

EU & UK COMPETITION LAW

BULLETIN

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Beer tie agreements and pub company practices under scrutiny

The House of Commons Business and Enterprise Committee has published a report on the practices of pub companies following a review of the interaction between pub companies and their tenants (the "Report"). The review focused, amongst other things, on the impact of the inclusion of beer supply ties within leases.

Beer supply tie agreements

A beer supply tie is an agreement between a pub company and a tenant which incorporates an obligation on the tenant to source some or all of the beer (and possibly other products) sold on the premises from the pub company, or from a supplier chosen by the pub company. The agreement may also incorporate a prohibition on sourcing beer or other products from any other alternative suppliers.

The findings of the House of Commons Business and Enterprise Committee

The Report concluded that the beer supply ties currently operated by pub companies may be anti-competitive and, as such, may have a detrimental effect on the pub market generally. The Report found that there were strong indications that the existence of a beer supply tie pushes up prices for consumers. Further, the Report expressed the Committee's disappointment at the failure of the Office of Fair Trading (the "OFT") to investigate the issue and called upon the Secretary of State to make a market investigation reference, to be undertaken by the Competition Commission. The OFT has, in response, stated that it had not received any evidence that had led it to believe that a wider investigation of the pub sector was warranted but that it would now consider the evidence contained in the Report carefully. The OFT further noted that it would carefully consider any super-complaint in relation to the issues raised in the Report, if it were to receive such a complaint.

From *Delimitis* to *Crehan* – caselaw on beer supply agreements

The public house sector, and beer supply ties in particular, have been the focus of scrutiny previously, and have raised a number of interesting competition law-related issues. In the case of *Delimitis* (C-234/89), in which a network of beer supply ties were considered, the European Court of Justice established two conditions which set out the circumstances in which a beer supply agreement would infringe Article 81 EC Treaty (which are to be analysed as cumulative conditions): (i) there are significant barriers to competitors entering the relevant market or increasing their market share and (ii) the agreement in question makes a significant contribution to those barriers.

The European Commission (Commission) during the 1990's examined the UK beer supply market finding that beer tie arrangements made it difficult for foreign brewers to enter the UK market and restricted competition. In a case following the Commission's findings, *Inntrepreneur Pub Company and others v Crehan*, Mr Crehan, tied to agreements which contained provisions that all beer was to be exclusively purchased from a single

brewer (and which also provided for a fixed minimum quantity to be purchased), claimed that because the brewer sold its products to independent purchasers at lower prices than to those who were tied into an agreement by virtue of their pub lease, such as himself, he could not compete with the lower prices of other public houses and his pub business had failed.

The High Court found that under the circumstances the first Delimitis condition had not been satisfied and that there was no breach of Article 81 EC Treaty, despite the Court recognising that Mr Crehan's business had failed as a result of the beer tie agreement. Mr Crehan appealed to the Court of Appeal and the case was referred to the European Court of Justice (ECJ). Following the ECJ's decision that a party to an anti-competitive contract can rely on the breach of EC law to obtain relief from the other party, the case went back to the High Court for a full trial. The High Court again dismissed Mr Crehan's claim and Mr Crehan again appealed to the Court of Appeal, which upheld his appeal on the grounds that the High Court was obliged to follow the conclusions of the Commission and awarded damages to Mr Crehan.

The case was ultimately heard in the House of Lords and the question turned upon whether the Commission's findings can be considered to be binding where a national court is considering an issue arising between different parties in respect of a different subject-matter. The House of Lords overturned the judgment of the Court of Appeal and upheld the judgment of the High Court, concluding that the Commission's findings were not binding when considering an issue arising between different parties regarding a different subject matter. In such circumstances there is no possibility of conflict between a decision of the Commission and a decision of a national court.

Market Investigation

The Report will now raise further doubts as to the long term sustainability and the compatibility with competition law of current pub company practices. As a result of the review, amongst other things, a market investigation may now follow. A market investigation involves an in-depth and extensive survey of a specific sector which is carried out by gathering the opinions and responses of a variety of interested parties with a view to recommending measures that will serve to redress any anti-competitive features that are found to exist within the sector.

