

Memorandum 2023-27

Antitrust Law: Status Report

This memorandum provides an update on the status of the Commission's study of antitrust law.¹ The new developments are as follows:

- At the May 18, 2023, meeting, Professor Ausra Deluard will make a presentation on Antitrust Mergers. A brief biography of Professor Deluard was attached in an Exhibit to Memorandum 2023-22.
- At the June 22, 2023, meeting, Professor of Law Alison Jones of King's College London, will make a presentation on European Union competition law. A brief biography of Professor Jones is attached as an Exhibit to this memorandum.
- The staff has begun outreach to schedule presentations for the second half of the year. Consistent with the Commission's expressed interests, the staff is attempting to arrange presentations on the recent antitrust legislation in the U.S. House and Senate and in the New York State Senate.

As always, the staff is profoundly grateful to the subject matter experts who have volunteered their time to assist the Commission in this study.

Respectfully submitted,

Brian Hebert
Executive Director

1. Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Most materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

SHORT BIOGRAPHY OF EXPERT PARTICIPANT

Professor Alison Jones

Alison Jones is a Professor of Law at King's College London. Prior to joining King's, Alison read law at Girton College, Cambridge, worked at Slaughter & May and completed a BCL at Christ Church, Oxford. Alison's research is principally in the sphere of competition law. She is the co-author of a core text on EU Competition Law, 'Jones and Sufrin's EU Competition Law: Text, Cases, and Materials' (Oxford University Press) (8th edition currently in preparation) and has published a number of papers in refereed journals and chapters in edited collections. She is currently working on a project on combatting corruption and collusion in public procurement processes.

Alison recently prepared an expert report for the European Commission on the Review of the EU Verticals Block Exemption Regulation: Cases dealing with online sales, and online advertising, restrictions at EU and national level and regime governing vertical agreements https://ec.europa.eu/competition-policy/system/files/2021-06/kd0921156enn_VBER_online_sales.pdf.

She also prepared a report for the UK Government on Balance of Competence between the European Union and the United Kingdom in the area of competition law (2014), available at <https://www.gov.uk/government/consultations/review-of-uk-and-eu-balance-of-competences-call-for-evidence-on-competition-and-consumer-policy>, a report with Professor Kovacic at the invitation of the Subcommittee on Antitrust, Commercial, and Administrative Law, Chairman David N. Cicilline, and Ranking Member F. James Sensenbrenner, Jr. 'The Institutions of U.S. Antitrust Enforcement: Comments for the U.S. House Judiciary Committee on Possible Competition Policy Reforms' 4 June 2020, and a Paper for OECD Competition Committee, 'Fidelity Rebates: Terminology and Legal Framework' DAF/COMP/WD (2016) 62, 16 June 2016.

Professor Jones' publications on competition include the following:

- Jones, A., and Sufrin, B. and Dunne, N., *Jones and Sufrin's EU Competition Law: Text, Cases, and Materials* (Oxford University Press, 7th edition, 2019, 8th edition, 2023)
- Jones, A., and Daly, S., 'The Undertaking and Single Economic Entity Concepts in EU and UK Competition Law: Proposals for a Refined Approach' in F. Thepot and A. Tzanaki (eds), *Research Handbook on Competition and Corporate Law*, Edward Elgar, Forthcoming
- Bernatt, M., and Jones, A., 'Populism and Public Procurement: An EU Response to Increasing Corruption and Collusion Risks in Hungary and Poland' (2022) *Yearbook of European Law*
- Jones, A., 'Vertical Agreements' in A. MacCulloch, B. Rodger and P. Whelan (eds), *The UK Competition Regime: A Twenty-Year Retrospective* (Oxford University Press, 2021), 55-78

- Jones, A. 'The Court of Justice's Judgment in Generics (UK) v Competition and Markets Authority and the object/effect dichotomy' (2021) 9(3) *Journal of Antitrust Enforcement* 604
- Jones, A. & Mario da Silva Pereira Neto, C., 'Combatting Corruption and Collusion in Public Procurement: Lessons from Operation Car Wash (2021)' 71 Supplement 1, *University of Toronto Law Journal* 103
- Jones, A., 'Combatting Corruption and Collusion in UK Public Procurement: Proposal for Post-Brexit Reform: Proposals for Post-Brexit Reform' (2021) 84(4) *Modern Law Review* 667
- Jones, A., 'Cartels in the Time of COVID-19' (2020) 8(2) *Journal of Antitrust Enforcement* 287
- Jones, A., and Kovacic, W.E., 'Antitrust's Implementation Blind Side: Challenges to Major Expansion of U.S. Competition Policy' (2020) 65(2) *Antitrust Bulletin* 227
- Jones, A., and Kovacic, W.E., 'Identifying Anticompetitive Agreements in the United States and the European Union: Developing a Coherent Antitrust Analytical Framework' (2017) 62(2) *Antitrust Bulletin* 254
- Jones, A., 'Private Enforcement of EU Competition Law: A Comparison with, and Lessons from, the US' in M Bergström, M Iacovides, M Strand (SSEL 8) *Harmonizing EU Competition Litigation: The New Directive and Beyond*, Hart Publishing (2015) (winner of the Antitrust Writing Awards 2017 (procedure))
- Jones A., and Davies J., 'Merger Control and the Public Interest: Balancing EU and National Law in the Protectionist Debate' (2014) 10(3) *European Competition Journal* 453 (winner of the Antitrust Writing Awards 2015 (mergers))
