Legal professional privilege in EU merger control

EU Merger Law Blog
May 30, 2017

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At the same time, internal documents are at the discretion of the Commission’s assessment of the case. In several recent Phase II decisions reference to internal documents is made on more than 50 pages and in the recent Multichannel 30/2017 (900) document disclosures 2,763 document disclosures are even included in an expert 300 pages.

This development creates particular setting on two processes, the practical rights of defense and procedural fairness. The usual concerns legal professional privilege (LPP).

In some large document requests large document requests in particular stand-alone contacts and any unauthorized disclosures (UDR) in merger cases. This is so as the LPP has been recognized, as a general principle in the nature of a fundamental right (Kirkland & Ellis, United Kingdom, Thomas Wilson, Competition Law Blog, May 30, 2017, https://www.competitionlawblog.com/2017/05/legal-professional-privilege-eu-merger-control/).

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