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affecting business in Europe



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Telecommunications and Energy Proposals

Commissioners want more competition

The EU's telecommunications sector anticipates that Viviane Reding, Commissioner for Information Society and Media, will seek to overhaul existing legislation, scrap regulations in ten technical areas, and, perhaps, break up telecom companies into networks, operations and services divisions. She may also be considering the creation of a new, pan-European regulator to ensure that market rules are consistently applied across the EU. While broadband use is already relatively high in Europe, Ms Reding wants to increase cross-border competition, discourage monopolies and stimulate investment in ultra-fast broadband and other services in the €300 billion telecommunications market.

Energy Commissioner Andris Piebalgs is proposing an important overhaul of EU energy market rules. A first initiative would allow the EU to require the splitting of energy companies' assets. Revised since initial attempts in January and June this year, the latest drafts offer two options. The first is ownership unbundling of integrated groups by enforcing the sale of transmission networks, either through share splits or by forming new businesses. The second option would require energy groups to transfer the ownership of networks to new independent system operators. The plan also calls for a pan-European regulator and greater power for national watchdogs.

In a second initiative, the EU wants to enforce more regulation, transparency and reporting requirements on the



trading of energy and energy derivatives. This proposal has caused alarm among investment banks and energy traders who warn that an extra regulatory burden risks reducing liquidity in wholesale electricity and gas markets. Energy ministers will discuss legislative plans in October.

Jurisdiction in Merger Control

Commission adopts consolidated guidelines

The Commission has adopted consolidated guidelines that explain the Commission's current practice with regard to jurisdictional issues and its competence to review a transaction under the EU Merger Regulation (Jurisdictional Notice).

The new Notice consolidates the existing texts and adapts them in the light of both recent judgments of the European courts and the new Merger Regulation adopted in 2004. The Notice replaces the existing four jurisdictional Notices which deal respectively with the concepts of (i) concentration, (ii) full-function joint ventures and (iii) undertakings concerned, as well as with the calculation of turnover. Case referrals are dealt with separately by the 2005 Notice on Case Referrals.

Simplifying EU Rules

Proposals on company law, accounting and auditing

The Commission has opened up a consultation process for measures which would simplify the business environment for companies and would remove or reduce a range of administrative requirements that are considered outdated or excessive. Many EU rules on company law and accounting are more than 20 years old and place unnecessary burdens on EU businesses. First analyses carried out by a number of Member States have shown that administrative costs caused by EU rules are particularly high in these areas.

The Commission would like to know stakeholders' views on a range of possible simplification measures, such as:

- repealing company law Directives that deal mainly with domestic mergers and divisions, capital of public limited companies and private single-member limited-liability companies, or removing certain information obligations;
- simplifying disclosure requirements for companies and for branches;
- further reducing reporting and auditing requirements for small and medium-sized enterprises.

All interested parties are invited to comment on the proposals by mid-October 2007. The final report on this initiative will be presented in autumn 2007.

Financial Markets

Better regulation announced for the insurance industry

This summer, Charles McCreevy, Commissioner for Internal Market and Services, announced the so-called "Solvency II" initiative to significantly rationalise the legislative framework for the insurance industry. According to Commissioner McCreevy, the reform will reduce 16 EU Directives that currently apply to the industry to a single one, while strengthening the role of the group supervisor and ensuring a uniform and enhanced level of policy holder protection across the European Union. It is also expected that these simplifying measures will facilitate a more efficient use of capital across each insurance group.

Commenting on the US sub-prime mortgage crisis and its potential impact on Europe, Commissioner McCreevy pointed out that the European mortgage market has different characteristics from those existing in the US. While it is too early to draw firm conclusions for policy measures, the recent turmoil has clearly demonstrated the interconnectivity and globalisation of financial markets.

International Developments

China's anti-trust law and US container security

On 30 August 2007, the Standing Committee of the National People's Congress in China adopted a wide-ranging Anti-monopoly Law. During a recent visit to Beijing, EU Competition Commissioner Neelie Kroes called the new law an important step towards an effective competition regime. It also marks the beginning of a concerted effort by the new anti-monopoly authorities in China to flesh out implementing rules on crucial provisions on anti-trust and merger control before the law enters into force on 1 August 2008. The European Commission has met the Chinese authorities on several occasions and will continue to follow the implementation closely. The Commission will also be exploring ways to strengthen bilateral relations with China in line with its policy of global co-operation on competition policy issues.

EU Taxation and Customs Commissioner László Kovács has expressed strong concern over the unilateral action by the US to have all US-bound shipping containers scanned for security reasons prior to loading a vessel in a foreign port, arguing it would disrupt trade without diminishing the terrorist threat. Experts on both sides of the Atlantic have said this measure would be of no real benefit and would cost legitimate EU and US businesses a lot of time and money, and make EU taxpayers bear the cost of protecting US security. A major restructuring of EU ports would be needed. Commissioner Kovács regrets that the USA did not await the results of the pilot actions that the EU and US customs are about to launch. He advocates applying risk analysis to select cargo containers that should be checked, thus allowing for a better balance between legitimate trade facilitation and customs security,

This publication has been carefully prepared but is intended for general guidance only. On any specific matter, reference should be made to the appropriate adviser.

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