

SEVENTH ANNUAL

# Staying Competitive and Compliant in the EU

## 2013 Key Developments on Competition Matters

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# Staying Competitive and Compliant in the EU

## 2013 Key Developments on Competition Matters



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# Staying Competitive and Compliant in the EU

## 2013 Key Developments on Competition Matters



This is the seventh in a series of annual webinars presented by Foley & Lardner LLP on important competition issues posed for companies doing business in the EU.

The first six presentations focused on the following topics: European Community and EU member state merger control policies, European competition law and procedures, including vertical restraints, technology licensing, cartel enforcement, competitor collaborations, trends and developments in European competition law, including privilege, private remedies, class actions and best practices for compliance.

The text and the audio of each of these preceding webinars is available on the Firm's website – [www.foley.com](http://www.foley.com). Click on services and then antitrust for access to these materials.

# 2013 Developments and 2014 Prospects



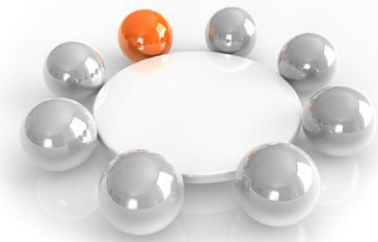
- Introduction
- EU Merger Developments: Statistics, Key Decisions, Simplified Procedures, Minority Interests, EU/National Merger Control
- Distribution: Internet, Exclusivity, RPM and MAP
- Notice on Agreements of Minor Importance (“De Minimis”)
- Cartel enforcement: Key Developments
- Unilateral Conduct
- EU and Member State Private Damage Actions and Leniency: An Update
- 2014 Prospects

# Goals and Structure of European Union



- Rooted in long history of cultural, linguistic social divisions and rivalry/war
- Since the end of WWII, Europe sought economic integration as a vehicle to resolve past conflicts
- Its goal is to create a common economic market for the betterment of all
- Elimination of intra-Europe custom duties, quantitative restrictions and imposition of a common commercial policy toward third countries: Free Movement; Justified Barriers, Proportionality, Mutual Recognition, Precautionary Principle
- Creation of a system of competition principals and procedures working with member states – Revolution from 1962 central *ex-ante* control authority to 2004 devolution of direct application of competition principles to national courts and competition authorities

# Growth of European Union : From 5 to 28 (1952-2014)



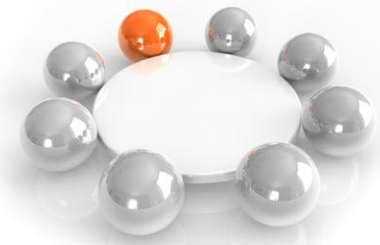
- 1951 – Belgium, France, Germany, Italy, Luxembourg and Netherlands form European Coal and Steel Community
- 1957 – Treaty of Rome creates European Economic Community or Common Market
- 1973 – Denmark, Ireland and United Kingdom join the EU
- 1981 – Greece becomes member of the EU
- 1986 – Spain and Portugal join the EU
- 1995 – Austria, Finland and Sweden become members of the EU
- 2004 – Czech Republic, Cyprus, Estonia, Hungary, Latvia, Lithuania, Malta, Poland, Slovenia and Slovakia join the EU
- 2007 – Bulgaria and Romania join the EU
- 2013 – Croatia becomes latest member

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EU remains the largest trading partner of the United States. It is the largest destination of U.S. outbound investment with 400+ million consumers

Competition is a key driver in this process to create a single market

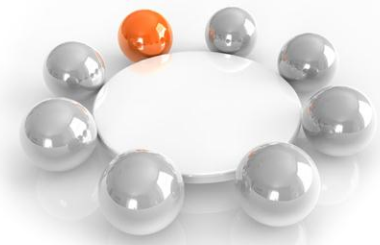
# Basis Competition Policies/Procedures:



<http://ec.europa.eu/competition> and  
[http://ec.europa.eu/internal\\_market](http://ec.europa.eu/internal_market)

- Treaty provisions prohibiting undue horizontal and vertical restraints, abuse of dominant positions, state aids that affect member state trade and commerce
- Treaty provisions providing for cooperation between EU and member states in regulating competitive behavior
- Treaty provisions relating to the free movement of goods, people, services and capital in an internal market
- Legislative Process: Interrelated Role of Key Institutions: Council, Parliament and Commission
- Regulations, directives, notices, guidelines
- Greater responsibilities of national competition authorities and national courts

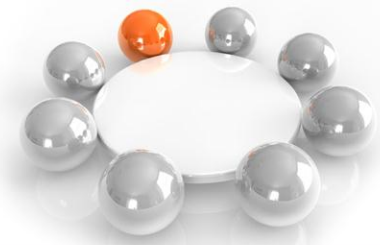
# EU Merger Developments



- Basic Regulation: Merger Regulations, Notices and Guidelines
- Thresholds: EU Dimension and Relationship to Member State Authority
- Statistics
- Key Decisions
- Policy/Procedure Developments

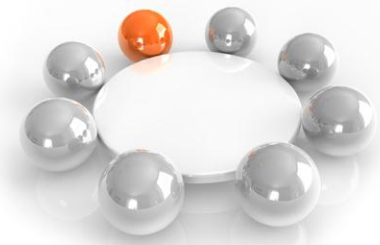


# EU Merger Developments



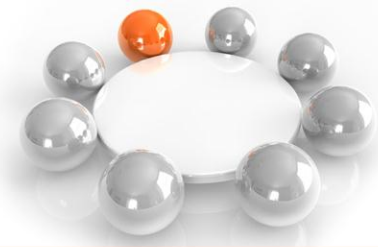
- See <http://ec.europa.eu/competition/mergers/legislation/legislation.html>
- Merger Regulations
- Notices and Guidelines
  - Consolidated Jurisdictional Notice
  - Simplified Procedure
  - Case Referrals: Division of Competency: Referral to Commission and Referral to Member States (Pre- and Post- Notification)
  - Notices on Substance: Horizontal and Non-Horizontal Relevant Market, Remedies, Ancillary Restraints
  - Best Practices: Submission of Economic Evidence, Market Share Ranges, Merger Control Procedures, Divestiture Commitments
  - Cooperation on Merger Control: Within EU and International

