



## Antitrust and Competition

Understanding global antitrust and competition rules is a necessary and prudent part of any successful business strategy in today's global economy. These laws are complex, but they govern a broad range of business conduct: interaction with competitors; obtaining and maintaining a dominant market position; forming supplier and customer arrangements; participation in trade associations; conduct in joint ventures and corporate mergers and acquisitions. Indeed, these laws have the potential to impact virtually every aspect of a company's business plan and activities in the marketplace.

Whether your company is large or small, if it is considering forming a business alliance, moving into a new market, taking a new tack with its competitors, implementing a new production, marketing or distribution strategy, or growing through corporate development, advice concerning the requirements of antitrust and competition laws is essential. The risks and consequences of non-compliance can be severe.

### CAPABILITES

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#### Investigations

Our investigations experience is market leading and diverse. Our lawyers have represented companies in a full range of competition investigations and enforcement actions conducted by, for example, the US DOJ, US FTC, the European Commission, UK Competition and Markets Authority, the Australian ACCC, the French Autorité de la Concurrence, the German Bundeskartellamt, the Austrian Kartellgericht, the Dutch ACM, the Spanish Competition Authority, and the Korean FTC.

#### Counselling

We counsel our clients on national and international competition and antitrust laws, unfair trade practices, prospective acquisitions, price discrimination issues, abuse of dominance and intellectual property issues.

#### Mergers and Acquisitions

### KEY CONTACTS

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- Mergers and Acquisitions
- Merger Control
- Intellectual Property and Technology
  
- Financial Services
- Energy and Natural Resources
- Insurance
- Life Sciences
- Media, Sport and Entertainment
- Industrials

We have a strong multi-jurisdictional merger practice that can seamlessly coordinate filings in jurisdictions worldwide.

- Technology

We are able to help clients analyse any potential competition issues, coordinate multijurisdictional merger clearances, represent clients before regulatory agencies, analyse and negotiate potential remedies, deal with in-depth investigations and advise on merger litigation.

## Compliance Audits and Programs

Our experience is diverse and includes representing companies in a full range of competition matters. This diversity in expertise allows us to provide advice to our clients on all areas of competition compliance including auditing existing policies and procedures and enables us to provide clients with commercial and practical solutions. This includes with regards to the implementation of a compliance programme, the provision of training including on raids, or any changes to existing policies and procedures.

## Cartel Enforcement Defence

Criminal cartel enforcement is a top priority of competition Regulatory Authorities and cartel investigations, in particular those with international aspects, are on the rise.

Our team acts regularly for multinational clients and provides a globally coordinated approach in representing client before the regulators and in negotiating resolutions. The team has much experience in assisting client with leniency and amnesty applications and where necessary defends clients through litigation.

## Civil Litigation / Class Actions

Private litigation is fast becoming as important as public regulation as a means of enforcing competition law.

We have considerable experience in advising claimants and defendants in competition based litigation in a number of jurisdictions, and representing clients appealing regulator decisions to the European and domestic Courts.

## Criminal Antitrust Defence

Our team provides criminal defence to clients including in response to raids, managing disclosure, leniency negotiations with Regulators, defence of Criminal Litigation and in relation to Trials and Appeals.

## State Aid

We have a strong track record in State aid work, acting for funding bodies, recipients of aid and those who feel that their interests have been damaged by unlawful aid awarded to their competitors.

## EXPERIENCE

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- Acting for two pharmaceutical companies in separate 'pay for delay' pharmaceutical patent settlements in Europe.
- Represented Church & Dwight in the Church & Dwight v. Mayer Labs antitrust case and related FTC investigation. In granting our summary judgment motion, the California federal judge held that a C&D shelf share discount incentive rebate program involving Trojan condoms did not constitute anti-competitive monopoly behaviour. This is a significant win for the client, who has been engaged in hotly contested litigation for more than four years with competitor Mayer Laboratories. We also convinced the FTC to drop its three year investigation without a consent decree or any conditions and the FTC agreed to destroy all documents.
- Advised Etihad Airways in relation to their equity investment in Air Berlin which required both merger control and regulatory advice, as well as competition law advice in relation to commercial co-operation agreements between the two airlines.
- Advised two of the largest companies in provision of secure electronic payment technologies a complex acquisition. This involved creating cooperation between a number of competition authorities.
- Building a global compliance function with particular emphasis on antitrust, anti-corruption, antimoney laundering, international trade

regulation/OFAC, government relations, and privacy/data security for an international insurance and financial services company.

