GT GreenbergTraurig

GT Newsletter | Competition Currents | September 2024

A monthly newsletter for Greenberg Traurig clients and colleagues highlighting significant recent developments in global antitrust and competition law.

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United States

A. Federal Trade Commission (FTC)

1. *Texas federal court sets aside FTC's noncompete ban.*

As described in this GT Alert, on Aug. 20, 2024, the U.S. District Court for the Northern District of Texas set aside the FTC's noncompete ban. As a result, the ban cannot be implemented anywhere in the country. The court made clear in its memorandum opinion and order that the FTC's noncompete rule is set aside and "shall not be enforced or otherwise take effect on September 4, 2024 or thereafter." While this decision may launch a long appeals process, for now, the FTC will not enforce the noncompete ban and notice requirements set to take effect Sept. 4.

[1] Due to the terms of GT's retention by certain of its clients, these summaries may not include developments relating to matters involving those clients.

2. *FTC, DOJ partner with labor agencies to enhance antitrust review of labor issues in merger investigations.*

On Aug. 28, 2024, the FTC and DOJ announced a new memorandum of understanding (MOU) with the Department of Labor and National Labor Relations Board to outline and formalize information-sharing protocols and training between the agencies to assist the FTC and DOJ in investigations into mergers and acquisitions' impact on labor markets. As the MOU shows, labor markets continue to be of interest to the U.S. antitrust agencies.

B. Department of Justice (DOJ)

1. *UnitedHealth Group discontinues two acquisitions following Antitrust Division scrutiny.*

After a DOJ inquiry, UnitedHealth Group discontinued its proposed acquisitions of Steward Health Care's physician group in July 2024. Regarding the abandonment, DOJ's Assistant Attorney General Jonathan Kanter stated: "When you ask Americans what keeps them up at night, affording and accessing quality healthcare is too often at the top of their list. These transactions are among UnitedHealth Group's latest proposed provider-related acquisitions, and they raised questions about quality of care, cost of care, and working conditions for doctors, nurses, and other healthcare providers."

2. *Deputy Assistant Attorney General Michael Kades' statement after Airline Group IAG abandons acquisition of Air Europa.*

On Aug. 2, International Consolidated Airlines Group S.A. announced its decision to abandon its proposed acquisition of Air Europa Holding S.L. in response to DOJ antitrust concerns. In response to the abandonment, DOJ Deputy Assistant Attorney General Michael Kades stated, "The Antitrust Division is committed to protecting competition in the airlines industry. As a result of this abandonment, travelers between the United States and Europe will benefit from an industry rivalry that lowers prices, boosts quality, and promotes choice. I am grateful to our enforcement partner, the European Commission, for its close and constructive collaboration with our staff on this important matter to safeguard competition."

3. *Justice Department settles lawsuit alleging illegal premerger coordination by Legends Hospitality regarding acquisition of ASM Global.*

On Aug. 5, 2024, the DOJ announced it had filed a civil lawsuit and proposed settlement with Legends Hospitality Parent Holdings LLC concerning an alleged violation of the Hart-Scott-Rodino Act (HSR Act) relating to its proposed acquisition of ASM Global Inc. The DOJ alleged that Legends engaged in unlawful premerger coordination by exercising operational control over ASM during the HSR Act waiting period, specifically involving venue management services for an arena in California. The DOJ emphasized that "[c]ompanies must remain separate and independent before they close their merger." The proposed settlement includes a $3.5 million civil penalty, prohibits certain conduct, and requires Legends to appoint an antitrust compliance officer and implement an antitrust training program.

C. U.S. Litigation

1. *In re NFL "Sunday Ticket" Antitrust Litigation, Case No. 2:15-ml-02668 (C.D. Cal.).*

On Aug. 1, 2024, a judge in the NFL "Sunday Ticket" Antitrust Litigation granted the NFL defendants' judgment as a matter of law after a one-day hearing. The order overturned a Los Angeles federal jury's $4.7 billion verdict against the NFL finding that, between 2011 and 2023, the NFL and DirecTV violated Sections 1 and 2 of the Sherman Act by overcharging Sunday Ticket subscribers. Overturning that verdict,

the judge ordered that plaintiffs' damages experts should be excluded because their methodologies were flawed. The judge further held that because no other support for class-wide injury and the damages elements of plaintiffs' claims existed without the now-excluded experts, judgment as a matter of law was appropriate. On Aug. 20, 2024, the court further entered judgment in favor of the NFL on all claims, over plaintiffs' objections.