# EU Merger Developments



- EU and Member State Merger Control: Exclusive Spheres of Competence
- Shared Responsibilities
- Concept of a Community Dimension
- Acquisition of Control
- Concentrations
- Joint Ventures – Cooperative and Concentrative

# EU Merger Developments: Statistics



	<u>2010</u>	<u>2011</u>	<u>2012</u>	<u>2013</u>
Notifications	274	309	283	277
Referrals (accepted/rejected)	Small number of matters each year			
First Phase Compatible (including commitments)	267	304	263	264
Phase II Initiated	4	8	10	6
Second Phase Decisions				
Compatible	1	4	1	2
Compatible with Conditions	2	1	6	2
Prohibition	0	1	1	2

# EU Merger Developments: Key Decisions



## Mergers Prohibited

- Ryanair/Aer Lingus III - Merger to monopoly, closest competitor loss/Remedies (divestitures) insufficient to satisfy EC objections
- UPS/TNT - Merger of close competitors/Create duopolies in number of countries/verifiable efficiencies?

## Failing Firms

- Aegean/Olympic and Nynas/Shell/Harburg Refinery – Failing condition of target negating anticompetitive consequence/Article 102 threat/Horizontal Merger Guidelines

## Upfront Purchaser

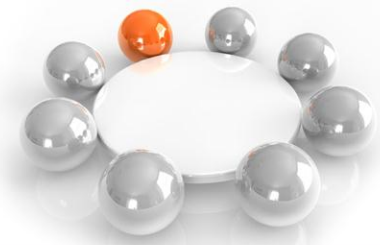
- Syniverse/MACH - Implications for curative divestiture commitments

# EU Merger Developments: Policy Procedure Issues



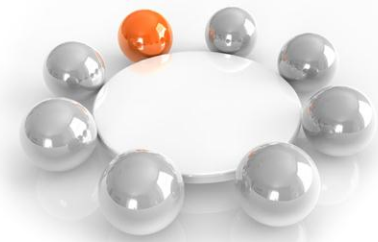
- **Simplified Procedures under EU Merger Regulations – December 5, 2013**
  - Enlarged Qualification for Simplified Review
    - Horizontal overlap markets: threshold raised from 15% to 20%
    - Vertically related markets: threshold raised from 25% to 30%
    - Combined share between 20%-50% of HHI Delta is less than 150
  - Streamlining Notification Form, Reducing Required Information, Possible Waiver of Information
  - Possible Elimination of Required Pre-notification Consultation
  
- **Proposal for Notification of Minority Shareholding – June 2013 Proposal**
  - EUMR jurisdiction to review transactions conferring control
  - Proposed change would cover transactions falling short of conferring control but which give minority shareholder ability to influence target competitive behavior – e.g., over pricing
  - Structural limbs source of concern widely criticized by commenters who feel concerns can be dealt with through Articles 101 and 102
  - Proposal criticized as well as creating uncertainty because of lack of clarity on “structural links” concept

# EU Distribution



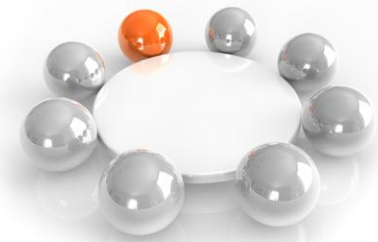
- Vertical Restraints Legislation – <http://ec.europa.eu/competition/antitrust/legislation/legislation.html>
- Important Structural Differences between EU Vertical Restraints Activity and Other EU Competition Activities: Compare Merger Cartel Enforcement with Vertical Restraints – Policy/Enforcement
- Summary of Continued Critical Issues: Exclusivity, Online Sales, RPM and MAP
- Notice on Agreements of Minor Importance (De Minimis Notice)
- Compliance Matters – Significant Differences between EU and US Models in Vertical Restraints Area

# EU Distribution: Policy Setting and Devolution of Enforcement



- During 2013, there were no EU cases involving vertical restraints
- Importantly, there were no EU decisions clarifying the acceptability of a movement away from a strict per se illegal view of RPM in favor of a more “rule of reason” approach towards RPM
- This new approach was set forth in the 2010 European Commission rules on vertical restraints (Regulations 330/2010) and accompanying guidelines (May 19, 2010)
- These guidelines suggesting that such RPM practices might be sustained as legal because of efficiencies which would, of course, have to be demonstrated
- This remains a very hard sell in the EU
- On the other hand, while policy articulation remains centered in Brussels, enforcement action is dispersed in the 28 EU member states
- There were a number of judgments delivered at national level condemning RPM, including the recent ruling by the highest court in France bringing to an end to the Luxury Perfumes case
- The Cour de Cassation upheld a fine of more than € 40 million imposed on 13 luxury perfume manufacturers (including Chanel and Guerlain) and three giant retailers on the French market for price fixing (Cour de cassation, chambre commerciale (11 June 2013))
- The luxury perfume manufacturers imposed a “recommended retail price” for the perfumes, set a maximum discount off the recommended retail price and introduced a pricing control system
- The justification advanced by manufacturers of the need to protect their brand image cannot justify the restrictions placed on free price determination, according to the French Court

