

AT A GLANCE

Competition, EU, Regulatory & Trade

Shoosmiths lawyers support clients both on operational and strategic issues regarding competition laws, EU laws, Trade laws and related UK, EU and broader sanctions regimes, and Regulatory, Compliance and related ESG aspects.

By way of examples, in the last year we have addressed the following:

Employment & competition

The competition law aspects of employment contracts and employment relations have been highlighted by several competition authorities, including in the UK. We are, for example, acting for an American company that is the subject of an EU investigation into an alleged cartel into anti-solicitation provisions with competitors and customers. **Have you considered whether your employment contracts, for example, non-compete and non-poaching provisions, are compliant with competition law?**

Data & competition

The EU's Digital Markets Act (DMA) – which is underpinned by competition law - allows access to third parties to data previously held only by 'Gatekeepers', namely, large digital platforms, such as Google or Facebook. A benefit under the DMA is that businesses can obtain data relating to their online advertising. To benefit from the DMA, advertisers should begin to both plan and act. Examples of questions that such businesses should consider are **what type of data would be of value, what price are you prepared to pay for it, are you equipped to receive and analyse the data and what, if any, data compliance safeguards need to be put in place?**

Foreign subsidies

Beneficiaries of UK, USA or other non-EU state subsidies have to notify the European Commission when engaged in certain mergers & acquisition (M&A) transactions or tendering for certain EU public contracts. A relevant transaction cannot be completed, or the procurement contract entered, until consent has been received from the European Commission following notification. Have you checked whether you have the information regarding any foreign subsidies your business has received or is receiving? European Commission following notification. **Have you checked whether you have the information regarding any foreign subsidies your business has received or is receiving?**



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Economic, social & governance (ESG)

The EU's Corporate Sustainability Reporting Directive (CSRD) expands the EU's non-financial reporting obligations on businesses. If an EU-based parent company must comply with the CSRD, then all its non-EU subsidiaries will need internally to report to the parent company using the criteria for reportability laid-out in the CSRD. Beyond its applicability to EU companies, the CSRD will apply to non-EU companies whose EU turnover is above a certain level. The rules apply for the first time in the 2024 financial year, for reports to be published in 2025. **Have you engaged with the business and its auditors to consider the legal implications of the CSRD?**

National security & foreign investment

The United Kingdom has one of the broadest and most invasive foreign investment regimes in the world. All acquisitions where the target business is active in any of 17 identified sectors, including advanced materials and transport, must be notified and consent obtained prior to completion of the transaction. The waiting period for consent needs to be built into the transaction timetable. **Have you considered the applicability to your transaction of the UK's NSI Act (and the similar FDI controls that exist in many other countries)?**

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