

Fried Frank Antitrust & Competition Law Alert[®]



Please [click here](#) to view our archives

Joaquín Almunia Nominated as New EU Competition Commissioner

On 27 November 2009, José Manuel Barroso, President of the European Commission ("EC"), nominated Joaquín Almunia, the Spanish Commissioner currently in charge of economic and monetary affairs, to serve as the new Competition Commissioner. Mr Almunia will replace Ms Neelie Kroes, who has been Competition Commissioner since 2004. Mr Almunia is part of a new team of EU Commissioners that will take office after gaining approval from the European Parliament. The Parliament is scheduled to vote on the new Commission on 26 January 2010.

EU Competition Commissioner has vast regulatory powers

As Competition Commissioner, Mr Almunia will be in charge of the EC's antitrust division, known as Directorate-General for Competition ("DG Competition"). DG Competition is responsible for reviewing mergers, investigating antitrust violations and imposing fines. It also enforces EU State Aid rules and supervises the restructuring of European banks that have been bailed out by national governments during the financial crisis.

The current Director General Philip Lowe is scheduled to be replaced by Alexander Italianer (currently Deputy Secretary-General of the EC). Mr Italianer will report directly to Mr Almunia.

Almunia is a highly experienced public official

Mr Almunia, 61, studied law and economics in Spain, France, and the United States. He was a member of the Spanish Parliament from 1979 through 2004. Mr Almunia was also Spanish Minister of Employment and Social Security (1982-1986), Minister of Public Administration (1986-1991), and the Socialist party spokesperson (1994-1997). In 1997, Mr Almunia became the leader of the Spanish Socialist party. In 2000, he was the Socialist candidate for Prime Minister but was defeated by José María Aznar.

In 2004, Mr Almunia was appointed EU Commissioner for Economic and Monetary Affairs. In this capacity he monitored budgetary policies and public finances of EU Member States. During the recent financial crisis, Almunia advocated stricter supervision of financial institutions and backed the independence of the European Central Bank.

Almunia will replace Dutch Commissioner Neelie Kroes

Ms Kroes has been Competition Commissioner since 2004. During Ms Kroes's tenure, the EC has imposed cartel fines of almost €10 billion (compared to cartel fines of €3.8 billion imposed by her predecessor Mario Monti between 1999 and 2004). The EC has also imposed record-breaking fines on companies accused of abusing their dominance, including a recent €1.06 billion fine levied against Intel.

Ms Kroes also blocked two high-profile transactions: the takeover by Ryanair of the Irish airline Aer Lingus and the acquisition by energy groups Energias de Portugal and ENI of Gás de Portugal, the incumbent Portuguese gas operator. The EC is currently conducting a controversial investigation into the acquisition of Sun Microsystems by Oracle (the U.S. Department of Justice has already approved this transaction).

Antitrust enforcement under Almunia is likely to remain active

We anticipate that during Mr Almunia's tenure the EC will continue aggressively to investigate and sanction antitrust violations. Mr Almunia is part of a team of Commissioners nominated by Member States for the 2010-2014 term. These nominations reflect a decision to maintain continuity as opposed to a shift in politics: 14 out of 27 members of the new Commission (including President Barroso, Mr Almunia, and Ms Kroes) were already members of the outgoing Commission. In his Political Guidelines for the Next Commission, President Barroso praised the outgoing Commission for being "*unrelenting in its fight against those who abuse the market*" and for imposing "*almost €10 billion in competition fines, on international multi-national corporations and European companies alike*".

Most of the DG Competition officials will also remain in place following Mr Almunia's appointment. DG Competition has repeatedly demonstrated its commitment to vigorous enforcement of antitrust laws. Moreover, EU courts support the EC's enforcement policies and are not likely to reverse direction in the near future.

While Mr Almunia has not yet outlined his antitrust enforcement priorities, the statements he made in his previous capacity appear to be in favour of regulatory intervention. For example, in a Wall Street Journal editorial analysing the lessons of the financial crisis, Mr Almunia claimed that:

"what remained of the Reagan and Thatcher ideological heritage – the aversion to any attempt to correct the undesirable effects of the "laissez-faire, laissez-allez" approach – has collapsed. The period we are entering will be characterized by a more active involvement of the public sector in the economy".

Authors and Contributors

For more information regarding this client alert, please contact your usual Fried Frank attorney or any of the attorneys listed below:

US

[Barry Nigro](#)
+1.202.639.7373

[Peter Guryan](#)
+1.212.859.8477

[Richard Park](#)
+1.202.639.7064

Europe

[Ianis Girgenson](#)
+44.20.7972.6222

[Tobias Caspary](#)
+44.20.7972.9618

Fried, Frank, Harris, Shriver & Jacobson LLP

New York

One New York Plaza
New York, NY 10004-1980
Tel: +1.212.859.8000
Fax: +1.212.859.4000

Washington, DC

1001 Pennsylvania Avenue, NW
Washington, DC 20004-2505
Tel: +1.202.639.7000
Fax: +1.202.639.7003

Frankfurt

Taunusanlage 18
60325 Frankfurt am Main
Tel: +49.69.870.030.00
Fax: +49.69.870.030.555

Hong Kong

in association with
Huen Wong & Co.
9th Floor, Gloucester Tower
The Landmark
15 Queen's Road Central
Hong Kong
Tel: +852.3760.3600
Fax: +852.3760.3611

Shanghai

40th Floor, Park Place
1601 Nanjing Road West
Shanghai 200040
Tel: +86.21.6122.5500
Fax: +86.21.6122.5588

Fried, Frank, Harris, Shriver & Jacobson (London) LLP

London

99 City Road
London EC1Y 1AX
Tel: +44.20.7972.9600
Fax: +44.20.7972.9602

Fried, Frank, Harris, Shriver & Jacobson (Europe)

Paris

65-67, avenue des Champs Elysées
75008 Paris
Tel: +33.140.62.22.00
Fax: +33.140.62.22.29

A Delaware Limited Liability Partnership

The information and materials offered in this publication are for general informational purposes only; it does not constitute legal advice and is presented without any representation or warranty whatsoever, including as to the accuracy or completeness of the information.

Fried Frank Antitrust & Competition Law Alert™ is published by the Antitrust & Competition practice group of, and is a registered trademark and servicemark of Fried, Frank, Harris, Shriver & Jacobson LLP.

Fried Frank Antitrust & Competition Law Alert™ is provided free of charge to subscribers. If you would like to subscribe to this E-mail service, please send an E-mail message to Antitrust_Alert@friedfrank.com and include your name, title, organization or company, mail address, telephone and fax numbers, and E-mail address.

To view copies of previous Fried Frank Antitrust & Competition Law Alerts™, please visit our [archives](#) on the Fried Frank website.

To view previous Antitrust & Competition To Our Client Memoranda, please visit our [archives](#) on the Fried Frank website.

To unsubscribe from all Fried Frank Email Alerts and electronic mailings send a blank email to unsubsparklist@ffhsj.com.