2. *Tevra Brands LLC v. Bayer HealthCare LLC, et al, Case No. 5:19-cv-04312 (N.D. Cal.).*

After a two-week trial, a California federal jury reached a verdict clearing Bayer of alleged monopolization and anticompetitive conduct in the topical flea and tick market. The jury deliberated for one day and ultimately found that plaintiff Tevra Brands did not prove the existence of an antitrust market for topical flea and tick products containing the active ingredient imidacloprid. Tevra had alleged that Bayer HealthCare had maintained a monopoly over the market and acted anticompetitively by entering into "de facto exclusive dealing contracts" with retailers. Tevra alleged that Bayer used contracts with retailers to sell Bayer's name-brand product exclusively in lieu of selling competing generic products like those sold by Tevra, effectively foreclosing Tevra from big-box retailers.

3. *FTC v. U.S. Anesthesia Partners, Inc. et al, Case No. 4:23-cv-03560, S.D. Tex.*

The Fifth Circuit held it lacked appellate jurisdiction and dismissed an appeal of the district court's denial of U.S. Anesthesia Partners' (USAP) motion to dismiss. The FTC's case accuses USAP of monopolizing the Texas anesthesiology market through a "roll-up" strategy. The Fifth Circuit held, in an unpublished opinion, that the interlocutory appeal targeted whether the FTC could sue USAP prior to the FTC's filing of an administrative proceeding—a constitutional argument that the Fifth Circuit held could be addressed after final order. The FTC's case accuses USAP and a private equity firm of implementing a "roll-up" strategy of purchasing other anesthesia practices in the Texas market and raising prices to match USAP's higher prices. See May 2024 GT Alert for more information on the case.

Mexico

COFECE investigates a potentially illegal transnational agreement in the fragrance market.

The Investigative Authority of the Federal Economic Competition Commission (COFECE) has initiated an investigation to determine the existence of illegal agreements between competitors in Mexico's market for fragrances and fragrance ingredients, which are used in cosmetics, personal care items, perfumes, cleaning products, and food.

During the first half of 2023, several competition agencies worldwide revealed they were investigating a possible anticompetitive agreement in the fragrance market, with potential repercussions in various regions. COFECE is collaborating with the U.S. DOJ and the UK's Competition and Markets Authority, having found indications of a possible illegal agreement affecting Mexicans.

COFECE has up to 120 business days for the investigation, with the possibility of four 120-day extensions. If COFECE finds no evidence of anticompetitive practices, it will close the investigation. Otherwise, COFECE will summon those responsible to a trial-like procedure to present their defense.

Should an absolute monopolistic practice be proven, the economic agents could be fined up to 10% of their revenues. Additionally, those who have aided, abetted, or induced these practices could also face economic sanctions. The individuals involved could receive up to 10 years in prison, according to Article 254 of the Federal Penal Code. However, those who have participated in these behaviors may avail themselves of the Commission's Immunity and Sanctions Reduction Program.

The Netherlands

Dutch Competition Authority Statements

Dutch competition authority approves collaboration between banks for sustainability reporting.

The Dutch competition authority (ACM) has released a statement following the Dutch Banking Association (NVB)'s request to examine whether collaboration between banks is allowed under competition law. According to the ACM, banks may collaborate when drafting reports on corporate sustainability, which aligns with the principle that businesses can collaborate in order to realize sustainability objectives. The ACM has informally assessed that there would be no adverse effects on competition such as a price increase or a decrease in quality, given that competition-sensitive information would not be exchanged.

Bank participation is voluntary, and the scope of this collaboration is limited to explaining the approach to reporting ESG requirements. This includes describing what data sources and calculation methods are necessary and reliable for drafting reports. The ACM expects it will contribute to the transition into a more sustainable economy.

United Kingdom

A. Merger Control

Several mergers recently received unconditional clearance, including Virgin Money's acquisition of Nationwide Building Society, which the UK Competition and Markets Authority (CMA) found did not adversely impact the markets for owner-occupied mortgages, buy-to-let mortgages, or credit cards, as the merged entity would have less than 30% of each market and would face sufficient competitive constraints from its rivals.

1. *Barratt Developments PLC / Redrow PLC – Housebuilding*.