# EU Distribution: Summary of Important Principles



## Exclusive and Selective distribution

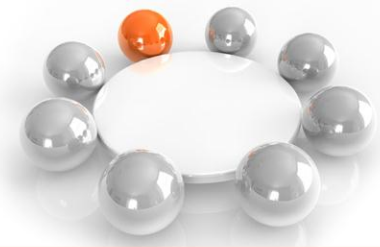
- EU rules remain less favorable than US rules
- As a general rule, suppliers may restrict “active” sales by distributors to a specific territory or a customer group
- However, absolute restrictions that prohibit passive sales are unlikely to be allowed

## Online sales

- EU rules remain less favorable than US rules
- Online sales considered as a passive form of selling any absolute prohibition on internet sales likely to be considered illegal
  - Absolute ban on Internet sales in selective distribution system is a restriction by object, unless the ban can be objectively justified - Pierre Fabre ruling (C-439/09)
  - Restrictions to Internet sales in selective distribution system only acceptable if equivalent to the criteria imposed for the sales from brick and mortar shops



# EU Distribution and Online Sales



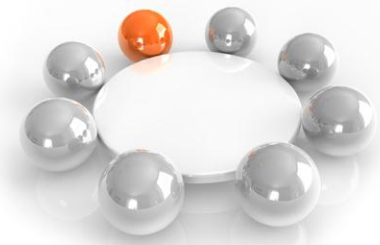
Other internet selling restrictions considered as hardcore restrictions that cannot be exempted:

- Charging a reseller a different price depending on whether the product is resold online or offline
- Limitation on the proportion of overall sales made over the Internet
- Compulsory re-routing of ‘foreign’ customers to their national websites
- Terminating internet transactions if ‘foreign’ credit cards are used

Online sales restrictions likely to be permitted under EU law:

- Certain objective standards of quality for a distributor’s website provided they are equivalent to the conditions applicable to offline sales
- Prevent distributors from selling only through the Internet (suppliers are allowed to refuse to supply pure online players)
- Require that a certain amount of the products be sold offline and agree on a fee with the distributor to support the latter’s online or offline effort

# EU Distribution: RPM



- Major Differences from U.S. federal antitrust law
- Resale Price maintenance (RPM):
  - Maximum, minimum or fixed price
  - But does not normally include genuinely non-binding price recommendations
- RPM regarded in EU as
  - A hardcore restriction: BER does not apply
  - Agreement including RPM are presumed to restrict competition and to fall within Article 101(1) even when included in agreement that do not appreciably restrict competition
  - See proposed EU Commission clarification

# EU Distribution: RPM and MAP



## Maximum or recommended resale price

- Generally considered to fall outside the scope of Article 101 and are valid
- Covered by the BER provided it does not amount to a minimum or fixed resale price as a result of pressure from, or incentives offered by, any of the parties
- Companies issuing price recommendations are not allowed to enforce them and penalize their distributors who choose not to follow them

## MAP or Minimum advertised price

- *Minimum Advertised Pricing (MAP)* policies prohibit resellers or dealers from advertising a manufacturer's products below a certain minimum price
- MAP policies are intended at controlling the price at which products can be advertised but not the ultimate price at which the products may be sold
- Considered as an « indirect RPM » under EU law
- Conclusions reached for RPM apply for MAP
- While not per se illegal, strong negative presumption in the EU against MAP

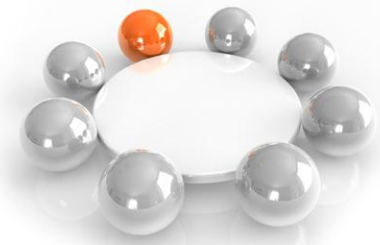
Different result normally in the United States. However, see ABA Antitrust Section, The Antitrust Source (December 2013) for an updated overview chart of U.S. state RPM developments ([https://www.americanbar.org/publications/the\\_antitrust\\_source.html](https://www.americanbar.org/publications/the_antitrust_source.html)) Many U.S. states prohibit RPM.

# EU Distribution: Notice on Agreements of Minor Importance (De Minimis Notice)



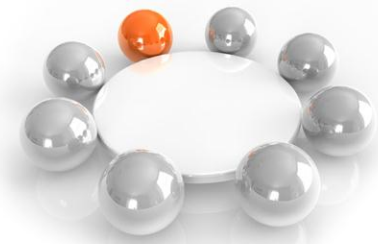
- On July 11, 2013, the European Commission seeks to revise its 2001 Notice on agreements of minor importance (so-called *de minimis* Notice) which do not appreciably restrict competition and which may therefore not be prohibited by Article 101(1) of the Treaty on the Functioning of the European Union (TFEU) ([http://ec.europa.eu/competition/consultations/2013\\_de\\_minimis\\_notice/index\\_en.htm](http://ec.europa.eu/competition/consultations/2013_de_minimis_notice/index_en.htm))
- Agreements entered into between companies whose market share does not exceed 10% on any of the relevant markets affected by the agreement, where the agreement is entered between competitors or 15% for agreements between non-competitors are considered rarely capable of appreciably affecting trade between Member States or competition within the EU territory as they usually do not display a sufficient Community interest to justify investigation
- In short, agreements covered by the *de minimis* Notice are considered to be of minor importance and are not considered by the European Commission to violate EU competition law