Super complaints

Further, the OFT - in responding to the comments contained within the Report - recognised that a "super complaint" may be an appropriate way in which to seek legal redress. A super-complaint is a complaint submitted by a designated consumer body that 'any feature or combination of features, of a market in the United Kingdom for goods or services is, or appears to be, significantly harming the interests of consumers'. The right to submit super-complaints (by a super complainant) was created by the Enterprise Act 2002. There are certain designated super complainants, who are specified by the Secretary of State for Business, Enterprise and Regulatory Reform, and these include The Campaign for Real Ale Limited, The Consumer Council for Water, Which? (the Consumer Association), The General Consumer Council for Northern Ireland, The National Association of Citizens Advice Bureaux and The National Consumer Council (otherwise known as Consumer Focus).

EU

Decisions

1 **Commission approves proposed acquisition of the hard disk drive business of Fujitsu by Toshiba**

The European Commission has approved under the EU Merger Regulation the proposed acquisition of the hard disk drive business of Fujitsu Limited by Toshiba Corporation (both Japanese companies). Toshiba manufactures and markets a diverse range of high technology electronic and electrical products, including hard disk drive ("HDD") products. Fujitsu's business consists of worldwide assets and subsidiaries engaged in the production, design, sales, and research and development of HDDs. Although the transaction would result in the combined entity being the number one producer of Mobile HDDs, (in particular of 2.5" Mobile HDDs in term of market share) the Commission's market investigation revealed that the HDD market was competitive and that the transaction would therefore not give rise to competition concerns in these markets. The Commission found that post-transaction, Toshiba would continue to face significant competitors, in a market where technological progress is relatively fast, resulting in short product life cycles. Further, the Commission concluded that the combined entity was unlikely to prevent the access of downstream competitors to Mobile HDDs as inputs; Toshiba does not possess sufficient market power in Mobile HDDs and does not represent a significant part of the demand for Mobile HDDs, so there was no risk of excluding competing suppliers of Mobile HDDs from access to customers.

IP/09/736 – 11 May 2009

2 **Commission approves proposed joint venture between ABB and Fincantieri**

The European Commission has approved under the EU Merger Regulation the proposed creation of a joint venture between the Swiss provider of power and automation systems, ABB, and the Italian shipbuilder, Fincantieri. The ABB group is a global provider of power and automation technologies. Fincantieri is active worldwide on the merchant and naval ships markets. It was proposed that, under the transaction, ABB and Fincantieri would set up a new joint venture focusing on the engineering, development, manufacture and sale of marine automation systems. Marine automation systems are electronically computerised programmes, installed in all categories of ships and vessels for the real time monitoring and control of their various systems, such as propulsion, electrical plants, safety systems and auxiliary systems. The Commission's examination of the proposed transaction showed that for all types of marine automation systems, the merged entity would continue to face several strong, effective competitors with significant market shares.

IP/09/737 – 11 May 2009

3 **Commission approves the proposed acquisition of Cefetra BV by ForFarmers BV**

The European Commission has approved under the EU Merger Regulation the proposed acquisition of Cefetra BV by ForFarmers BV (both Dutch companies). ForFarmers produces and sells animal feed, fertilisers, pesticides, seeds and seed stock to the agricultural sector in the Netherlands, Germany and Belgium and through its subsidiary, Opfok de KuikenaeR BV, ForFarmers is also active in the breeding and sale of poultry for egg-laying. Cefetra is active in the supply of raw materials to the feed, food and fuel industries, including the animal feed industry, the foodstuff industry, the crush and starch industry and the bio-fuel sectors. The Commission's examination showed that there were no horizontal overlaps and that, regarding vertical effects, because of Cefetra's modest market position there was no risk of restricting access to supplies of raw materials for animal feed.

4 Commission approves acquisition of British Midland by Lufthansa

The European Commission has cleared under the EU Merger Regulation the proposed acquisition of British Midland by Lufthansa. Lufthansa provides scheduled passenger and cargo transport and related services (for example, maintenance, repair and overhaul services, in-flight catering, and IT services) from its operating bases at Frankfurt International airport, Munich airport and Düsseldorf airport. Lufthansa's subsidiaries include the Swiss, Air Dolomiti, Eurowings and Germanwings. Lufthansa is also in the process of acquiring Brussels Airlines and the Commission treated Brussels Airlines as a subsidiary of Lufthansa. British Midland, through its subsidiaries (bmi mainline, bmi regional, and bmibaby) provides scheduled passenger transport services along with limited cargo and maintenance operations. Bmi mainline operates from London Heathrow while bmi regional and bmibaby operate from a number of regional bases in the UK. Lufthansa's and British Midland's activities overlap in the areas of passenger transport by air, cargo transport by air and maintenance, repair and overhaul operations services.

