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Law.Tax

# Navigating for success

Corporate/M&A

2020



# The Other Side of the Moon



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In the 2019 edition of the 'European M&A Outlook', we pointed to the 'somewhat faltered optimism' among dealmakers for the future of European M&A and highlighted the beginning of a downturn in dealmaking activity.

We cautioned that executives feared the European climate would worsen and, whereas the outlook for M&A was broadly negative, an upsurge in distressed M&A and restructurings was on the cards: respondents almost unanimously (95%) expected distressed M&A to rise, with 94% believing that restructurings were set to increase in number in the year to come. And the year has come. Way beyond the boundaries of any prediction, different scenarios are now unfolding. These range from the optimisation of processes and cashflow to stabilisation programmes or, in some cases, bankruptcy. At the time of writing, there is an understandable apprehension for both the short-term and the longer run. Apart from the more practical concerns, another level of complexity is emerging from the sudden arrival of a raft of previously unforeseen circumstances with far-reaching implications for businesses and their people.

If there is a silver lining, it is this: what we are now living through is a stepping stone. What awaits on the other side is not fully clear, but it certainly is not the absence of M&A activity. There will be more distressed M&A than ever before – some companies will seek targets for sale at lower prices and MAC clauses will gain further weight in the transactions to come. There may be fresh thinking on green field investments vs. international acquisitions.

One effect of totally new experiences is that they alter our relation to the world and to ourselves. If this pandemic was one of the Apollo programmes, where on the timeline are we now? And how long before we can look back and realise how this experience has re-shaped us? There are numerous theories around the unforeseen outcomes and lasting effects of major historic moments and the changes they bring about. The view from the Command Module Pilot for the Apollo 14 mission, Stuart Roosa, is worth considering:

*"Going around the back side of the moon was awesome. You can't imagine how black it was. It got quiet for we lost radio contact with the Earth (...) It was cold and wet and dark (...) I was away from all light, not even stars. Then instantly you cross that unseeable line, and there was nothing but bright white light. The brightest light you ever saw. It was like being born again."*





## ***Rock***

In challenging times we all need a rock – something firm and reliable to hold onto, to serve as a foundation as we move forward. With us you're in safe hands. We work hard

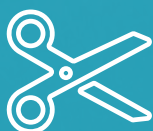
to understand every aspect of your business, identify potential problems before they arise and ensure the solution you need comes within deadline, so you can always lean on us.



## ***Paper***

Excellence means the clearest vision; the most daring innovation; the sharpest insight; the best project management. Our team focuses on delivering excellence in every aspect of our service to you, honing our skills in complex

high-value transactions and staying sharp through leading-edge training programmes. Providing you with the clear, practical advice that makes the difference – that is the CMS Corporate/M&A measure of excellence. Excellence in black and white.



## ***Scissors***

Wherever you take your business, CMS is on call to help you get your deal done. Our highly co-ordinated, award-winning Corporate/M&A team features experts in a wide range of sectors located in key centres in more than 40 countries.

CMS's inclusive culture and multi-cultural teams mean a diverse range of perspectives.

Our clients benefit from the broad range of experience we bring to deals so when it comes to international projects of 'first of their kind' transactions, we mobilise the right combination of people for every situation. So when it comes to multi-jurisdictional projects, we have it covered – everything you would expect from a leading law firm, and more – allowing us to cut clean through the obstacles.



## ***The ideal team mate***

Whatever your game, you'll find in us the ideal partner. We never forget that, no matter the challenge, you want to deal with people who are friendly, responsive, down-to-earth and

committed to helping you make your business a success. So no matter what the future holds, that's what we promise at CMS: a team mate you can rely on.





# Case studies

## ***Breaking new ground in the Swiss telecoms sector***

In the first of its kind in the Swiss telecoms sector, CMS advised Sunrise on all aspects of its transaction to carve out 2,239 telecom towers and their related contracts into Swiss Towers AG. This created a new entity for its CHF 500m (around EUR 475m) sale to a consortium led by Cellnex Telecom SA, a Spanish independent wireless communications infrastructure operator.

Through the deal, Cellnex acquired telecom towers – the steel and concrete structures, known as passive network infrastructure. This was possible by conducting minimal restructurings under the Swiss Merger Act. The long term partnership between the tower company and Sunrise and the fact that the assets transferred to the tower company are vital for the business of Sunrise meant that we devised safeguards in both the share purchase agreement and in the master services agreement.

Sunrise kept ownership of the antennas – the active network infrastructure – and entered into a long-term service agreement with Cellnex to provide tower infrastructure services.