# EU Distribution: Notice on Agreements of Minor Importance (De Minimis Notice)

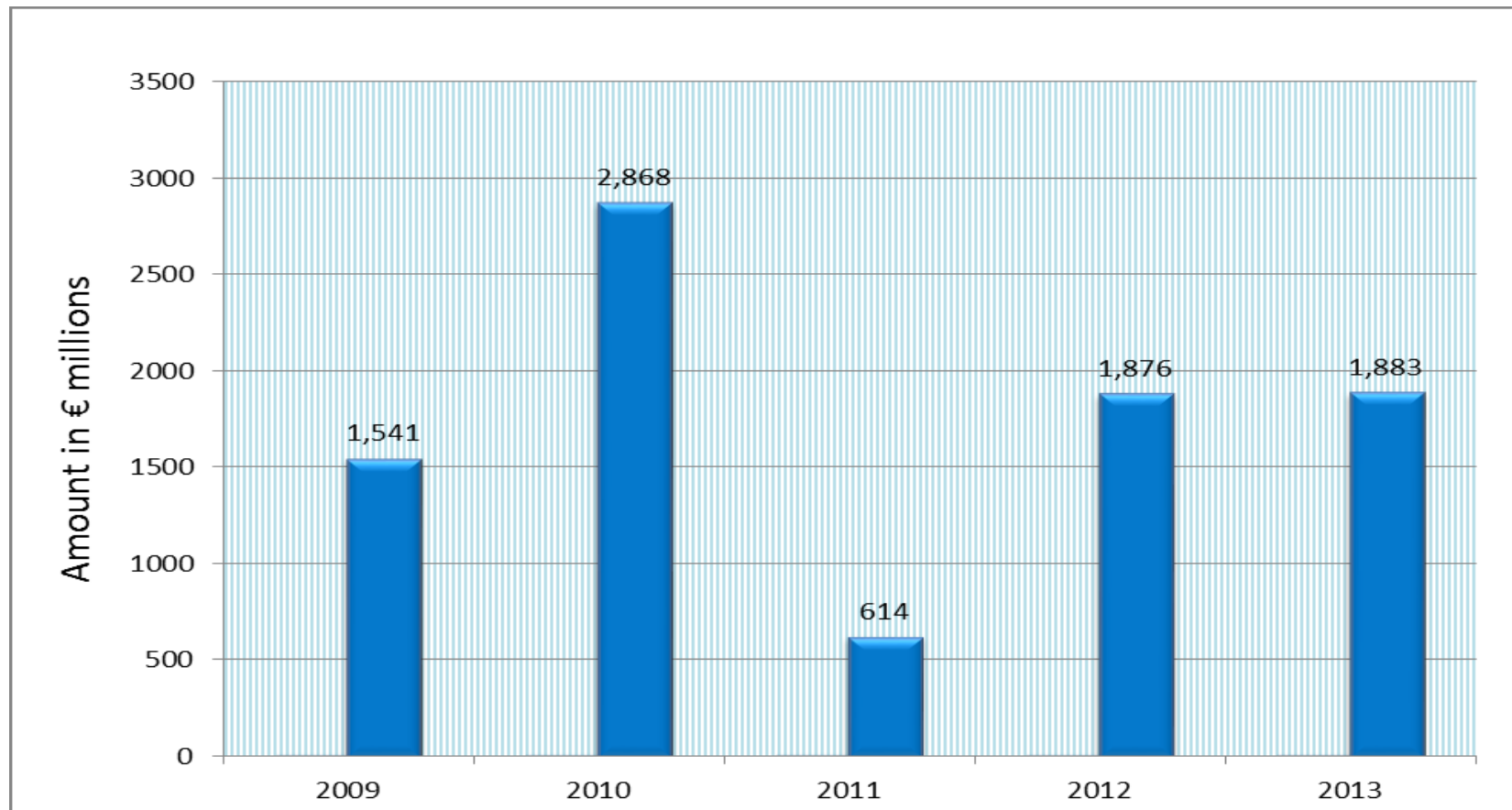


- However, draft revised Notice presupposes, that these agreements do not contain any hardcore restrictions such as price fixing, output or sales limitations, and markets or customer allocations that are very serious restrictions for which there is a presumption of anti-competitiveness
- The Commission wants to bring the notice in line with the Expedia judgment
- In Expedia, the Court of Justice ruled that a national competition authority is not required to take into account the thresholds established in the De Minimis Notice in order to determine whether or not a restriction of competition is appreciable
- The Court concluded that an agreement that affects interstate trade and has an anticompetitive object constitutes an appreciable restriction on competition *per se*
- Accordingly, this revision of the de minimis notice suggests that the Commission would consider *per se* illegal a resale price maintenance obligation or an absolute exclusive dealing arrangement in a vertical agreement that has an effect on interstate trade even when the two parties to the agreement only have minor market shares
- After 2004 modernization, this could precipitate substantial national competition authority and member state court activity

