerned that competition on certain overlapping routes might suffer as a result of the concentration, in particular the routes between Amsterdam and Curaçao and Aruba.

A survey revealed, however, that a significant proportion of the passengers would switch to other destinations, should tickets to Aruba and Curaçao become more expensive, thereby limiting the potential for a price increase. In addition, the Commission found that the effects of the transaction would be limited due to Martinair's decreasing competitive strength and the already existing links between the two companies.

Mining & Metals – Competition: French Competition Regulator Imposes Record Fines on Steel Cartel

Vasilios Bousis

French competition authorities have imposed a record EUR 575 million in fines on 11 companies, including subsidiaries of global steel giant ArcelorMittal, for running a cartel in the steel trading sector from 1999 to 2004.

The cartel had worked by dividing the country into 11 regions, each with its own president and officers appointed to guide, enforce and penalise customers who tried to get around the cartel. Imposing a virtual monopoly on the industry, the 11 companies set prices, shared out contracts, blocked external rivals and punished “deviant” merchants who failed to obey their instructions. The damage caused by the cartel to the French economy during this five year period amounted to hundreds of millions of euros.

The authorities conducted raids in 2004, after which France-based Descours & Cabaud SA applied for leniency, offering to cooperate by providing evidence of the cartel. That assistance reduced the company’s fine from EUR 127 million to EUR 82.6 million.

The fines have been welcomed by the European Commission, which has undertaken a Europe-wide crackdown on price fixing in recent years. The companies have one month to decide whether to lodge an appeal.

Next Week’s Events

Monday 22 December – Friday 26 December 2008

COUNCIL MEETINGS

No Council meetings scheduled for next week.

COURT OF JUSTICE

Judgments

Approximation of laws

- C-276/05 The Wellcome Foundation

Environment and consumers

- C-283/07 Commission v Italy

Fisheries policy

- C-189/07 Commission v Spain

Free movement of capital

- C-282/07 Truck Center

Freedom of establishment

- C-161/07 Commission v Austria

Industrial Policy

- C-336/07 Kabel Deutschland Vertrieb und Service

Police and judicial cooperation in criminal matters

- C-491/07 Turansky

State aid

- C-333/07 Regie Networks
- C-487/06 P British Aggregates v Commission

Taxation

- C-48/07 Les Vergers du Vieux Tauves

Opinions

Approximation of laws

- C-553/07 Rijkeboer

Environment and consumers

- C-552/07 Azelvandre

Taxation

- C-515/07 Vereniging Noordelijke Land- en Tuinbouw Organisatie

COURT OF FIRST INSTANCE

Judicial vacation of the Court of First Instance from 22 December 2008 to 11 January 2009 inclusive

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