- Representing a global airline in the General Court against the European Commission's air cargo cartel decision, with simultaneous damages litigation in the UK and the Netherlands.
- Advising one of the world's largest freight forwarders in the context of a European Commission cartel investigation and a subsequent appeal to the General Courts. The team successfully secured a significant fine reduction for the client which was being investigated by anti-trust authorities, notably the European Commission and US Department of Justice, following global dawn raids across the industry in 2007.
- Acting for a global airline in complex class action cases currently pending in the US including in the Southern District of New York, Eastern District of New York and the Northern District of California District Courts. The Plaintiffs allege billions of US dollars in damages.
- Advising a Japanese manufacturer of electronic equipment, in multi-district class action antitrust litigation alleging violations of the Sherman Act and state laws in the optical disk drive industry.
- Acting for Pool Corporation and its subsidiaries in a multi-district litigation alleging violations of the antitrust laws in regard to the distribution of swimming pool products and supplies. The case is pending in the United States District Court for the Eastern District of Louisiana and is in the discovery stage.

## INSIGHTS

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### Publications

#### Antitrust Matters – September 2021

7 September 2021

#### ANTITRUST MATTERS

We are pleased to share with you a New Edition of our periodical global publication Antitrust Matters.

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#### Competition and sustainability: the need for further guidance on legitimate cooperation

7 September 2021

#### ANTITRUST MATTERS

Climate change is one of the most important priorities facing the international community. The increased focus on environmental concerns has incentivized companies to pursue sustainability initiatives. In many instances, cross-industry collaboration is important for such initiatives to succeed.

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#### Framing patents as essential facilities in Chinese antitrust: *Ningbo Ketian Magnet Co., Ltd. v. Hitachi Metals*

7 September 2021

#### ANTITRUST MATTERS

A Chinese court recently ruled in *Ningbo Ketian Magnet Co., Ltd. v. Hitachi Metals, Ltd.* that a patent-holder's refusal to license patents for producing rare-earth magnets to competitors constituted an abuse of dominance in violation of China's Antimonopoly Law (AML).

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#### Learning the lessons on excessive pricing from Aspen

7 September 2021

#### ANTITRUST MATTERS

Back in April 2017, The *Times* ran a story detailing how a drug giant had a “secret plan” to destroy a cancer medicine unless large price rises were agreed to by national purchasing authorities. A month later, the European Commission opened an investigation into Aspen.

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### **Special competition rules on digital ecosystems: Greece joins the club**

7 September 2021

On 6 August 2021 the new draft Greek Competition Bill (the "new Bill") was published for a two-week consultation. It amends the Greek Competition Law (L.3959/2011) and aims to transpose Directive (EU) 2019/1 in order to enhance the enforcement powers of the Hellenic Competition Authority.

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### **The challenges of compliance in a modern world: The changing landscape of cartel enforcement**

7 September 2021

#### **ANTITRUST MATTERS**

With the rise of technological developments, we also have seen increased risks. In this new digital world, we are creating more data year on year. Data storage, ease of communications (including the use of email and chat), along with the ease of photos and videos means that data volumes are increasing exponentially.

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### **The Challenges of Compliance in a Modern World: The Changing Landscape of Cartel Enforcement**

25 August 2021

#### **ANTITRUST MATTERS**

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### **Caveat Emptor in UK merger control: Record fine highlights the non-filing risks for buyers**

24 August 2021

The UK Competition and Markets Authority has imposed its largest ever fine for a single infringement relating to non compliance with an initial enforcement order. Serving as a reminder to buyers of the pitfalls of completing a transaction without first obtaining UK merger clearance.

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### **European Commission publishes long-awaited updated regulation and guidelines on vertical agreements**

18 August 2021

The European Commission recently published its proposed revised Vertical Block Exemption Regulation and Draft Vertical Guidelines. The new Regulation and guidelines are being brought in to replace the current Regulation which came into force in 2010 and is due to expire on 31 May 2022.

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## **The UK Bribery Act: A Perfect 10 or an uninspired 5/10?**

1 July 2021

From its conception, the UK Bribery Act 2010, which came into force on 1 July 2011, presented itself as a radical and comprehensive overhaul of UK anti-bribery and corruption law. So, a decade on, what does the score card look like?