# EU Cartel Enforcement Cartel Statistics

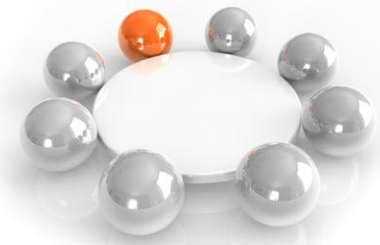


## ■ Total fines imposed by the Commission

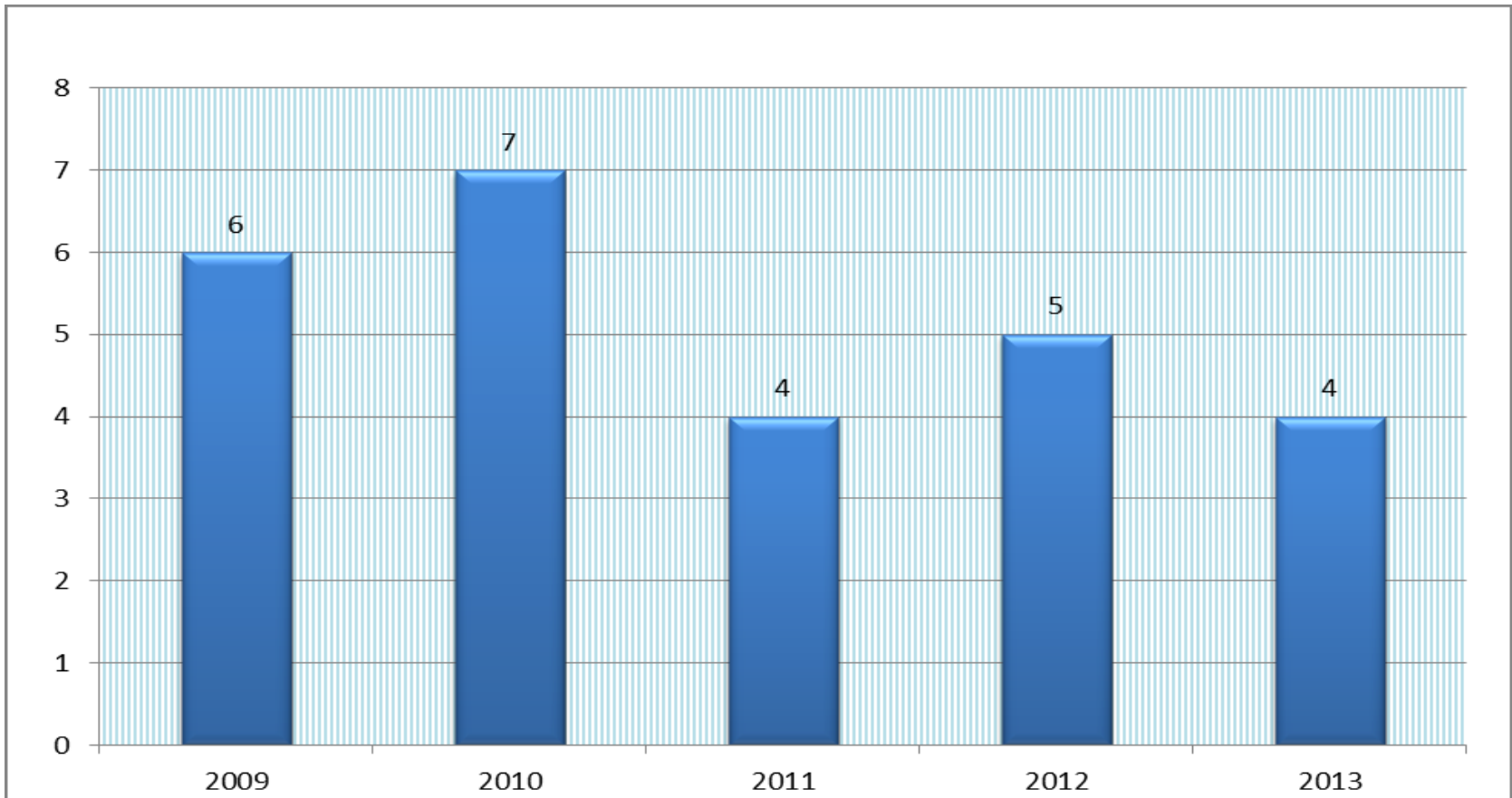


<http://ec.europa.eu/competition>

# EU Cartel Enforcement Cartel Statistics

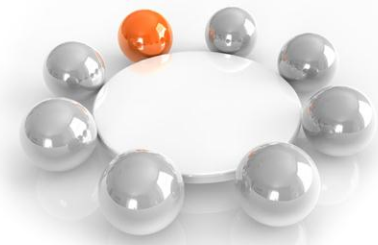


- Number of cartel decisions

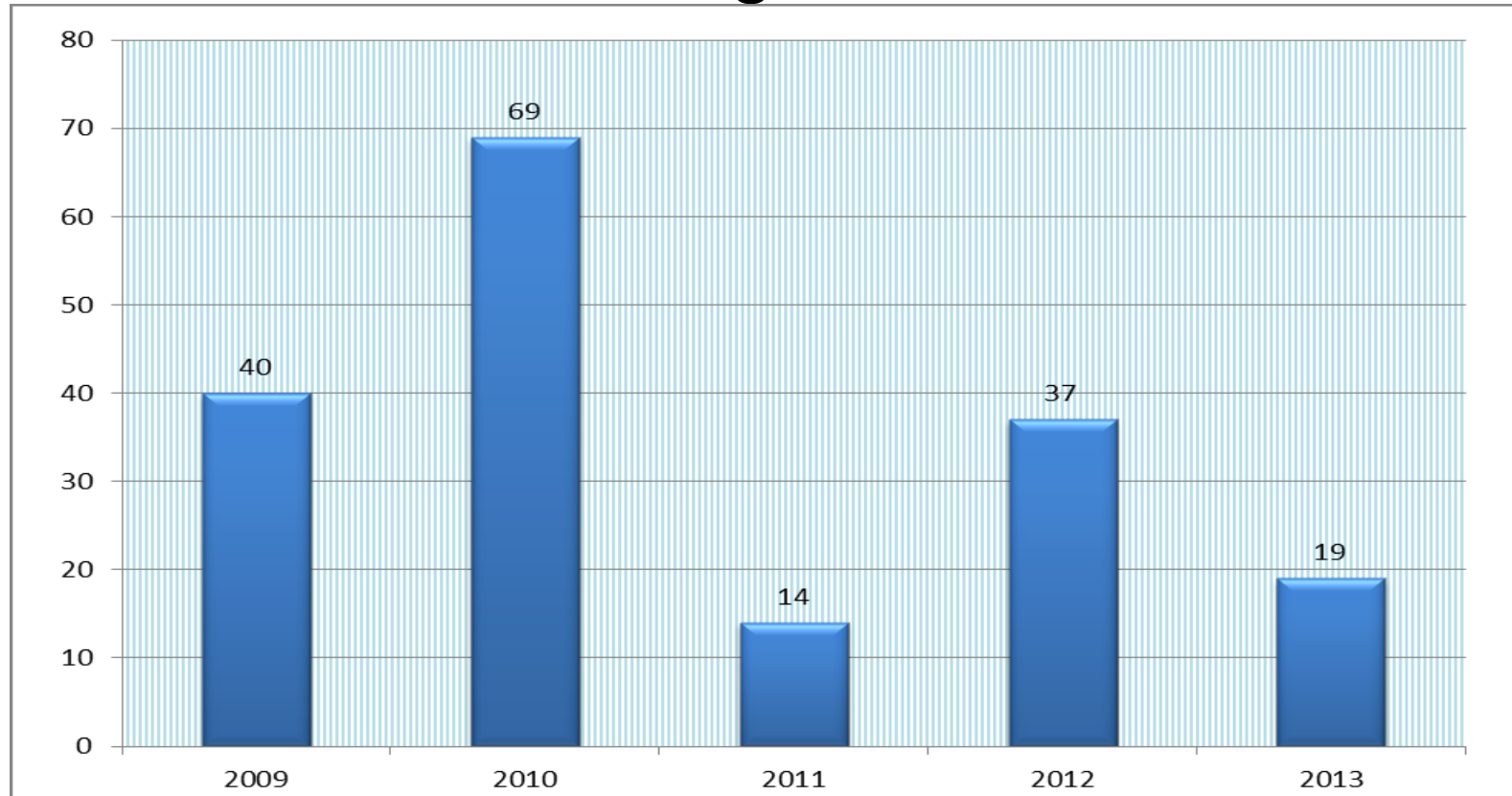


<http://ec.europa.eu/competition>

# EU Cartel Enforcement Cartel Statistics



## ■ Number of undertakings\*

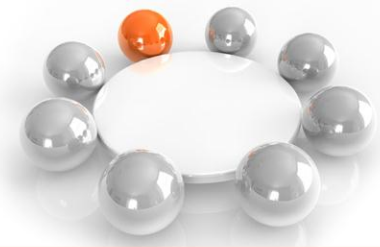


\* Includes entities not fined such as immunity applicants

<http://ec.europa.eu/competition>

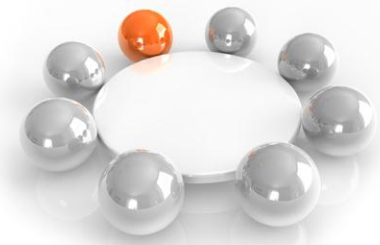


# EU Cartel Enforcement Commission Decisions



- Not so many decisions:
  - Automotive Wire Harness
    - Decision of 07.10.2013 – Commission’s 7th settlement case
    - Involving 5 car parts suppliers for operating 5 different infringements (tender for each car manufacturer )
    - Total fine of €141 million
    - Full immunity for Sumitomo avoiding a fine of €291 million
  - Shrimp
    - Decision of 11.27.2013 against four European North Sea shrimp traders involved in price fixing
    - Total fine of € 28 716 000
    - Full immunity for the company who was the first to bring the cartel to the EU’s attention & provided valuable information
    - Inability to pay application rejected

# EU Cartel Enforcement Commission Decisions



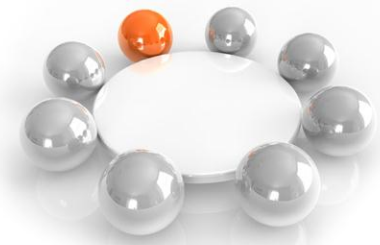
## Interest rate derivatives industry (2 cartel cases)

- Decisions of 12.4.2013 – 8th and 9th settlement decisions
- Record fine of €1.7 billion => highest cartel fine ever imposed by the Commission and levied against 6 banks for manipulation of LIBOR and EURIBOR benchmarks
- Full immunity for UBS and Barclays for whistle-blowing on the cartel, avoiding fines of €2.5 billion and €690 million, respectively
- Investigation to continue under the standard procedure for the banks that did agree to settle

## While not a « pure » cartel case: Lundbeck decision of 06.19.2013

- Total fine of €145 million against pharmaceutical companies entered into 'pay for delay' agreements for generic versions of a major anti depression drug