On June 13, 2024, the CMA announced an investigation of the proposed merger of two major UK housebuilders. Barratt and Redrow compete in the supply of new-build private residential housing, which includes land acquisition and development and the planning, design, construction, and sale of new-build housing.

At the conclusion of its Phase 1 investigation, the CMA found that, although the merged business would become the largest housebuilder in Great Britain of short-term land-bank holdings by volume, the merger would not adversely impact competition at a national level. Its market share would be significantly below 20%, and it would face sufficient remaining competition from other large housebuilders in all but one local market, Whitchurch, where the parties had a significant combined presence.

To avoid the CMA referring the merger to a six-month-long Phase 2 investigation, the parties have offered to divest Redrow's unsold houses, complete construction on unbuilt houses and infrastructure to Redrow's quality standards, and provide after-sales service at a standard level and/or a level exceeding Redrow's pre-merger standards. The CMA has indicated it intends to accept the commitments after receiving public consultation.

In the meantime, the merger was effected by a court-sanctioned scheme on Aug. 20, 2024. On the same date, the CMA issued an enforcement order to ensure the companies would take no action to prejudice either implementation of the parties' commitments or the CMA's ability to impose a Phase 2 investigation

or any other remedy. The order essentially requires the Barratt and Redrow businesses to be managed independently of each other until the CMA assents.

2. *Theramex / acquisition of European rights to Viatris' Femoston and Duphaston products.*

On Aug. 12, 2024, the CMA accepted undertakings from Theramex to avoid a reference to a Phase 2 investigation. Theramex, a global pharmaceutical company specializing in women's health, announced its proposal to acquire the European rights to two hormone replacement therapy (HRT) products owned by global health care company Viatris. Importantly, Theramex was already one of the largest suppliers of HRT products in the United Kingdom, and one of Viatris' products, Femoston, was a major UK competitor to Theramex's product in a concentrated market. Theramex and Viatris have begun to divest the UK rights to the two products as an asset package, along with all UK-specific assets that are reasonably required for the buyer to commercialize the products, including inventory, customer contracts, trademarks and unregistered IP, assignment of UK production and supply agreements for the UK, marketing authorization, and regulatory materials. The parties have also agreed to provide timely access to all regulatory information and clinical data and support to the buyer.

B. Antitrust Investigations

1. *Educational software – abuse of dominance case closed.*

The CMA has closed its second abuse-of-dominance investigation of ESS, the leading supplier of software for school management information systems in the UK. In 2022, at the end of its first investigation, the CMA accepted ESS's commitments to refrain from requiring schools that previously had a one-year contract to enter new three-year contracts. At that time, ESS had over 50% market share.

In May 2024, the CMA opened a new investigation, following complaints that ESS was preventing schools from switching to an alternative supplier. The schools alleged that ESS had warned them that it would be a breach of ESS's intellectual property rights to share a copy of their ESS-generated database with the new supplier. They argued that without the ability to share the database, which contained student records such as attendance and safeguarding records, they were unable to move to the new supplier.

In announcing its closure of the second investigation on Aug. 29, 2024, the CMA stated that a considerable number of schools had, in fact, been able to switch suppliers and that ESS's share had fallen from 50% to around 46% as a result, while its main competitor, Key Group, had increased its share to 41%. In addition, database migration was made possible without infringing ESS's intellectual property.

2. *Digital sector*

Two cases in the digital sector have been closed on the grounds of administrative priorities.

3. *Ongoing investigations*

Many investigations of alleged anticompetitive arrangements continue, including in relation to freelance labor in the production and broadcasting of sports and non-sports content; the Atlantic Joint Business Agreement between American Airlines, members of International Consolidated Airlines Group, and Finnair regulating take-off and landing slots; recycling of end-of-life-vehicles; chemicals for use in the construction industry; and housebuilding.

C. Competition Litigation

1. *High Court transfers more claims against Visa and Mastercard in the Merchant Interchange Fee Umbrella Proceedings.*

On Aug. 7, 2024, and Aug. 16, 2024, the Competition Appeal Tribunal (CAT) ordered 13 more damages claims brought against Visa Europe Limited and its affiliates and Mastercard Incorporated and its affiliates to be transferred from the High Court to the CAT under the Merchant Interchange Fee Umbrella Proceedings.

The transferred claims all seek damages from Visa and/or Mastercard arising from the alleged interchange fee overcharges. The 13 cases have been designated "Host Cases."

The Merchant Interchange Fee Umbrella Proceedings were established in July 2022. The designated "Host Cases" will be bound by earlier CAT rulings on limitation and liability.