Regarding passenger transport, the Commission examined the impact of the proposed transaction on a sample of short and long-haul routes and found that on many of these routes the parties (who are members of the Star Alliance) already cooperate with each other and found that each party would be unlikely to start operating flights on those routes on which it currently only markets flights operated by the other party. The same conclusion was reached for all other routes where the parties currently do not cooperate as the combined entity would continue to face sufficient competition on these routes. Due to the limited scope of British Midland's operations on the cargo transport, maintenance, repair and overhaul services markets the Commission's investigation confirmed that the proposed merger would not have any significant impact.

IP/09/789 - 14 May 2009

5 Commission approves proposed acquisition of Hypo Real Estate by Germany's Financial Market Stabilisation Fund

The European Commission has approved under the EU Merger Regulation the acquisition of German financial institution Hypo Real Estate AG by Germany's state-owned Financial Market Stabilisation Fund. This is the first time in the current financial crisis that a bank nationalisation has been notified to the Commission under the EU Merger Regulation. The Financial Market Stabilisation Fund was created in October 2008, via a legislative package of the Federal Republic of Germany, to act as a vehicle for state interventions to respond to the implications of the financial crisis and to stabilise the financial system in Germany. Hypo Real Estate AG is a Germany-based financial institution mainly active in commercial real estate financing, public sector financing as well as capital markets and asset management.

The Commission had to assess the proposed transaction under the Merger Regulation, because the legal provisions of Germany's Financial Market Stabilisation Act does not ensure that the Hypo Real Estate AG is operated as a separate commercial entity with independent decision-making powers from other state-controlled undertakings post-transaction, in particular, the Kreditanstalt für Wiederaufbau. Both Hypo Real Estate AG and Kreditanstalt für Wiederaufbau fall within the control of the Federal Ministry of Finance post-transaction and both meet the turnover thresholds under the EU Merger Regulation. On this basis, and without it being necessary to analyse the position of other state-controlled undertakings, the Commission concluded that the transaction fell within the Commission's jurisdiction. The Commission concluded that the proposed transaction does not raise any competition concerns and that, having assessed horizontal overlaps between Hypo Real Estate AG and Kreditanstalt für Wiederaufbau the proposed transaction would only have a negligible impact on competition. The Commission has therefore unconditionally approved the proposed transaction.

IP/09/791 – 15 May 2009

Invitations to Comment

6 SNCF-VFE P/Bolloré

Interested parties are invited to comment by 22 May 2009 on the proposed acquisition of joint control in a newly created joint venture company by Voyage France Europe Partenaires (which belongs to the SNCF group and is controlled by the French government) and Bolloré SA by way of a purchase of shares.

COMP/M.5377 – 12 May 2009

7 RWE Innogy/Rheinenergie/Stadtwerke München/Man Ferrostaal/Marquesado Solar

Interested parties are invited to comment by 24 May 2009 on the proposed acquisition of joint control of Marquesado Solar by RWE Innogy, RheinEnergie, Stadtwerke München, and MAN Ferrostaal by way of purchase of shares.

COMP/M.5515 – 14 May 2009

UK

Decisions

8 OFT refers Stagecoach bus acquisitions in Eastbourne to Competition Commission

The OFT has referred the acquisitions of Eastbourne Buses Limited and Cavendish Motor Services by Stagecoach Bus Holdings Limited to the Competition Commission. Eastbourne Buses and Cavendish Motor Services provided local bus services in Eastbourne and Hailsham, while Stagecoach is one of the largest bus and coach companies in the UK, with operations in over 100 towns and cities. As a result of the acquisitions, Stagecoach has become the monopoly provider of commercial bus services in Eastbourne. The OFT concluded that, given the absence of any evidence of likely entry in the short to medium term by other bus operators, there was a concern that the acquisitions could result in higher prices and/or decreased service quality to Eastbourne bus users. As part of its investigation the OFT considered whether to exercise its 'de minimis' discretion, (which allows it not to refer cases concerning small markets to the Competition Commission) given the overall value of the affected market in this case is around £6 million per year, but given the strength of the OFT's competition concerns and the deterrent effect of a referral to potential future similar deals, the OFT considered it proportionate to refer the case to the CC for further investigation.