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## **Multi-jurisdiction guide for screening foreign investments**

26 May 2021

The aim of this guide is not to substitute proper due diligence and specialized advice when conducting business, it will hopefully help the reader navigate the different FDI regimes. Particularly in this complex context and in view of the proliferation of new regimes, by explaining the key aspects of regimes including main issues to consider, thresholds and proceedings to take into consideration when investing in our globalized world.

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## **The UK Government adopts the National Security and Investment Act on 29 April 2021**

10 May 2021

With the adoption of the National Securities & Investment Act, the UK is embarking on a serious journey to toughen foreign investment rules in line with other major economies in a move prompted by concerns surrounding foreign investment in critical or sensitive sectors.

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## **The European Commission proposes sweeping new controls on foreign subsidised companies**

6 May 2021

On 5th May 2021, the European Commission published a draft new legislative proposal seeking to impose broad controls on companies which have received support from foreign (non-EU) governments.

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## **Representing individuals in interviews – the US perspective**

30 March 2021

Determining whether to consent to an interview, and any interview itself, can be pivotal.

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## **Antitrust and unfair competition lawyer John Gibson joins DLA Piper in Los Angeles**

28 January 2021

John Gibson has joined the firm's Litigation and Regulatory practice as a partner in Los Angeles.

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## **Antitrust Matters - Special edition**

17 December 2020

### **ANTITRUST MATTERS**

We are pleased to share with you a Special Edition of our periodical global publication Antitrust Matters.

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## **Competition policy and the Green Deal**

17 December 2020

In October 2020, the Commission published a call for contributions on questions about how competition rules and sustainability policies work together. With this initiative, the Commission followed in the footsteps of several national competition authorities which had already issued guidance on the topic of competition and sustainability.

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### **Market Definition Notice**

17 December 2020

The public consultation on the 23-year-old Market Definition Notice was launched over the summer of 2020. The objective behind this consultation is to determine whether the Notice is still fit for purpose and if/how it can be improved to better reflect new market developments.

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### **New competition tool and ex ante regulation of gatekeeping platforms**

17 December 2020

Over the summer of 2020, the European Commission conducted several public consultations, including two interrelated consultations of significant importance to the Commission's digital agenda.

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### **White Paper on Foreign Subsidies**

17 December 2020

The Commission's White Paper on Foreign Subsidies, which was under public consultation until 23 September 2020, focuses on how to address distortions caused by foreign subsidies in the EU.

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### **EU digital reform: Brussels seeks to regulate Big Tech and other digital services**

16 December 2020

Europe's legal framework for digital services has been unchanged since the adoption of the e-Commerce Directive<sup>1</sup> in 2000. Subsequent advances in technology, and the accompanying evolution of digital services, have resulted in more and more calls for updated regulations from market participants, governments and regulators.

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### **The UK's National Security & Investment Bill: Excessive protectionism, or necessary to align the UK with other major economies?**

18 November 2020

Laid before Parliament on 11 November 2020, the National Security & Investment Bill (the "Bill") promises to usher in a sweeping reform of the way in which the UK Government can scrutinise foreign investment.

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### **Aspen: Quick Fix But Missed Opportunity**

28 October 2020

The recent effort by the Commission to settle the Aspen case suggests that commitment decisions are the preferred route to settle complex excessive pricing cases at EU-level.

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## Antitrust Bites Newsletter - October 2020

26 October 2020

The EU General Court, with its judgments of October 5, 2020, has partially annulled the Commission's decisions that in 2017 authorized inspections against several French supermarkets due to two suspected antitrust practices contrary to Article 101 TFEU consisting of exchanges of commercially sensitive information.

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## Cartel Enforcement Global Review 2020

24 September 2020

Since DLA Piper's original review of global cartel enforcement in 2017, competition authorities have further intensified their enforcement activities in relation to horizontal collusion. Our 2020 update provides insights into trends that have emerged around the world.

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## Antitrust Matters

September 2020

### [ANTITRUST MATTERS](#)

We are pleased to share with you a New Edition of our periodical global publication Antitrust Matters.

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## It's all linked: a close look at the EC's proposed Digital Services Act and its moves to protect strategic EU industries

September 2020

The Digital Services Act (DSA) is a legislative package first announced by European Commission President Ursula von der Leyen in the political guidelines back in July 2019 and confirmed in February 2020 in the Commission's communication, Shaping Europe's digital future.