2. *Supreme Court refuses DAF Trucks' permission to appeal application.*

In March 2023, the CAT published orders setting out the damages and interest to be paid by DAF Trucks Limited (and other companies in the DAF Trucks group) to Royal Mail Group Limited and BT Group plc (and other BT Group companies). CAT ordered DAF Trucks to pay Royal Mail over £35 million and BT Group to pay over £3 million. These damages claims stemmed from the July 2016 European Commission settlement that found that certain truck manufacturers had participated in an illegal cartel.

In February 2024, the Court of Appeal dismissed DAF Trucks' appeal, finding that the CAT's broad axe approach was appropriate when quantifying damages.

Putting an end to this case, the Supreme Court has refused DAF Trucks' application for permission to appeal against the Court of Appeal judgment on the basis that an appeal would not raise an arguable point of law of public importance.

Poland

A. The Polish Office of Competition and Consumer Protection (UOKiK) Investigates Possible Resale Price Maintenance Practices in the Floor Panel Market

UOKiK has initiated an investigation into Decora, a floor-panel manufacturer, over concerns the company may have colluded with its distributors to manipulate prices for vinyl floor panels and related items such as underlays, floor profiles, and skirting boards. Other concerns relate to possible market-sharing practices.

After receiving court approval, UOKiK conducted searches with police assistance at the headquarters of Decora, Decora Trade, Sklepy Komfort, and Bel-Pol with the aim of uncovering evidence of any anticompetitive agreements.

The alleged practices under scrutiny include setting retail prices (RPM – resale price maintenance) for Decora products to match or exceed the catalogue prices provided to distributors. UOKiK also suspects Decora of enforcing compliance with these resale prices among its trading partners through sanctions, such as withholding deliveries or extending delivery times. According to UOKiK, there are also indications that agreements may have been made to limit the sale of Decora products on certain online platforms.

Authorities have not yet initiated formal proceedings against Decora or any other company involved in the case. According to UOKiK, initiation of formal antitrust proceedings and bringing charges against the implicated entities will depend on the evidence collected during the searches.

Under Polish law, a company involved in competition-restricting practices may be fined up to 10% of its turnover in the preceding year. Moreover, authorities may also impose fines on the entity exercising a decisive influence on the infringing party (e.g., its shareholder). At the same time, individual managers responsible for carrying out the collusion may face a penalty of up to PLN 2 million. Anticompetitive provisions are null and void. Entities harmed by an anticompetitive agreement may also seek damages in civil court.

B. UOKiK Orders Zalando to Improve Transparency and Award Vouchers to Customers

UOKiK has mandated that Zalando, a popular online shopping platform, must enhance its transparency to ensure that customers are fully informed about their rights when making purchases. Specifically, before customers proceed to the checkout, they must be clearly informed about the identity of the seller and the terms of the transaction.

This decision follows an investigation UOKiK initiated in July 2023, which highlighted issues related to Zalando's communication of seller information. The investigation revealed that customers were often unaware of whether they were buying products directly from Zalando or from third-party sellers offering their products on Zalando's platform. According to UOKiK, this lack of clarity may leave consumers unsure about their rights and who is responsible for handling complaints, returns, or cancellations.

As part of the resolution, Zalando must modify its website to meet the information obligations outlined in the Omnibus Directive. Additionally, customers who have purchased from Zalando's partner sellers between Jan. 1, 2023, and the date of compliance will receive a PLN 40 voucher. This voucher, valid for six months, can be used to purchase products sold directly by Zalando, including discounted items, but it cannot be used for products sold by partner sellers. Zalando will notify eligible customers about the voucher via email.

Since the Omnibus Directive took effect on Jan. 1, 2023, UOKiK has been actively monitoring online platforms to ensure compliance. Apart from Zalando, UOKiK has brought charges against Booking.com and Travelist.pl, with the latter already having taken corrective action.

Italy

Italian Competition Authority (ICA)

1. *ICA fines the port terminal operators of the port of Naples over €3 million for breach of Article 101 TFEU.*

On July 30, 2024, the ICA fined Terminal Flavio Gioia S.p.A., Consorzio Napoletano Terminal Containers S.p.A. (CO.NA.TE.CO.), Società Terminal Contenitori – SoTeCo S.r.l. (SoTeCo), and CO.NA.TE.CO. and SoTeCo's parent company Marinvest S.r.l. as the undertakings active as port terminal operators in the port of Naples (collectively, Undertakings) for breach of Article 101 TFEU.