56/09 - 13 May 2009

9 OFT accepts divestments in Lothian and Angus Co-op merger

The OFT has accepted undertakings offered by the Co-operative Group Limited to address the competition concerns arising from its merger with Lothian Borders & Angus Co-operative Society Limited. Under the terms of the undertakings, the Co-operative Group Limited will divest grocery stores in 12 local areas in Scotland, as well as a pharmacy in one of those areas.

57/09 - 14 May 2009

EU**10 Commission imposes fine of €1.06 bn on Intel for abuse of dominant position and orders Intel to cease illegal practices**

The European Commission has imposed a fine of €1,060,000,000 on Intel Corporation for violating EC Treaty antitrust rules on the abuse of a dominant market position (Article 82 EC Treaty) by engaging in illegal anticompetitive practices to exclude competitors from the market for computer chips (specifically, computer chips called x86 central processing units (“CPUs”). The Commission has also ordered Intel to cease the illegal practices immediately to the extent that they are ongoing.

During the period of October 2002-December 2007 Intel had a dominant position in the worldwide x86 CPU market (at least 70% market share). The Commission found that Intel engaged in two specific forms of illegal practice. First, Intel gave wholly or partially hidden rebates to computer manufacturers on condition that they bought all, or almost all, their x86 CPUs from Intel. Intel also made direct payments to a major retailer on the condition that they stock only computers with Intel x86 CPUs. Such rebates and payments effectively prevented consumer choice. Second, Intel made direct payments to computer manufacturers to halt or delay the launch of specific products containing competitors' x86 CPUs and to limit the sales channels available to these products. The Commission found that these practices constituted abuses of Intel's dominant position on the x86 CPU market that harmed consumers throughout the EEA and that by undermining its competitors' ability to compete on the merits of their products, Intel's actions undermined competition and innovation. The Commission will actively monitor Intel's compliance with this decision. The world market for x86 CPUs is currently worth approximately €22 billion per year, with Europe accounting for approximately 30% of that.

[IP/09/745 – 13 May 2009](#)

OTHER**11 Department of Justice withdraws report on Section 2 and monopolisation**

The US Department of Justice's antitrust division has withdrawn its report on Section 2 of the Sherman Act and monopolisation that was issued last September. The report suggested, amongst other things, a move away from general liability tests for abuse of dominance, focusing on conduct-specific tests and providing safe harbours for certain forms of conduct. The report was the culmination of a year-long series of hearings involving stakeholders from the consumer, antitrust and business communities.

[11 May 2009](#)

12 Commission approves aid package for German bank WestLB

The European Commission has approved under EC Treaty State aid rules the €5 billion risk shield and accompanying measures for German bank WestLB, following an in-depth investigation opened in October 2008. The risk shield was authorised by the Commission as temporary rescue aid on 30 April 2008. In light of the far-reaching measures to be implemented to restore WestLB's long-term viability without undue distortions of competition, the Commission concluded that the aid was compatible with the Single Market. In

particular, WestLB will refocus on less risky activities and reduce its size by half. WestLB AG, based in North Rhine-Westphalia, had total assets of €286.6 billion as at 31 December 2007. In its capacity as a German Landesbank, WestLB acts as a central bank and link to global financial markets for savings banks in NRW and Brandenburg, as well as being a commercial bank operating on an international scale. The Commission's decision is conditional upon the approval of the restructuring plan by the statutory bodies of all of WestLB's owners.

IP/09/741 – 12 May 2009

13 Commission opens in-depth investigation into aid package for German Landesbank BayernLB and its Austrian subsidiary Hypo Group Alpe Adria

The European Commission has opened under EC Treaty State aid rules an in-depth investigation into State aid measures for German Landesbank BayernLB and its Austrian subsidiary Hypo Group Alpe Adria (HGAA). BayernLB obtained rescue aid in the form of a capital injection of €10 billion and a risk shield of €4.8 billion, endorsed by the Commission on 18 December 2008. HGAA also received a €0.7 billion capital injection from BayernLB. In addition, HGAA received a €0.9 billion capital injection from Austria on the basis of the Austrian banking emergency rescue scheme, approved by the Commission in December 2008. The Commission will evaluate in detail whether the planned measures are capable of restoring the long-term viability of BayernLB and HGAA, whether the state support is limited to the minimum necessary, and whether measures should be put in place to minimise potential distortions of competition created by the aid. The opening of an investigation is common for state interventions of this magnitude and will ensure legal certainty for the companies concerned. It also gives interested parties the possibility to submit their comments. It does not prejudice the outcome of the procedure.