- Patent rights coming to the end of the protection cycle and generics attempted to enter the market. Payments made by the patent holder – Lundbeck, in return for generic companies delaying entering the market

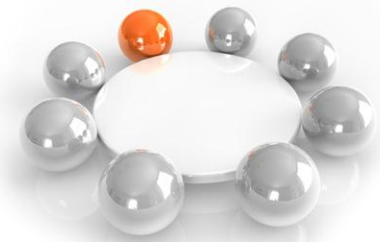
# EU Cartel Enforcement Commission Decisions



- Number of fines issued this year was relatively low until December with the record €1.7 billion fines in the financial derivatives markets;
- While not so many decisions, great number of on-going Commission investigations likely to be decided in 2014
- Most decisions based on immunity applications
  - More than €16 billion in cartel fines imposed and 500 undertakings sanctioned since operation of the Commission's leniency programme
- Settlement procedures: shorter and covered most of the cases in 2013
- Inability to pay: careful review of the stringent conditions dealt with by an expert team at DG COMP

# EU Cartel Enforcement

## EU Courts Cases



Many cartel appeals :

- Third party access to documents in cartel proceeding: national law precluding third party access to document in a national court's cartel case file, absent the consent of the parties to the cartel proceedings => any absolute rule for non-disclosure is incompatible with EU law. (Donau, June 2013)
- NCA not allowed to rule that no breach of 101 TFEU: Companies cannot rely on a decision by a national court or the advice of their legal counsel both concluding to absence of infringement under national competition law that their conduct does not amount to a cartel under European competition law. (Schenker, June 2013)
- Information exchange between non-competitors: cannot be presumed to be a breach of Article 101(1) TFEU. A company sharing its pricing information with companies active on other product markets cannot be presumed to have infringed EU competition law. Commission must demonstrate that competition was affected on each separate product market. (Bathroom fittings cartel appeal - September 2013)
- EU may be liable for compensation: in case of excessive length of cartel appeal proceedings (5 years and 9 months in this case) – action for damages to be brought before the General Court, (November 2013 – Gascogne /Kendrion)