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## South Africa: Asset transactions during COVID-19 and the role of merger control approval

September 2020

### [ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)

The decision by governments to impose restrictions on businesses to slow the spread of coronavirus disease 2019 (COVID-19) has had a severe impact on the global and South African economy.

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## State aid rules in pandemic times: Flexing or bending?

September 2020

### [ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)

As of 27 August, a staggering amount of EUR1.358 billion in State aid measures to be granted by Member States across the EU to tackle the economic impact of the coronavirus outbreak had been approved by the Commission.

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## The 2019 rail franchising litigation - procurement: Legal privilege and a duty to give sufficient reasons

4 August 2020

Mr Justice Stuart-Smith handed down judgment in the 2019 Rail Franchising Litigation, one of the largest and most complex procurement and commercial judicial review claims litigated to date in the UK. In this, our second article, we examine the Court's findings as they relate to legal privilege and the duty to give sufficient reasons.

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### **Procurement law reform - Let's start a discussion**

16 July 2020

This is the second bitesize feedback note following on from DLA Piper's Panel Discussion Webinar held on 1 July 2020. This second paper now looks at the views expressed by the Panel on the vexed question of limitation periods for challenges and their impact on the conduct of procurements pre and post evaluation.

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### **COVID-19 & Antitrust: How pharmaceutical manufacturers can lawfully cooperate**

1 May 2020

#### **[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)**

On 29 April 2020, the Commission published the full text of the Comfort Letter granted on 8 April 2020 to the pharmaceutical association "Medicines for Europe" that represents a number of pharmaceutical manufacturers throughout Europe.

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### **What COVID-19 could mean for the future of the Big Tech investigations**

24 April 2020

#### **[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)**

Rather than hampering the investigations over the long term, the pandemic may open new lines of inquiry for antitrust investigators.

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### **US antitrust enforcers on high alert for collusion in labor markets during COVID-19 pandemic**

21 April 2020

#### **[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)**

Antitrust enforcers are closely monitoring employer coordination to disadvantage workers.

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### **European Commission relaxes State aid rules to counter economic impact of COVID-19**

15 April 2020

#### **[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)**

On 19 March 2020, the EU's Competition Commissioner Margrethe Vestager presented the Commission's "Temporary Framework for State aid measures" to help businesses get access to the liquidity and financial support they require to survive the economic crisis caused by the COVID-19 outbreak

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### **Antitrust and Competition: Impact of Coronavirus COVID-19**

14 April 2020

#### **[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)**

As new national restrictions on free movement of citizens are being imposed every day and a number of other measures are being



implemented by governments, the national and EU regulatory landscape is challenging for companies to navigate. In light of the current situation, several competition authorities around the world announced specific points of focus for the coming weeks.

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### **Global enforcement priorities in vertical agreements**

14 April 2020

This guide looks at Global enforcement priorities in vertical agreements in a number of important jurisdictions and is published in response to a rise in recent enforcement activity relating to vertical restrictions.

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### **Impact of COVID-19 on the financial services and insurance sectors**

14 April 2020

At the EU level, the European Central Bank (ECB) announced a number of measures to ensure that its directly supervised banks can continue to fund the real economy. European and Belgian regulators have also issued statements and recommendations regarding measures and actions being taken on the COVID-19 pandemic.

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### **EU Antitrust Framework for the coordination of essential coronavirus COVID-19 products and services**

10 April 2020

#### **[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)**

On 8 April 2020 the Commission published a Temporary Framework for the antitrust assessment of increased business cooperation between competitors in response to coronavirus COVID-19. The aim is to reduce shortages for essential products and services.

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### **European Commission relaxes State aid rules to counter economic impact of COVID-19 outbreak**

10 April 2020

On 19 March 2020, the EU's Competition Commissioner Margrethe Vestager presented the Commission's "Temporary Framework for State aid measures" (the Framework") to help businesses get access to the liquidity and financial support they require to survive the economic crisis caused by the COVID-19 outbreak. Emphasizing the need for a close European coordination of national aid measures, the Framework outlines various ways in which EU governments may support business with a focus on ensuring liquidity, which are outlined below.

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### **Antitrust Matters - April 2020**

7 April 2020

#### **[ANTITRUST MATTERS](#)**

We're pleased to share with you a new Edition of our periodical global publication Antitrust Matters.

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### **Cooperation and anticompetitive agreements: a fine line in tough times**

7 April 2020

#### **[ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD](#)**

Much is being written on coronavirus COVID-19 and the measures that governments are taking across the globe, but companies also

need increased guidance to walk the fine line between preserving businesses and complying with the Law, specifically competition law.