IP/09/742 – 12 May 2009

14 Commission approves additional aid measures from Belgium and Luxemburg for Fortis

The European Commission has approved under EC Treaty State aid rules additional aid measures from the Belgian and Luxembourg States stemming from amendments of the agreement between Fortis Holding, BNP Paribas, Fortis Bank and the Belgian and Luxembourg authorities. The Commission found that the measures in favour of Fortis Bank and Fortis Holding were limited to the minimum necessary to reach their goal and were, as such, compatible with Article 87.3.b of the EC Treaty, that allows aid to remedy a serious disturbance in the economy of a Member State. Taking account of the very specific and uncommon circumstances of the case, the Commission concluded that the described measures were the minimum necessary to obtain Fortis holding's shareholders' approval on the transactions of early October 2008 and to allow the sale of Fortis Bank to BNP Paribas to proceed. The Commission found that Fortis Bank would be made viable through its combination with BNP Paribas. The Commission also found that the measures relieving Fortis Bank of certain impaired assets were in line with its communication on the treatment of impaired assets. In particular, the Belgian State will purchase or guarantee the structured credits at a price which is well below their real economic value resulting in a significant part of the losses being supported by Fortis Bank. The new entity committed not to expand through acquisitions in the Belgian and Luxembourg banking market. The Commission's communication on the treatment of impaired assets is available by clicking [here](#).

IP/09/743 – 12 May 2009

15 Commission approves recapitalisation of Allied Irish Bank

The European Commission has approved under EC Treaty State aid rules a €3.5 billion emergency recapitalisation which the Irish authorities intend to grant to Allied Irish Bank. The Commission found the measure to be in line with its Guidance Communications on State aid during the current financial crisis. The measure was found to constitute an adequate means to remedy a serious disturbance in the Irish economy and was therefore found to be compatible with Article 87.3.b. of the EC Treaty. On 22 April 2009, the Irish authorities formally notified the Commission of their intention to recapitalise Allied Irish Bank with €3.5 billion,.

In particular, the recapitalisation was found by the Commission to meet the following criteria: necessity, appropriate own contribution and avoidance of undue distortions of competition. Further, the measures are limited in scope and require an adequate remuneration. The Commission's guidance communications are available by clicking [here](#).

IP/09/744 – 12 May 2009

16 Commission approves €11 million Swedish training aid to Scania

The European Commission has authorised under the EC Treaty State aid rules a Swedish grant of €11 million (SEK 123.5 million) for a staff training programme at Scania's plants at Södertälje, Oskarshamn and Luleå (all in Sweden). The Commission found that the training programme was aimed at increasing the general knowledge and skills of the workforce and should result in improving the workers' employability in the heavy vehicles industry and associated sectors. The aid will lead to additional training that would not have been carried out without the aid.

IP/09/776 – 14 May 2009

17 Commission refers Poland to Court of Justice for failure to recover illegal aid from Technologie Buczek

The European Commission has decided under EC Treaty State aid rules to refer Poland to the European Court of Justice for failure to comply with a Commission decision of 23 October 2007. The decision ordered Poland to recover illegal and incompatible State aid from Technologie Buczek and two of its subsidiaries, Huta Buczek and Buczek Automotive. On 23 October 2007, the Commission found that the Polish tube producer Technologie Buczek had received illegal and incompatible aid in the form of a public debt waiver and had misused restructuring aid it received in 2003. Two subsidiaries of Technologie Buczek, Huta Buczek Sp. z o.o. and Buczek Automotive Sp. z o.o., benefited from this illegal aid through significant capital and asset injections from Technologie Buczek before its bankruptcy. The Commission ordered Poland to recover the unlawful aid not only from TB, but also from its subsidiaries. Poland should have taken all the necessary measures to implement the decision within four months from the adoption of the decision but over a year after the deadline, Poland has not fully recovered the illegal and incompatible aid.