# EU Cartel Enforcement

## EU Courts Cases

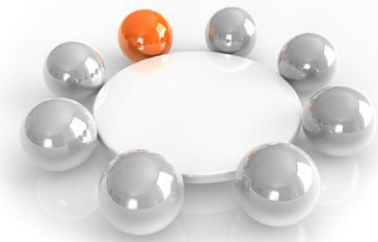


### Parent liability

- Akzo still stands: parent liable for the activities of its subsidiary if parent exercises decisive influence over that subsidiary and constitutes with the subsidiary a single undertaking within the meaning of Article 101 TFEU
- Decision influence is a question of economic reality, not company law: existence of separate legal personalities or economic autonomy irrelevant (Total, 2013); what legal form the entity holding shares in a subsidiary takes (undertaking or not) is irrelevant (Gosselin, July 2013)
- Parent liability for jointly controlled JV (50/50) over which parent exercise decisive influence confirmed. Negative control is enough; awareness by a parent company is not a precondition of liability (September 2013 – Dow and DuPont)
- Presumption of parental liability compatible with the presumption of innocence: presumption can be rebutted if parent gives evidence that its subsidiary acted autonomously (November 2013, Gascogne)

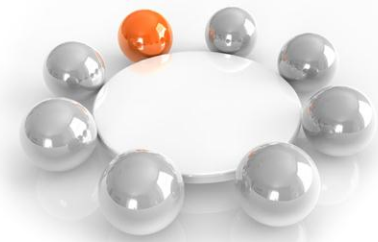
Successor liability: a parent cannot be held liable for the cartel activities of its subsidiary 5 years after having sold it and absence of liability of purchaser for infringements prior to the transfer. (Marine Hose cartel, May 2013)

# EU Cartel Enforcement Policy Issues



- Revised Guidance on Conduct of Dawn Raids (Explanatory note of 18 March 2013)
  - Obligation for undertakings to cooperate fully and actively (IT staff needs to be made available to assist: blocking of emails accounts, removing and re-installing hard drives (..)).
  - Powers of inspectors to search the IT environment and storage media including laptops, tablets, mobile phones, etc. => EC collects information using its own search tool - NUIX system (demo available on DG Competition website)
  - At the end of the inspection, right of inspectors to take a secured copy of data still to be searched back to the Commission premises to continue the selection process
  - Right for undertakings to consult external company counsel during the inspection but any delay in arrival must not impede the investigation

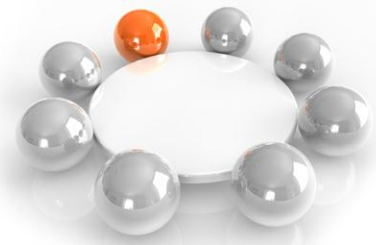
# EU Cartel Enforcement Policy Issues



## Updated guidance on the delivery of oral corporate statements for leniency applicants (8 October 2013)

- Oral statements must be « clear, factual and to the point »
- Should focus on the alleged cartel activity and not contain any general market information
- Cannot contain business secrets or other confidential information
- Oral statements are recorded: accuracy of audio files and Commission transcripts to be checked by the applicant within a given time period

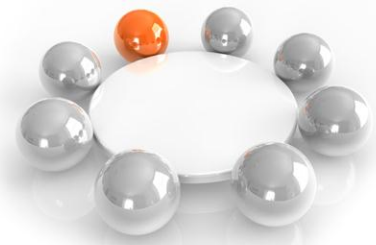
# Unilateral Conduct



- Microsoft fined €561 million for failing to comply with its commitments to offer users browser choice (Commission decision of March 6, 2013)
  - First fine for breach of commitments
  - Microsoft failed to implement the core of its commitments: serious infringement
  - 15 million EEA users affected by Microsoft's infringement
- Google: alleged to be dominant for web search and search advertising. First commitments offered by Google received negative feedback and Commission asked Google in July 2013 to significantly improve its proposal. New revised commitments submitted by Google in October 2013 and market tested with interested parties.
- Deutsche Bahn (DB): Commission accepted commitments offered by DB regarding its pricing system (margin squeeze favoring DB rail operators) for traction current (electricity used to power locomotives) in Germany with the introduction of a new pricing system to apply uniformly to all railway companies and facilitate entry for alternative suppliers (December 2013)



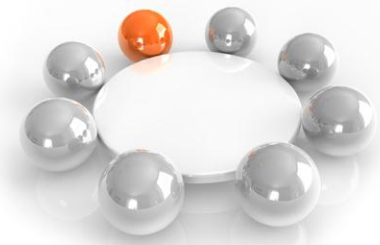
# Unilateral Conduct



- Standard essential patents/FRAND
  - Commission's investigation whether Samsung has breached 102 TFEU by seeking injunctions to enforce its mobile SEPs
    - SO sent in December 2012 => injunctions should not be available against companies willing to enter a license on FRAND terms
    - To address these concerns, Samsung offered to refrain from seeking such injunctions against company that agrees to a particular licensing framework for a period of 5 years (Commission press release of 17 October 2013)
    - The licensing framework consists of (1) a negotiation period of up to 12 months and (2) if no agreement is reached, a third party FRAND determination by court or arbitration
  - SO sent to Motorola in May 2013 in which the Commission takes the view that Motorola's pursuit of injunctive relief against Apple in Germany on basis of its SEPs is an abuse of its dominant position
    - Willingness of Apple to accept binding third party determination of FRAND

The Commission does not question the use of injunctions by patent holders. However, seeking and enforcing an injunction may be an abuse of dominant position where the patents at issue are SEPs and the injunction sought is against a company willing to enter into a FRAND license.