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### **US Antitrust enforcers issue joint statement on competitor collaboration amid COVID-19 pandemic**

27 March 2020

#### **ANTITRUST AND COMPETITION: NOVEL ISSUES IN A POST-CORONAVIRUS WORLD**

The US Department of Justice and Federal Trade Commission issued a Joint Antitrust Statement Regarding COVID-19, in which they announced an expedited procedure for evaluating proposed collaborations among competitors and other businesses working to address the pandemic.

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### **Coronavirus (COVID-19): ten practical steps for global employers, right now (Global)**

13 March 2020

These steps are not based on laws of any one jurisdiction but rather are designed to provide a global employer with themes to consider, understanding that what may be suitable for each employer may vary greatly depending on the employer's unique circumstances.

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### **Preventive Medicine: Official “Antimonopoly Compliance Guidelines for Business Operators” in China**

10 December 2019

On 28 November 2019, the State Administration of Market Regulation (SAMR) released for public comment draft “Anti-Monopoly Compliance Guidelines for Operators” (the “Draft Guidelines”). These non-binding guidelines recommend measures for “business operators” subject to the Antimonopoly Law (AML) to develop and implement antitrust compliance programmes. The Draft Guidelines integrate prevailing best practices for international compliance programmes, while reflecting the unique challenges of antitrust risk management in China.

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### **A new test for Mexico’s structural changes: antitrust reform – key points in one chart**

16 JUN 2014

This entirely new framework should be carefully analyzed by investors in structuring their Mexico-related M&A transactions and managing their existing operations

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## **NEWS**

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### **DLA Piper strengthens its antitrust practice with partner Dr Justus Herrlinger**

27 October 2021

DLA Piper will strengthen its Hamburg office with the appointment of Dr Justus Herrlinger as a new partner in the antitrust practice, effective 1 November 2021.

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### **DLA Piper strengthens Antitrust and Competition offering in Russia with new partner hire**

5 August 2021

DLA Piper has appointed Denis Gavrilov as a partner in the Moscow office and Head of the Antitrust and Competition practice in Russia. Denis joins the firm from Egorov, Puginsky, Afanasiev and Partners, together with senior associate Karin Ovakimyan.

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### **DLA Piper advises Heidelberger Druckmaschinen on the sale of MIS software provider CERM**

6 August 2020

DLA Piper has advised Heidelberger Druckmaschinen AG (Heidelberg) on the sale of CERM, a global provider of Management Information System (MIS) software for the printing industry, in a Management Buyout (MBO).

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### **DLA Piper advises BASF in connection with completion of the acquisition of Solvay's polyamide business and formation of a joint venture with Domo Chemicals**

24 March 2020

DLA Piper has advised DAX company BASF on the acquisition of Solvay's polyamide business. The transaction was completed on 31 January 2020, after corresponding agreements had been signed by both companies in September 2017 and August 2019. The purchase price paid by BASF on a cash and debt-free basis amounts to EUR 1.3 billion.

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### **DLA Piper advises Heidelberger Druckmaschinen on package of measures to increase profitability**

20 March 2020

DLA Piper has advised Heidelberger Druckmaschinen AG on the comprehensive package of measures to increase its profitability which has been announced by the company. The aim is to reduce structural costs at short notice and to sustainably improve the company's profitability. This will significantly improve Heidelberg's financial stability.

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### **DLA Piper gets approval from German Federal Cartel Office for EWE and Telekom Deutschland joint venture**

7 January 2020

In merger control proceedings, DLA Piper has achieved approval from the German Federal Cartel Office for the establishment of a joint venture between Telekom Deutschland GmbH and the energy and telecommunications company EWE AG. The joint venture, Glasfaser NordWest, is to supply up to 1.5 million households and company sites in parts of Lower Saxony, North Rhine-Westphalia and Bremen with fibre to the home (FTTH).

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### **DLA Piper advises Guala Closures Group on the acquisition of the assets of Germany's Closurelogic**

6 January 2020

DLA Piper has advised the Guala Closures Group, one of the world leaders in the production of security closures for spirits and aluminium closures for wines, as well as one of the major world producer and distributor of aluminium closures for the beverage industry, on the acquisition of the activities of Closurelogic GmbH, the German producer specialised in the aluminium closures.

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