IP/09/777 – 14 May 2009

18 Commission authorises French aid worth €46.3 million for the BioIntelligence R&D programme

The European Commission has decided not to raise any objections under the EC Treaty state aid rules to the financial support of €46.3 million granted by France to the BioIntelligence research and development programme. The programme, to be coordinated by Dassault Systèmes, will involve SMEs specialised in bioinformatics, life science industries and public research institutes. BioIntelligence will promote the use of systemic modelling and simulation tools to exploit biomedical databases. This innovative approach, based on the Product Lifecycle Management method used by manufacturing industries, will enable life science industries to optimise their research phases. The Commission concluded that the programme was compatible with the EU R&D framework. In particular, the programme addresses a market failure and looks set to create positive effects in all bioinformatic and public health sectors without significantly changing competition conditions.

IP/09/778 – 14 May 2009

19 Commission endorses temporary UK subsidised interest rates scheme to counter credit squeeze

The European Commission has authorised under EC Treaty rules on State aid a UK scheme to relieve firms who may be encountering financial problems due to the current economic climate. The measure

allows national, regional and local authorities to grant aid in the form of reduced interest rates on loans of any duration concluded by 31 December 2010. The scheme provides for low rates for loans contracted no later than 31 December 2010, but only on interest payments up to 31 December 2012. After that date firms will have to pay market rates. Further the scheme does not apply to firms that were already in difficulty on 1 July 2008. The Commission found that the scheme meets the conditions of the Temporary Framework for State aid measures which gives Member States additional scope to facilitate access to financing in the present economic and financial crisis.

IP/09/793 - 15 May 2009

MARKET INVESTIGATIONS

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UK

20 **OFT consults on market studies guidance**

The OFT is consulting on a proposed revision to its guidance on how it conducts market studies. Market studies are examinations into markets which may not be working well for consumers and they consider if there are problems that are causing detriment to consumers and, if there are, how those problems might be addressed. The proposed changes to the OFT's 2004 guidance explain that the OFT's prioritisation principles apply when making the decision to select a market for study, make clear the OFT's commitment to transparency and engagement with stakeholders affected by the studies and explain how the OFT evaluates market studies.

The consultation is open until 4 August 2009 and gives stakeholders the opportunity to provide views and comments on the revised guidance.

The Market Studies Guidance document is available by clicking [here](#).

53/09 - 12 May 2009

LITIGATION

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OTHER

21 **"Italian torpedo" claims get a boost in the Italian courts**

The Court of Milan has rejected Eni's request for a 'negative ascertainment', which was aimed to have the court declare there was no cartel (which had been found following a Commission investigation in 2006 and involved a fine of €519 million for participants in a price-fixing ring for synthetic rubber) and that, accordingly, no damages were suffered by the tyre manufacturers. The strategy has been labelled the 'Italian torpedo' and was intended to head off damages actions (specifically, the claim had been brought in Italy in an attempt to hold-off a damages claim which was being threatened in the UK High Court). The Italian court, however, stated that in applying key European legislation on competition, national courts could not make judgments which run counter to European Commission decisions, which a declaration that there was no cartel would have resulted in. The decision is generally viewed as positive for potential claimants seeking to bring a damages claim, subject to the result of any potential appeal that is brought in Italy.

22 Court judgments order construction industry companies to pay the SNCF between €123 and €129 million in compensation for concerted practices

The Paris administrative court has rendered a total of 34 judgments ordering construction industry companies such as Bouygues Construction, Eiffage and Vinci to pay the SNCF between €123 and €129 million in compensation for damages it suffered from a price fixing agreement.

The companies were originally fined €60 million euros by the French competition authority in 1995 for price fixing agreements which took place during several tender procedures launched by the SNCF. These procedures included tenders for the construction of the high-speed line Paris-Lille-Calais (TGV Nord), the railway by-passing the city of Lyon and the cross-connexion of the railways in the Paris region (Ile de France). The appeals against this decision were all dismissed by the 'Cour d'Appel de Paris', and the SNCF eventually decided to claim damages before the administrative courts.

The Paris administrative Court considered that the winning bids were around 10 percent overpriced compared to what would have been offered in an effective competitive situation. The Court ordered the payment of the overall amount of €90 million for the surcharge in price, and between €33 and €39 million in interest. The 34 judgments do not provide for individualized amount of damages by participant but order the companies as a whole to pay damages by "lot" (i.e. by portion of railway). The companies may appeal these judgments before the end of May.

If you require further information or advice on any of the items covered, then please contact either Diarmuid Ryan in London or Tom Pick in Brussels who are both partners in our EU Competition team.

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