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EU Policy and Regulatory Newsletter

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ANTITRUST AND COMPETITION

Competition Cooperation Agreement Between the European Union and the United Kingdom

On 29 October 2024, the European Union and the UK government finalized the technical discussions on a competition cooperation agreement. This agreement will enable closer cooperation between the UK Competition and Markets Authority and the European Commission, as well as EU Member States' national competition authorities, in antitrust investigations.

ENERGY

Breakthrough Agreement at COP29 on Global Carbon Markets

On 11 November 2024, negotiators achieved a landmark agreement at COP29 operationalizing Article 6.4 of the Paris Agreement, paving the way for the UN-supervised mechanism for international carbon trading and aiming to boost carbon markets while directing resources toward developing nations.

FINANCIAL AFFAIRS

European Commission Launches Public Consultation on the Functioning of the Securitization Framework

The European Commission is seeking feedback on the potential revision of the European securitization framework to strengthen and support the European economy.

ANTITRUST AND COMPETITION

Competition Cooperation Agreement Between the European Union and the United Kingdom

On 29 October 2024, the European Union and the UK government concluded negotiations on the EU-UK competition cooperation agreement. The new cooperation agreement will be a supplementing agreement to the

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Trade and Cooperation Agreement (TCA) between the European Union and United Kingdom that foresees the possibility to enter into a separate agreement on competition cooperation.

The EU-UK competition cooperation agreement, which has not yet been made public, will enable the European Commission (the Commission), national competition authorities of the EU Member States, and the UK Competition and Markets Authority (CMA) to cooperate directly in antitrust investigations. Similar agreements are already in place between the European Union and the United States, as well as between the Commission and the Swiss Competition Commission (SCC).

The cooperation agreement will provide a framework to ensure that important antitrust and merger investigations are brought to each other's attention and will set out principles of cooperation between the agencies aimed at avoiding any conflicts between jurisdictions. The cooperation agreement is also expected to provide rules on the exchange of information with respect to antitrust and merger investigations. The Commission stated that an information exchange between the agencies will still require the consent of the undertaking supplying the information (the so-called “waiver”).

The chief executive officer of the CMA, Sarah Cardell, stated that the cooperation agreement allows the CMA “to work even more closely with EU competition authorities on shared cases and common competition issues.” This was echoed by the Commission, which stated that the cooperation agreement will implement “a predictable and transparent framework, exploiting the full potential of the TCA [. . .] to the ultimate benefit of European business and consumers.”

Since Brexit, there have been several high-profile digital mergers where the CMA and the Commission came to different conclusions, e.g., Amazon/iRobot or Booking/eTraveli. In that respect, the cooperation agreement may reduce the risk of diverging conclusions in antitrust investigations in the European Union and the United Kingdom by facilitating and encouraging more cooperation between the agencies. The agreement could also further enforce the upward trend of future investigations globally due to the closer cooperation. For instance, in March 2023, the Commission coordinated dawn raids of fragrance manufacturers with the CMA, SCC, and US Department of Justice (DOJ). Additionally, in October 2023, the Commission conducted dawn raids of construction chemical companies in cooperation with the CMA, DOJ, and Turkish Competition Authority.

Both the European Union and the United Kingdom still need to finalize their ratification procedures for the competition cooperation agreement. As a next step, the Commission will prepare proposals for the Council of the European Union to finalize the agreement, and the European Parliament must also give its approval. The agreement is expected to be signed in 2025.

ENERGY

Breakthrough Agreement at COP29 on Global Carbon Markets

On 11 November 2024, negotiators from nearly 200 nations achieved an agreement at the United Nations Climate Change Conference (COP29) in Baku, Azerbaijan, operationalizing Article 6.4 of the Paris Agreement. The agreement will pave the way for the UN-supervised mechanism for international carbon trading and aims to boost carbon markets while directing resources toward developing nations.

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Article 6 of the Paris Agreement provides mechanisms for voluntary international cooperation to meet climate targets. Article 6.4, specifically, creates a centralized UN-backed carbon market where nations or private entities can generate and trade carbon credits derived from verified emission reductions. These credits, each representing one ton of carbon dioxide removed or avoided, can then be purchased by countries or companies to offset emissions, fostering cost-effective global mitigation efforts.

The Article 6.4 Supervisory Body, tasked with setting operational standards, earlier adopted requirements for project methodologies and carbon removals. This paved the way for the COP29 negotiators to finalize the framework, a move seen as a breakthrough after years of stalled negotiations.

This framework is expected to transform global carbon markets by enhancing transparency, credibility, and demand for carbon credits. The decision addresses long-standing integrity concerns, which have plagued voluntary markets, and sets the stage for a robust international trading system.

Although the Article 6.4 framework is now operational, many elements remain unresolved. Negotiations will continue on Article 6.2, which governs bilateral trading of emissions credits, and on further refinements to methodologies and governance.

FINANCIAL AFFAIRS

Commission Launches Public Consultation on the Functioning of the Securitization Framework

On 9 October 2024, the Commission launched a targeted consultation on the functioning of the EU securitization framework, including the Securitisation Regulation, the Capital Requirements Regulation (CRR), and the Liquidity Coverage Ratio Delegated Act under CRR.

The consultation document outlines the current EU securitization framework to assess shortcomings to its functioning and identify areas for improvement. The Commission underlines that the European securitization market has not reached its full potential compared to other economies, and further work should be accomplished to facilitate access to finance for European companies. Stakeholders have raised concerns about several aspects of the existing framework, including high barriers to entry, stringent capital and liquidity requirements, and the cost and complexity linked to compliance with transparency and due diligence standards. These issues deter investment and limit the benefits of securitization for the broader EU economy. In response to these challenges, the Commission's consultation seeks detailed feedback across several areas.

The consultation document covers questions in relation to the framework's jurisdictional scope and specific legal definitions, including “securitization” and “sponsor,” which may require further clarification or amendment. While essential for risk assessment, the document also covers due diligence requirements that are seen as disproportionately burdensome, especially for smaller market participants. Potential simplification options are put forward, namely the introduction of principle-based requirements for certain investors, simplified templates for reporting requirements, or relaxing standards for simple, transparent, and standardized transactions. Importantly, the consultation document explores the creation of a pan-European securitization platform with reduced issuance costs and offering a public guarantee for specific types of securitizations. Finally, the document covers

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supervisory practices across EU Member States and puts forward potential models for coordinated supervision to achieve consistency and efficiency across jurisdictions.

The consultation will run until 4 December 2024, and it is open to specific market participants with expertise in the European securitization market (e.g., issuers, sponsors, investors, or third-party verifiers).

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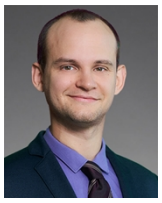

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