Based on the evidence collected and on the outcomes of the proceedings, ICA found that, in order to cope with the increasing costs to operate their business, the Undertakings all agreed to introduce, each one in their respective tariffs, a new tariff item (the so-called "energy surcharge") of which they had previously arranged each term, including the amount, starting date, scope of application, and subjects to be charged.

As the ICA pointed out, such conduct represents a price cartel—one of the most serious breaches of antitrust law—and has been actively put in place by the port terminal operators between January and (at the latest) September 2023.

Accordingly, the ICA jointly and severally imposed a €2,411,365 fine on CO.NA.TE.CO and SoTeCo, and imposed a €625,974 fine on Terminal Flavio Gioia S.p.A.

As prescribed under Italian law, the Undertakings may appeal this decision to the Regional Administrative Court of Lazio (TAR Lazio) within 60 days of the notification date.

2. *ICA closes investigation into Bosch's alleged abuse of dominance in electric bike field, making company's commitments binding.*

On July 30, 2024, by accepting the company's commitments, ICA closed its investigation into Robert Bosch GmbH (Bosch) for alleged abuse of dominance in the market for e-bike drive systems.

As reported in the October 2023 Competition Currents, ICA opened an investigation into Bosch for an alleged leverage abuse. According to ICA, Bosch may have hampered the interoperability between its own e-kits and the anti-blockage systems (ABS) for e-bikes developed by Blubrake S.p.A. (i.e., Bosch's only potential competitor on the new European market for ABS for electric bikes). ICA alleged that, by doing so, it would have favored the use of its own anti-blockage systems to the detriment of Blubrake S.p.A.

ICA found that the company's commitments (as integrated after the market test results) would ensure the interoperability between Bosch's e-kits and the ABS developed by other manufacturers and seem capable of eliminating any alleged unfairness of the conduct under investigation.

Following ICA's decision, such commitments are binding on Bosch. If ICA asserts that Bosch did not comply, ICA could reopen the proceedings against Bosch and impose a fine of up to 10% of the company's total worldwide turnover in the previous financial year.

European Union

A. European Commission Updates

1. *European Commission seeks public consultation on draft guidelines regarding exclusionary abuse of dominance.*

The European Commission has opened a public consultation on the draft Guidelines it published on Aug. 1, 2024, regarding exclusionary abuses under Article 102 of the Treaty on the Functioning of the European Union (TFEU). This article prohibits companies from engaging in dominance abuse practices, including unfairly pushing competitors out of the market through tactics such as predatory pricing, exclusive dealing, margin squeezing, and refusal to supply.

The draft guidelines aim to clarify the European Commission's interpretation of the European Court of Justice (ECJ)'s case law regarding enforcing exclusionary abuses and to increase legal certainty and make the legal framework for tackling abusive conduct more coherent. They provide guidance regarding the assessment of dominance, the evidence required to demonstrate that a practice is exclusionary, and types of conduct which are subject to a specific legal test. Interested parties may submit comments to the draft Guidelines until Oct. 31, 2024. The European Commission aims to finalize the guidelines in 2025 based on the feedback received during this consultation.

2. *European Commission conditionally approves Bunge's acquisition of Viterra subject to divestiture in Central Europe.*

The European Commission has conditionally approved Bunge's proposed acquisition of Viterra. Both companies are vertically integrated and operate in the origin, trading, and processing of agricultural goods, including milled products and oilseeds. The European Commission expressed its concerns around the problematic market concentration that may result following the proposed acquisition, since both companies are active across the entire vertical supply chain for oilseeds in Central Europe, and thus have significant horizontal overlaps.

To address the competition concerns, the parties offered to divest Viterra's entire oilseed business and associated logistical assets in Poland and Hungary. The European Commission accepted this divestment, finding it sufficiently addressed competition concerns. As a result, the European Commission approved the merger, contingent on full implementation of these remedies.

3. *European Commission unconditionally clears HPE's acquisition of Juniper.*

The European Commission has unconditionally approved Hewlett Packard Enterprise's acquisition of Juniper, a networking infrastructure and security solutions supplier.

