

# Brussels Brief

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



21 December 2007

Please note that, due to the closure of the Commission and other European institutions over the Christmas period, the next *Brussels Brief* will be sent on Friday 18 January 2008.

## KEY DEVELOPMENTS

### **Competition: Commission Prohibits MasterCard's Multilateral Interchange Fee**

Philip Torbøl

The European Commission has prohibited the multilateral interchange fee (MIF) levied by MasterCard on cross-border payments. The MIF applies to cross-border transactions using a MasterCard or a Maestro card, as well as to domestic transactions in eight Member States. The Commission found that the MIF restricted price competition between banks as it inflated artificially the base prices charged by banks for accepting payment cards. During the four years of investigation, MasterCard failed to demonstrate that the MIF had any positive effects on innovation and efficiency. The Commission has therefore concluded that the MIF is incompatible with the European Union's competition rules and has given MasterCard six months to end the scheme. Failure to do so could result in the imposition of daily penalty payments of 3.5 per cent of MasterCard's global turnover. MasterCard is expected to appeal the Commission's decision.

### **State Aid: Commission Launches Formal Investigation into New State Aid by Greece to Olympic**

Patricia Arnesto

The European Commission has decided to launch a formal investigation into new State aid by Greece to Olympic Airways Services and Olympic Airlines. In its decision, the Commission identifies four separate areas of investigation. First, there are reasons to believe that Greece has granted illegal and incompatible State Aid to these two companies through continued forbearance in relation to tax and social security debts since December 2000. Second, Greece may have granted illegal and incompatible State Aid to Olympic Airlines by financing some of its aircraft leases since May 2005. Third, the Commission will investigate payments made to Olympic Airways Services in respect to a number of arbitral panel decisions. Fourth, the Commission will examine whether the

special creditor protection granted in 2005 to both companies may constitute State aid.

### **Mergers: Gun Jumping Investigation in SPVC Sector**

Andrea Hamilton

The European Commission has confirmed that on 12 and 13 December 2007 it conducted dawn raids at the premises of two suspension polyvinyl chloride (SPVC) producers in the UK under Article 13 of the EC Merger Regulation. In the course of the inspections, the Commission, assisted by the UK Office of Fair Trading, collected information related to a planned merger. Although the Commission has not yet concluded its review of the proposed merger, it has reason to believe that the deal may have been implemented without Commission consent in violation of Article 7 of the EC Merger Regulation. The Commission is also concerned that there may have been an exchange of information between the companies that could amount to a violation of Article 81, which prohibits cartels.

### **Mergers: Akzo's Divestment Commitments Ensures Merger Clearance**

Bróna Heenan

The Commission has cleared the proposed acquisition of Imperial Chemical Industries (ICI) by Akzo Nobel following commitments to divest certain activities. During its investigation, the Commission identified serious competition concerns relating to markets for decorative coatings in the UK, Ireland and Belgium and relating to industrial adhesives for engineered wood on the EEA market. The Commission's concerns were alleviated through Akzo Nobel's offer to divest essentially all of its decorative coatings activities in the UK and Ireland, including its production facilities and distribution network. In Belgium, Akzo Nobel has committed to sell or license certain decorative coating brands and, regarding adhesives for engineered wood, to sell ICI's participation in Purbond AG. These commitments removed the identified overlaps or market share additions for decorative coatings and industrial adhesives and will allow the establishment of alternative sources of supply for customers.

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## Internal Market: Commission Strategy for EU Mortgage Markets

Elena Kostadinova

The European Commission has published a White Paper on the Integration of EU Mortgage Markets. The White Paper presents a 'package' of measures aimed at improving the areas of cross-border supply, product diversity and customer mobility. The potential benefits of removing some of the identified barriers could, according to some estimates, reduce the interest payable on a EUR 100,000 mortgage loan by as much as EUR 470 per year. According to the Commission it would be premature to decide now on whether a legislative approach would deliver the necessary added value. At this stage, the Commission has announced non-legislative solutions in particular in the fields of land registration, property valuation, and forced sales procedures.

## State Aid: Commission Investigates Italian Restructuring Aid Granted to Ixfin

Geert Dierickx

The European Commission has opened an in-depth investigation into restructuring aid in favour of the Italian electrical and optical equipment manufacturer, Ixfin SpA. According to the Competition Commissioner, the investigation is necessary as the Commission was not properly informed about the facts behind the aid. When Ixfin encountered financial problems, a State guarantee for a loan was granted. Later, Italy informed the Commission that bankruptcy procedures had been opened with a view to liquidating Ixfin. However, from press releases the Commission learned that the court procedure was modified into a controlled composition procedure, whereby Italy granted additional financial support to Ixfin. The Commission now has concerns that this constituted additional illegal restructuring aid.

## State Aid: Member States Moving Towards Less and Better Targeted Aid

Juan Gutiérrez

The European Commission's latest State Aid Scoreboard shows that over the past six years, Member States have progressed towards the European Council objective of less, but better targeted, aid. The overall level of State aid for industry and services has decreased from EUR 53 billion or 0.50 per cent of GDP in the period 2001-2003, to EUR 48 billion or 0.43 per cent of GDP in the period 2004-2006. This downward trend is due largely to eight of the new Member States which directed more than 85 per cent of their aid to horizontal objectives. The three main horizontal objectives remain (i) environment and energy savings, (ii) regional economic development, and (iii) research, development and innovation. In addition, Member States granted considerably less rescue and restructuring aid, while State aid to the coal sector shows a continuous downward trend.

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## NEXT WEEK'S EVENTS

Monday 24 December – Friday 28 December 2007

### COUNCIL MEETINGS

- No meetings scheduled for next week.

### COURT OF JUSTICE

- Judicial vacation of the Court of Justice until 6 January 2008 inclusive.

### COURT OF FIRST INSTANCE

- Judicial vacation of the Court of First Instance until 6 January 2008 inclusive.

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