*I can go to CMS with a general question and it will draw on advice from individuals in different practice areas. I feel this enables the firm to provide holistic responses.*

*Client*

## Germany's biggest ever supermarket sale

With 80 directly owned stores along with 219 leased retail outlets and an annual turnover of around EUR 7bn, the sale of real,- Group is the largest deal to date in the German supermarket and retail sector.

CMS advised acquirer Madrid Acqui-Co GP on all aspects of the deal, including extensive due diligence and restructuring. A team of more than 50 CMS lawyers completed this highly complex deal within eight weeks from the granting of exclusivity in December through to signing in February – a period that included the festive season holidays.

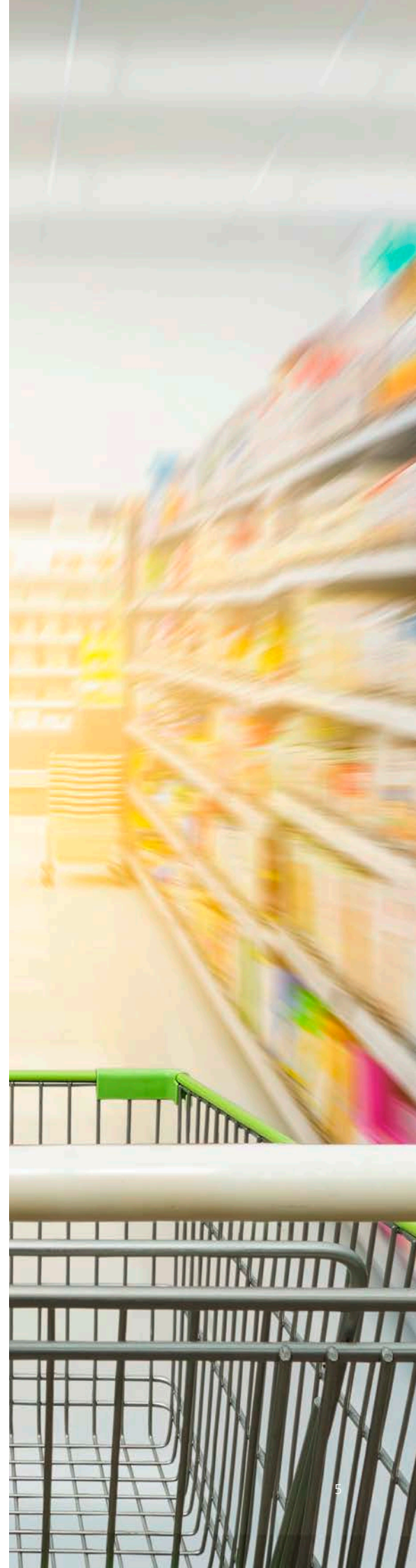
Germany's Federal Ministries of Employment and Economics stayed close to the deal – underlining its significance as a major shift in the landscape of the supermarket sector.



*'They involve other colleagues in a constructive and pragmatic way'*

*'Impressed by the firm's flexibility, commercial orientation, negotiation skills and international presence.'*

*Chambers and Partners*



# CMS Corporate/M&A at a glance

» **#1 by deal count  
in Europe, the UK,  
Germany, CEE  
and Benelux**  
*Bloomberg, Mergermarket,  
Thomson Reuters (2019)*

» **Best Legal Team  
for Early Stage  
Deals 2019, UKBAA  
Angel Investment  
Awards 2019**

**1,000+**

*Corporate/M&A lawyers working  
across 43 countries*

» **Over 100 members  
of CMS's start-up  
incubator CMS equip**

**Supporting diversity** – CMS Corporate/M&A is a proud member of the Financial Times Women in Business Forum.

## **M&A Legal Advisor of the Year Award 2019**

Recognised for our outstanding M&A advisory work for deals in the value range of EUR 30m-EUR 1bn.

**Mergermarket European M&A Awards 2019**

Active around the world, including Africa, APAC, Europe, Latin America and the Middle East.



# Our track record

## Corporate governance & restructuring

### **William Brandt (Development Specialists)**

The Chapter 11 trusteeship of China Fishery, the first cross-border insolvency case with main assets located in Peru. China Fishery International (Singapore), owner of the Peru-based assets, is subject to US (New York) Chapter 11 restructuring proceedings.

### **Khiron**

Structuring the international expansion in South America of Khiron, an integrated medical cannabis company listed in the Canada stock market and with its core operations in Colombia. The process reconciled corporate structures and tax requirements across several jurisdictions, including new markets in Mexico, Peru and Brazil.

