Sustainability Takeaways in EU Antitrust & Regulatory

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The EU has been active in introducing sustainability requirements in the corporate world, continuing the EU's efforts to address climate change. Anti-trust authorities have also focused on the growing amount of sustainability initiatives. This note is a collection of key takeaways from the first half of 2022 in the sustainability space.

1. On 14 March 2022, the EU Commission adopted a Delegated Act on the EU Taxonomy. The Taxonomy aims to provide a common vocabulary and classification for sustainable economic activities and is part of the EU's efforts to finance sustainable growth. The Adoption of the Taxonomy was the subject of much debate as it will be used to assess the sustainability of new and existing investments.

2. The EC recently published a consultation on the implementation of the European Commission’s proposal for a Regulation on corporate sustainability reporting (CSRD). The proposal seeks to extend the current sustainability reporting requirements in the EU (namely those under the Non-Financial Reporting Directive). The CSRD will require public companies to report on their sustainability impacts and avoid greenwashing.

3. On 8 February 2022, the Italian Parliament approved an amendment to include the protection of the environment, biodiversity, and ecosystems into the Italian Constitution. New measures have been proposed which would allow for the protection of the environment, biodiversity, and ecosystems. These measures come following the ACM's approval of a settlement agreement between TotalEnergies and Shell to collaborate in the storage of CO2 in empty natural-gas fields. The agreement between Shell and TotalEnergies has been welcomed by the Bundeskartellamt, which has also reassessed how to introduce competition elements.

4. The Bundeskartellamt has been reviewing reported agreements, such as the “Agrardialog Milch” project, which aimed to agree on a raw milk price that would be paid out to dairy farmers. It was noted that the Agreement included a clause about the measures to be taken to reduce EU’s dependency on Russian (fossil-based) energy. The Commission has also been investigating the market in the EU’s milk industry.

5. The German Easter package classifies the use of renewable energy as being in the “overriding public interest”, which should help project developers against blocking permits. The invasion of Ukraine has led to the need to look at new ways of increasing sustainability and reduce the EU’s dependency on Russian energy. The EC has also applied the specialisation to the proposed amendments to the HBER Guidelines, which extend the current sustainability reporting requirements in the EU (namely those under the Non-Financial Reporting Directive). The CSRD will include more companies and topics and require more detailed requirements on compliance with the “do not significant harm” principle for products that make use of such sustainable investments.

6. The ELR blog. See more.

7. The EU Taxonomy is part of the European Commission's plan to finance sustainable growth and to ensure that the EU is prepared for the future. The inclusion of nuclear and gas activities into the list of economic activities falling under the EU Taxonomy has been the subject of much debate, but the Commission is committed to including these activities to ensure that the EU is prepared for the future.

8. On 22 June 2020, the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to extend the current sustainability reporting requirements in the EU (namely those under the Non-Financial Reporting Directive (NFRD)), to include more companies and topics and to require more detailed requirements on compliance with the “do not significant harm” principle for products that make use of such sustainable investments.

9. The EU's proposed Corporate Sustainability Reporting Directive (CSRD) seeks to extend the current sustainability reporting requirements in the EU (namely those under the Non-Financial Reporting Directive). The purpose of such Taxonomy Regulation has been to allow the European Union to meet its 2030 energy targets and the objectives set out under the Paris Agreement.

10. The EU Taxonomy is part of the European Commission's plan to finance sustainable growth and to ensure that the EU is prepared for the future. The inclusion of nuclear and gas activities into the list of economic activities falling under the EU Taxonomy has been the subject of much debate, but the Commission is committed to including these activities to ensure that the EU is prepared for the future.

11. The European Commission adopts final RTS on the Sustainable Finance disclosure requirements of the CSRD. See more.

12. The European Capital Markets Union (ECMU) recently adopted a package of measures to support the digital and green transition. The measures aim to foster EU-wide integration of the capital markets and make them more attractive to investors, particularly those looking to finance sustainable and innovative projects. The package includes measures to support the development of sustainable financial instruments, such as green bonds, and to improve the access of innovative and sustainable projects to capital markets. This is in line with the European Green Deal objectives.

13. The Italian Constitutional Court’s case law has been welcomed by the Bundeskartellamt. The amendment has been approved by the ACM as a response to the COVID-19 pandemic. The ACM also noted that it believes it is important to play an active role in shaping the future of sustainable development policy. The ACM has also been investigating the market in the EU’s milk industry.

14. A consumer forum (i.e., OECD/ICN) has been invited to discuss the sustainability requirements proposed by the EU Commission. The CMA also noted that it believes it is important to play an active role in shaping the future of sustainable development policy. The ACM has also been investigating the market in the EU’s milk industry.

15. The UK’s transition to a low carbon economy. That would only lead to higher prices and a lack of trust. The balance is absolutely crucial. The Commission has also been investigating the market in the EU’s milk industry.

16. The European Commission adopts final RTS on the Sustainable Finance disclosure requirements of the CSRD. See more.

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