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EU Law News

A bi-monthly review of EU legal developments affecting business in Europe

New food labelling laws adopted by European Parliament

At their July plenary session, the European Parliament approved a Commission proposal which combines existing rules on food labelling and nutritional information into one regulation. Adoption by the Parliament comes three years after the initial Commission proposal was made and negotiations were held between the Council, Parliament and Commission to come to a compromise text. The text differs from that initially proposed by the Commission to make front-of-pack nutritional declarations mandatory. The European Consumers' Organisation, BEUC, described this as a lost opportunity as it will "not enable [consumers] to choose the healthiest products at a glance", a view shared by Commissioner Dalli. The text also leaves out a highly contentious "traffic light system" for that enables the consumer to compare products' nutritional values.

A number of stakeholder groups have, however, warned about the possible impact of the new rules on businesses. The European Association of Crafts, Small and Medium-sized Enterprises, UNEAPME, while saying that it was left "overall satisfied" with the text, warned that the extension of compulsory country of origin labelling for meat will cause problems for small food operators who change ingredients frequently. The new regulation does not apply mandatory labelling rules for alcoholic beverages or trans fats and these are expected to be the focus of new Commission proposals in the near future. A country of origin labelling of milk and dairy products has been postponed pending an impact assessment.

Commission proposes increased competition for mobile roaming

The Commission has adopted a proposal to increase competition between mobile network operators in the roaming market. The proposal increases the right of access for network operators who do not have their own network to the networks of competitors at

wholesale prices as well as forcing them to offer customers the option to sign up to additional roaming contracts while keeping their existing number, thereby allowing them to compare roaming prices of different operators. The Commission hopes that these proposals will result in greater competition and lower prices for consumers. The proposal also introduces a further price cap for voice calls of 24 cents per minute from July 2014 as a "safety net" for consumers. The limit will be introduced incrementally from the current cap of 35 cents per minute, with a 32 cents and 28 cents cap coming into force on 1 July 2012 and 1 July 2013 respectively. Caps will also be reduced for SMS and data calls. These caps are due to stay in place at least until 30 June 2016 pending a review by the Commission.

WTO panel ruling against China's export restrictions on raw materials

A WTO Panel has ruled that China's export duties and quotas on certain raw materials exported from the country are inconsistent with international trade rules. The case was brought by the US and the EU in June 2009 against China's export restrictions on some industrial materials including quotas on bauxite and zinc and duties on magnesium, manganese, bauxite and silicon metal. The WTO Panel rejected China's claims that the restrictions were put in place to protect the environment as no similar restrictions were put on the materials used in China's domestic consumption. These restrictions breached commitments made by China in its Accession Protocol when it signed up to the WTO in 2001. The ruling may have wider implications, however, as China has recently been limiting access to rare earth materials, of which it currently provides 97% of the world supply, and is considering a complete ban on their export by 2015. Rare earth materials are used in various high-tech products such as batteries for electric cars, consumer electronics and nanotechnologies. China has until 3 September 2011 to appeal the Panel's findings.

Priorities of Polish Presidency

Poland took over the helm of the Council of the European Union, the body representing Member States' governments, from Hungary on 1 July 2011. Poland has set the following priorities for the next six months:

European Integration as a source of growth

Poland proposes to promote growth through further development of the single market, including the development of digital services, and the conclusion of trade agreements with third countries, while at the same time rebuilding social trust. Poland will also be supporting further research through the "Innovation Union" initiative.

Secure Europe

Poland will be aiming to continue efforts to respond to the financial crisis through enhancing economic governance in the EU. The priorities also identify a need to strengthen the EU's position vis-à-vis energy producers, consumers and energy transit countries. The maintenance of the reformed Common Agricultural Policy's orientation towards the market and ensuring food security will also be a goal.

Europe to benefit from openness

Poland aims to promote the development of the Eastern Partnership through building a free trade area and concluding association agreements, as well as making progress on visa liberalisation. The Presidency will also be focusing on helping the development of democratic infrastructure and modern state structures in the EU's Southern Neighbourhood. There will also be a continued focus on enlargement, as well as an endeavour to conclude a new framework of cooperation between the EU and Russia.

Applicants for leniency in competition cases fear disclosure after ECJ ruling

The European Court of Justice has ruled that documents submitted as part of a national competition authority's leniency policy may be disclosed to claimants in civil damage cases. Under Commission

guidelines, companies who are involved in anti-competitive behaviour but inform the Commission of the anti-competitive practice receive leniency resulting in reduced or, in some cases, no fines being applied. This has played an important role in discovering many cartels operating in the EU. In the Pfeiderer case, which concerned a similar practice of the German competition watchdog, the court ruled that access to documents for companies who claim to have suffered damage as a result of the anti-competitive behaviour should be considered on a case by case basis with the Court "weighing the respective interests in favour of disclosure and in favour of the protection of that information provided voluntarily by the applicant for leniency". The Court did not, however, expand on how to make this assessment saying it was for national courts and tribunals to decide on this balancing principle.

Launch of EU Budget 2014 – 2020 discussions

The EU has seen the official launch of its endeavours to agree a budget for its next financial cycle, 2014 – 2020, following the publication of the European Commission's proposal at the end of June. The plan, which runs to a record €1 trillion, was quickly criticised by some big contributing Member States for its proposal to introduce EU taxes. As a way of gaining favour with national governments, many of whom are introducing tough austerity measures, the Commission has proposed reductions in Member State contributions. An EU value added tax on the exchange of goods as well as a financial transaction tax have been proposed to make up for the shortfall. Agriculture and regional policy, the EU's two lead spending areas, remain largely unchanged. Member States and the European Parliament, who has final power to approve or reject the budget, must now come to an agreement over the coming year.

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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