### **Enagás Internacional**

Bankruptcy proceedings involving Gasoducto Sur Peruano – a concession company that was awarded one of the most significant investments in Peru – USD 7.4bn.

## ECM

### **Phoenix Global Resources**

The GBP 844m reverse acquisition by London listed Andes Energia of Trefoil Holdings to create one of the leading Argentinian independent exploration and production companies.

### **Sequoia Economic Infrastructure Income Fund**

The London IPO and subsequent fundraisings in Europe, as well as Rule 144A offerings in the US, raising in total of more than GBP 1.7bn.

### **NFON**

The EUR 166m Frankfurt IPO for the only pan-European cloud PBX provider, serving over 15,000 companies across 13 European countries.

## General corporate

### **ABB**

A complex corporate restructuring under Swiss corporate law involving five jurisdictions, including the liquidation with asymmetrical distribution of proceeds of an intermediate holding company, the formation of subsidiaries and various intragroup arrangements.

### **Airbus Defence and Space**

A joint venture between Airbus Defence and Space and LM Industries Group (Local Motors, Inc.) to operate the Neorizon microfactory.

### **CTS EVENTIM**

Negotiations with FNAC DARTY on a strategic ticketing partnership in France.

## PE

### **Advent International**

The acquisition of the CEE business of Alvogen.

### **Capiton/CymbiQ**

The acquisition of Koch IT AG.

### **Blackstone Group**

The acquisition of an indirect shareholding in the US investment fund FRS Capital, giving Blackstone an interest in Carrix Inc., leading container terminal operator in the Americas, as well as in Asia, New Zealand and South Africa.

## M&A

### **Advance Publications**

The acquisition by US entertainment group Advance Publications of musical productions group Stage Entertainment from CVC Capital Partners and Stage founder Joop van den Ende.

### **ALPLA**

Advised ALPLA Group on the 100% buyout of their JV partner, Zamil Group, from Zamil ALPLA, a platform comprising five factories across UAE and KSA.

### **HP**

The USD 1bn acquisition of Samsung's global printer business.



# Future facing

The business environment is changing faster than ever. New threats and risks emerge, seemingly from nowhere; opportunities appear just as swiftly, and must be grasped quickly too.

The CMS Corporate/M&A team works hard to keep you ahead. That's why we've acted on so many 'first-of-a-kind' deals, involving novel transaction structures or innovative uses of the law.

Investing in new technology plays a key part. From using advanced AI in contract analysis to creating online tools and portals to save our clients time and money, we constantly strive to build faster, more efficient technical solutions to keep deals running smoothly.

Above all, we invest in our people, so we can give you the right teams to handle your most complex multijurisdictional matters. At CMS, we build an inclusive culture, which values the varied skills and ideas that different people bring. When everyone comes from the same place, we shouldn't be surprised if they see things the same way. Experience tells us that if you want a diverse range of perspectives, you need a diverse range of backgrounds. The broader the experience we bring to deals, the more our clients benefit.

Because at CMS we believe that, when you face it, the future is exciting.



*It's not rare to find someone who can accurately say what the state of law is, but it is rare to find someone who actually has really good judgement and takes time to find out about your business and you. That's one of the ways we've been very well served by CMS.*

*Client*



# Keeping the market up to date

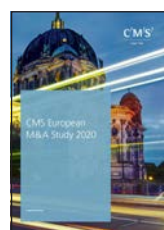
CMS publishes market commentary and insights to give you an inside track on the key business and legal developments affecting dealmakers across Europe and beyond.

## CMS European M&A Study



The 2020 edition of the CMS European M&A Study covers 466 share and asset deals on which CMS in Europe advised in 2019. The study identifies trends and analyses risk allocation, regional differences and deal size along with individual deal drivers. It is the most comprehensive of its kind and is based on a proprietary database of almost 5,000 transactions. Download it at [cms.law](https://cms.law).

## CMS European M&A Outlook



Our annual survey of corporate executives and financiers offers a front-line view of the dynamics and trends in M&A across Europe. The outlook highlights and discusses market sentiment, trends, sectoral developments and financing conditions in the European and global context. Download it at [cms.law](https://cms.law)

## Online insights direct to your inbox

Law-Now – our award-winning, customisable legal and business news portal ([cms-lawnow.com](https://cms-lawnow.com)) – delivers expert commentary and updates on the legal issues affecting your world. Subscribe free of charge and choose to receive updates and commentary on sector-specific news by email.