# Private Antitrust Enforcement

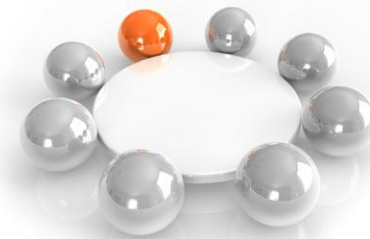


In June 2013, adoption of long-awaited proposals aimed at promoting private antitrust litigation in the EU:

- A proposed Directive on Private Antitrust Damages Actions  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2013:0404:FIN:EN:PDF>
- Guidance on quantifying antitrust harm  
[http://ec.europa.eu/competition/antitrust/actionsdamages/quantification\\_guide\\_en.pdf](http://ec.europa.eu/competition/antitrust/actionsdamages/quantification_guide_en.pdf)
- A Recommendation on collective redress mechanisms  
<http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2013:201:0060:0065:EN:PDF>

New rules on damage claims aimed at harmonizing the legal framework of private enforcement by removing the existing obstacles to effective compensation while maintaining the efficiency of the leniency program and settlement procedures

# Private Antitrust Enforcement Proposed Damages Directive



## Key provisions of Proposed Damages Directive:

- Disclosure of evidence contained within the Commission's or a national competition authority's (« NCA ») file under national court's control
  - No general disclosure but specific, proportionate disclosure of relevant evidence
  - Absolute protection for leniency corporate statements and settlement submissions
  - Temporary protection for documents produced during a competition authority's investigation (e.g. statement of objections and responses to information requests): disclosure possible only once the investigation is closed

# Private Antitrust Enforcement Proposed Damages Directive



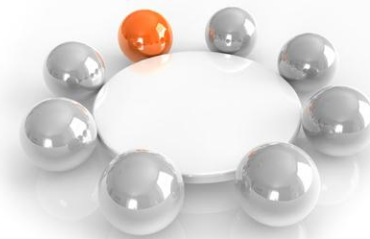
- *Joint and several liability: conditions for exemption of immunity recipient*
  - An undertaking that has been granted immunity in an investigation is excluded from joint and several liability and only held liable to compensate its own direct or indirect purchasers **UNLESS** compensation cannot be obtained from the other parties to the infringement
  - However, its liability shall be limited for its share of the harm suffered (immunity recipient will not have to contribute an amount more than the amount of the harm caused to its own direct and indirect purchasers)

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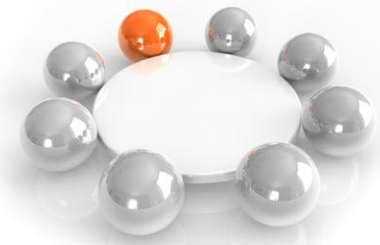
- « *Passing on* » defense expressly recognized
  - Defendants may argue that claimant passed on all or part of the price increase to its customers (burden of proof with the defendants) UNLESS the overcharge is passed on to persons who cannot claim compensation
  - Rebuttable passing-on presumption in favor of indirect purchasers in certain circumstances
- *Rebuttable presumption of harm*
  - Automatic presumption that cartels cause harm
  - Right of infringing undertaking to rebut this presumption
- *NCA's decisions constitute proof of infringement*

# Private Antitrust Enforcement Quantifying Harm



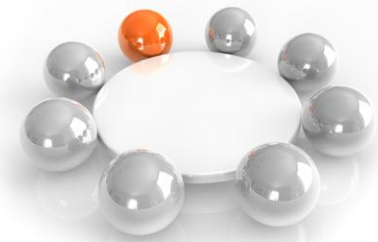
- **Communication and Practical Guide on quantifying harm in private actions for damages**
  - Intended to assist national courts and the parties on how to quantify antitrust harm in order to ensure full compensation, e.g., comparing the actual situation of the injured claimant with the position this party would have been in without the infringement
  - The Practical guide provides an overview of the methods and techniques available to estimate the harm suffered as a result of antitrust infringement although choice of methods depends on each individual case
  - Not binding guidance on national courts or parties: purely informative

# Private Antitrust Enforcement Collective Redress



- **Collective Redress mechanisms**
  - Not covered by the Draft Damages Directive as not unique to competition law says the Commission
  - But included in a non-binding Recommendation to Member States establishing EU wide ‘principles’
    - Limited to ‘Opt in’ claims for compensation (express consent of potential claimant)
    - Procedural safeguards to avoid incentivizing abuses of collective redress mechanism (contingency fees and punitive damages not permitted; only non-profit making entities may be designated to bring presentative actions) => US-style « class actions » rejected
  - **Conclusions**

# 2014 Prospects

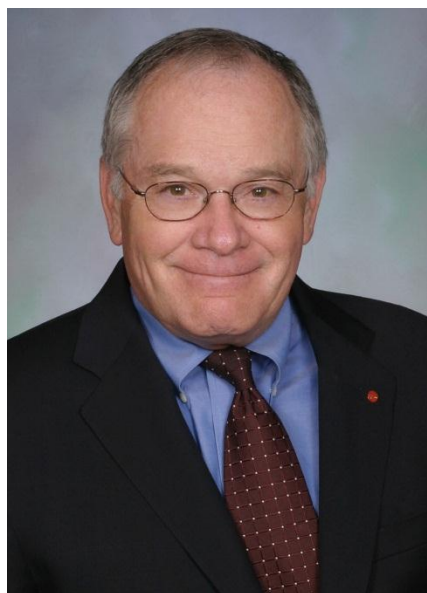


- Competition compliance continues to be crucial
- Differences in U.S. and EU law will continue to be potential traps for the unwary – effect of *De Minimis* Rule
- Merger rules for minority stakes create uncertainty
- The EC Commission’s cartel war will continue and intensify
- Opportunities for private redress of competition injuries will continue to increase as policy and procedural hurdles are mounted



# Staying Competitive and Compliant in the EU

## 2013 Key Developments on Competition Matters



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