



## Daily News 22 / 11 / 2024

Brussels, 22 November 2024

### **Commission publishes findings of evaluation of the EU competition rules on technology transfer agreements**

The European Commission has today published a [Staff Working Document](#) ('SWD') that summarises the findings of its evaluation of the [Technology Transfer Block Exemption Regulation](#) ('TTBER') and the accompanying [Guidelines on the application of Article 101 of the Treaty to technology transfer agreements](#) ('Guidelines').

The aim of the evaluation was to **gather evidence** on the functioning of the TTBER and of the accompanying Guidelines, for the Commission to determine whether it should let the rules expire, prolong their duration or revise them. In view of the findings of the evaluation, the Commission will now launch an impact assessment to examine policy options for a **revision of the rules**.

Executive Vice-President Margrethe **Vestager**, in charge of competition policy, said: *"Our evaluation has shown that the current rules have proved useful for companies to assess whether their technology transfer agreements comply with EU competition rules. At the same time, the evaluation has identified several areas where the rules may need updating to reflect recent market developments and increase legal certainty. We will now reflect on how to address these issues to ensure that the rules remain fit for purpose."*

A press release is available [online](#).

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### **Commission closes antitrust investigation into Apple's rules for developers of e-book/audiobook apps**

The Commission has decided to close its antitrust investigation into allegedly **anticompetitive behaviour** by Apple over some of the terms it applies to competing e-book/audiobook app developers for use of its App Store in the European Economic Area.

On [16 June 2020](#), the Commission opened an antitrust investigation into (i) Apple's rules imposing the mandatory use of its own proprietary in-app purchase system ('IAP'); and (ii) Apple's restrictions on the ability of competing e-book/audiobook app developers to inform iPhone and iPad users of alternative cheaper purchasing possibilities available outside the App Store ('steering') ([AT.40652](#)). On the same day, it opened two other antitrust investigations concerning similar Apple App Store terms in relation to music streaming ([AT.40437](#)) and other apps competing with apps or services offered by Apple ([AT.40716](#)).

On [4 March 2024](#), the Commission fined Apple for abusing its dominant position on the market for the distribution of music streaming apps in case AT.40437. On [24 June 2024](#), following the [designation of Apple](#) as a gatekeeper in relation to its App Store under the **Digital Markets Act** (DMA), the Commission decided to close its antitrust investigation with broader scope in case AT.40716. Under the DMA, Apple must not obligate app developers to use its IAP and must refrain from imposing monetary and non-monetary restrictions on steering.

Following the withdrawal of the complaint filed against Apple by an e-book and audiobook distributor, the Commission has decided to **close its antitrust investigation concerning specifically e-book/audiobook apps** (AT.40652).

The closure of an investigation is not a finding that the conduct in question complies with EU

competition rules. The Commission will **continue to monitor business practices** in the European tech sector, including those of Apple, both under the DMA and competition rules.

More information on the investigation will be available on the Commission's [competition website](#), in the [public case register](#) under the case number [AT.40652](#).

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### **Commission finds German public capital injection in favour of WestSpiel to be incompatible State aid**

The European Commission has concluded that a German public capital injection in favour of the casino operator **Westdeutsche Spielbanken GmbH & Co. KG (WestSpiel)** is not in line with EU State aid rules. Germany must now recover the incompatible aid, including interest.

In [December 2019](#), the Commission opened an in-depth investigation to assess whether public funding granted by Germany to WestSpiel was in line with EU State aid rules. The Commission's investigation covered **two measures in favour of WestSpiel** taken by NRW.BANK namely: (i) **annual loss coverage** in the years 2009 to 2015 amounting to approximately €63.6 million and (ii) a **capital injection** in 2015 amounting to €64.8 million.

The Commission assessed the two measures under [Article 107](#) of the Treaty on the Functioning of the European Union ('TFEU'). Following the in-depth investigation, the Commission found that the **annual loss coverage does not constitute State aid** within the meaning of [Article 107\(1\)](#) TFEU. The measure does not confer an economic advantage on WestSpiel given that (i) the annual loss coverage results from a mere legal automatism under German company law and only took place within WestSpiel's own accounts without a transfer of external funds being necessary and (ii) NRW.BANK behaved in an economically rational way when accepting further losses of WestSpiel.

As regards the second measure, the Commission concluded that the **capital injection is incompatible with EU State aid rules**. In particular, the measure is imputable to the State due to the structure of NRW.BANK and the State's involvement in its decisions. Moreover, the measure confers an economic advantage on WestSpiel, as the decision to inject additional capital in a company despite its continuously negative financial situation was not one that a comparable private investor would have chosen.

A press release is available [online](#).

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### **Commission clears acquisition of Fressnapf by AISE and Cinven**

The European Commission has approved, under the EU Merger Regulation, the acquisition of joint control of Fressnapf by AISE, both of Germany, and by Cinven of the UK.

The transaction relates primarily to the sectors of production and retail supply of pet food.

The Commission concluded that the notified transaction would not raise competition concerns, given its limited impact on competition in the markets where the companies are active. The notified transaction was examined under the normal merger review procedure.

More information is available on the Commission's [competition website](#), in the public [case register](#) under the case number [M.11706](#).

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### **La Commission autorise la création d'une entreprise commune par AGL, TTC et Samudera**

La Commission européenne a approuvé, en vertu du règlement européen sur les concentrations, la création d'une entreprise commune PT Patimban Global Gateway Terminal, basée en Indonésie, par Africa Global Logistics SAS (« AGL »), basée en France, Toyota Tsusho Corporation (« TTC »), basée au Japon, et PT Samudera Pelabuhan Indonesia (« Samudera »), basée en Indonésie.

La transaction concerne principalement le secteur d'exploitation et de gestion de terminaux maritimes à conteneurs.

La Commission a conclu que la concentration envisagée ne soulèverait pas de problème de concurrence, compte tenu de l'impact limité sur l'Espace économique européen et sur la structure du marché. La transaction notifiée a été examinée dans le cadre de la procédure simplifiée du contrôle des concentrations.

De plus amples informations sont disponibles sur le site internet [concurrence](#) de la Commission, dans le [registre public](#) des affaires sous le numéro d'affaire [M.11754](#).

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[Liste des points prévus](#) à l'ordre du jour des prochaines réunions de la Commission

*Veillez noter que ces informations sont données sous réserve de modifications.*

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