The European Commission investigated the worldwide and European Economic Area (EEA) markets for the supply of wireless access points (WAPs), wireless local-area network (WLAN) equipment, data center switches, and Ethernet campus switches. It concluded that the merged entity would maintain a moderate market position and continue to face significant competition in the relevant markets. Further, the European Commission found that the merged entity would not be capable of conducting anticompetitive tying and bundling practices in these markets. Therefore, it found that the acquisition of Juniper would not lead to a significant competition reduction in the EEA.

B. ECJ Decisions

Standalone exchange of information between Portuguese banks may constitute a restriction by object.

On July 29, 2024, the ECJ ruled on a preliminary question the Portuguese competition court brought before it regarding 14 Portuguese credit institutions who took part in a "standalone" monthly exchange of information including current and future credit spreads and risk variables. These information exchanges occurred for over a decade. The Portuguese competition authority imposed a EUR 225 million fine. The ECJ decided that such an exchange may constitute a restriction of competition by object and thus constitute a breach of Article 101 TFEU.

Despite lack of evidence that the participants took competitor information into account, the ECJ found that such an exchange may reduce uncertainty in the market regarding the future conduct of competitors. It follows from this ruling that the concept of restriction by object can be applied to a practice without an examination of any actual effects on the market. The final determination rests with the Portuguese court, which must make a factual assessment whether this information exchange meets the criteria for a restriction by object.

Greater China

China Updates Antitrust Compliance Guidance, Providing Leniency for Accredited Business Operators

On April 25, 2024, China's Anti-Monopoly and Anti-Unfair-Competition Committee of the State Council (an inter-agency committee created by the Anti-Monopoly Law of China (AML) to propose competition policy and coordinate law enforcement between ministries) published an updated version of the Antitrust Compliance Guidance for Businesses (2024 Guidance), which took effect the same day, replacing the previous version.

The 2024 Guidance provides business operators under investigation for violating AML potential incentives of reduced or exempted administrative penalties if the business operators have adopted an effective antitrust compliance system consistent with the 2024 Guidance. The detailed incentives are as follows, depending on stages of the investigation:

(i) Before Investigation. If the AML violation ceases before the administrative investigation, and if the violation is minor and causes no harm to competition, the enforcement agency may consider adoption and implementation of the antitrust compliance system as proof of the business operator's remedial action and waive any penalty on such violation.

(ii) At Commitment Phase During Investigation. The AML allows a business operator under investigation to act to remedy consequences of the suspected violation in exchange for termination of investigation by the enforcement agency. The 2024 Guidance encourages the enforcement agency to consider the business operator's antitrust compliance system when determining whether to approve the operator's commitment proposal, and the implementation of the compliance system when determining whether to terminate the investigation.

(iii) Leniency Program. The AML allows a business operator suspected of forming an illegal cartel (i.e., horizontal monopoly agreement) to voluntarily report its cartel activity and provide supporting evidence to the enforcement agency in exchange for abatement of penalties. The 2024 Guidance encourages the enforcement agency to consider whether the business operator has adopted and effectively implemented its compliance system and whether the system has mitigated or eliminated consequences of the violation, and if yes, to apply a greater abatement (e.g., greater reduction in monetary fines) of the penalties.

(iv) Determination of Penalties. The 2024 Guidance encourages the enforcement agency to consider the business operator's antitrust compliance system during its determination of penalties. If the business operator is found to have improved or effectively implemented a system that has played a vital role in mitigating or eliminating consequences of the violation, the business operator may be provided with reduction or wavier of penalty.

The 2024 Guidance requires the business operator to apply for the incentive; the enforcement agency would verify whether the operator has (a) adopted a sound compliance system, including a compliance structure and risk management system, (b) strictly implemented its system, including continuing any related commitments, and (c) put in place effective supervisory and other safeguards. The enforcement agency may impose a probation period during its verification of the antirust compliance system.

The 2024 Guidance encourages business operators to adopt a sound compliance system, including to (a) internally establish a compliance department and appoint a compliance officer, and to involve other

functional and business departments in the process of adopting and implementing antitrust policies and procedures; (b) regularly identify and assess the risk of AML violations against the business operator's own circumstances and competition status in the industry, and alert the risk to management and other business staff aware of competition-sensitive information; and (c) carry on day-to-day compliance tasks including review and supervision, consultation, reporting, and training. The guidance also encourages business operators to publish (e.g., on their website) in general terms its commitment to antitrust compliance and provide incentives and penalties for employees to effectively implement the compliance system.

Read previous editions of GT's Competition Currents Newsletter.

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