

Brussels G A _ P Newsletter

Brussels Office



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News

Commission opens public consultations on the prolongation of EU State aid regulations and guidelines for agriculture, forestry, rural areas, fishery and aquaculture

The Commission has opened two public consultations to receive contributions from interested parties on whether to prolong (i) the guidelines for State aid in the agricultural and forestry sectors and in rural areas and (ii) the block exemption regulations for the aforementioned and for fishery and aquaculture.

The guidelines allow the Commission to assess and authorise State aid for agriculture, forestry and certain activities in rural areas. Since the current guidelines are set to expire 31 December 2020, the Commission is asking for stakeholders' views on their extension.

As for the block exemption regulations, they will also expire on 31 December 2020. The Commission is revising them with the aim to replace them with new regulations for the period 2021 to 2027.

The Commission has noted that the future of these guidelines and regulations will largely depend on the future regulation on strategic plans under the Common Agricultural Policy ("CAP") as well as on fisheries.

Both consultations will be open until 20 February 2020.

Commission launches consultation on draft Emission Trading System ('ETS') State aid guidelines

The Commission has launched a public consultation seeking interested parties' views on the draft new ETS Guidelines before their adoption in the course of 2020, which will apply as of 2021.

The objective of these guidelines is the reduction of exposure to the risk of carbon leakage, which occurs when companies shift production outside the Union to avoid abiding by EU climate and environmental policies. These practices lead to less economic activity in the EU and runs against the global objectives to reduce greenhouse gas emissions.

The revised guidelines will seek to allow Member States to adopt measures to partly compensate indirect emission costs faced by industrial sectors due to the ETS.

Contributions to this consultation may be submitted until 10 March 2020.

Suspension of the joint venture between Proximus and Orange for the sharing of the mobile radio access networks

On 22 November 2019, the Belgian companies Orange Belgium, SA/NV and Proximus, SA/NV concluded an agreement to create a joint venture for the sharing of the mobile radio access networks.

However, the Telenet Group, SA/NV and Telenet, SPRL/BVBA (jointly, 'Telenet') requested a deeper inquiry into the impact on competition of this agreement and the Competition College of the Belgian Competition Authority imposed on the 8 January 2020 an interim measure in respect of the aforementioned joint venture.

With this decision, the Competition College requires these two companies to suspend the implementation of the Shareholders Agreement and the Radio Access Network Sharing Agreement concluded between them, until 16 March 2020. This suspension should consider, in particular, the transfer of staff, but it does not prohibit sending out Requests for Proposal for the acquisition of network equipment and the selection of staff members to be transferred, if this does not lead to the conclusion of binding agreements.

By 9 March 2020 at the latest, Proximus and Orange must inform the Competition College and the Investigation and Prosecution Service ('Auditorat') of their discussions with the BIPT (Belgian telecom and postal regulator) and of the BIPT's position.

The Competition College is of the opinion that imposing a suspension of the cooperation until a final decision on the complaint presented by Telenet is not proportional, in view of (i) the potentially positive effects of the cooperation and (ii) the time it takes for Auditorat to assess the merits of the complaint.

Simplified procedure for concentrations in Belgium

The Belgian Competition Authority ('BCA') has extended the application of the simplified procedure on concentrations, which is contained in the Article IV.70 of the Belgian Code of Economic Law. These additional rules were approved on 8 January 2020 and they entered into force on 20 January 2020.

The simplified procedure allows the parties to file a simplified notification and to obtain a decision within a period of 15 working days.

From now on, the BCA will apply this procedure where the following conditions are fulfilled:

1. the combined market share of the undertakings concerned is less than 50%;

2. the delta of the Herfindahl-Hirschman Index (HHI) resulting from the concentration is below 150. This index is a measure of market concentration and is used to determine market competitiveness pre- and post-concentration.

Moreover, the Auditorat can also apply this procedure in the event of a horizontal overlap between the activities of the undertakings concerned by the concentration where their combined market share is less than 50% and the increment in market share resulting from the concentration is less than 2%.

Furthermore, this procedure may be applied when there are no doubts about the admissibility of the concentration and that the concentration does not raise any objections, in the following cases:

1. where two or more of the parties to the concentration are active in the same product and geographic market and the combined market share that would result from the concentration is more than 25% but less than 40%;
2. where one or more of the parties to the concentration are active in a product market which is upstream or downstream with respect to a product market in which one or more other parties are active and the market share of one or all of the parties on either of these two levels is more than 25% but less than 40%.

Currently at GA_P

GA_P Barcelona hosts competition law seminar

On 29 January 2019, our Barcelona office hosted the seminar “What happened in competition law in 2019 and what to expect from 2020”.

The discussions kicked off with keynote speaker Mr Marc Realp i Campalans, Director-General of the Catalan Competition Authority.

Next, our lawyers Iñigo Igartua, Andrea Díez de Ure and Isaque Leite analysed the main competition developments during 2019 and shared their views on the trends they expect in 2020.

The session was followed by a networking breakfast that allowed the audience to mingle and informally continue the discussion.

For further information please visit our website at www.ga-p.com or send us an e-mail to: info@ga-p.com.