## Panel discussions, presentations, knowledge sharing

Every year, our experts participate in market conferences. As key note speakers, panel members and delegates, we share our experience and insights with the wider market, helping to shape its overall direction. Some examples of conferences we regularly participate in are:

- European Corporate M&A Conference Frankfurt
- European Corporate Development Summit London
- Finanz und Wirtschaft Mergers and Acquisitions Conference Zurich
- Latin Lawyer Private Equity Conferences

## Partnering with innovation leaders

At CMS we support start-ups and innovators by taking an active part in programmes such as the Blue Tulip Awards, a year-round ecosystem-driven programme to accelerate innovators, build powerful collaborations, and drive breakthrough innovation.

## Partnering with innovation leaders: CMS Equip

CMS Equip is a unique three-year programme to support IP-rich start ups, helping them to scale quickly. It has over 100 members spread around the globe. CMS equip offers legal advice at discounted rates as well as access to fantastic networking and investment connections. The programme keeps us close to the tech start up market in many jurisdictions.



*Their main strengths are the response time and their ideas for solving problems.*

*Client*

*Staff*

> 8,000

*Lawyers*

> 4,800

*Partners*

> 1,100

49 NEW PARTNERS IN 2019, TAKING THE TOTAL TO OVER 1,100

*Operating in*

70 cities

*Across*

43 countries

EUR  
1.36bn  
turnover for 2018

19 PRACTICE AND SECTOR GROUPS WORKING ACROSS OFFICES

Ranked  
5th  
largest  
law firm

(by headcount) in the 2018  
Am Law Global 100

» A workplace where  
everyone is treated  
with dignity and respect

» A diverse workplace in  
which all are welcome

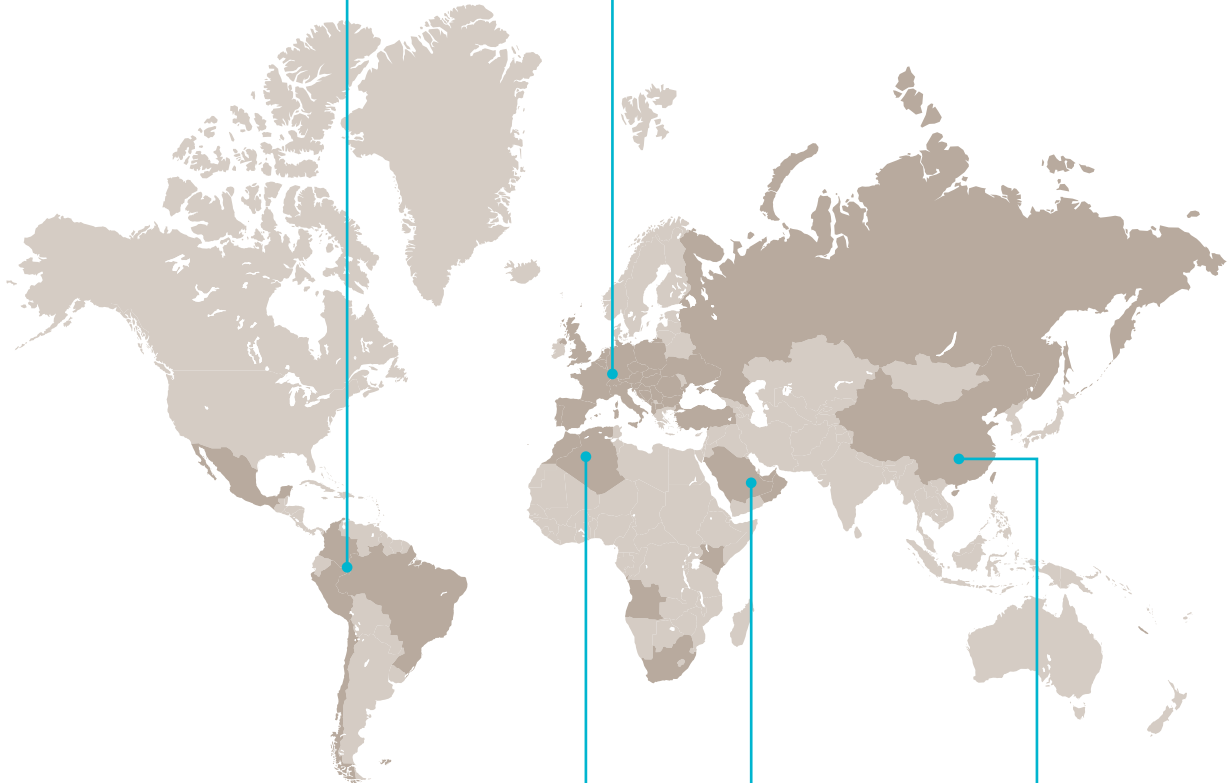


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Lima  
Mexico City  
Rio de Janeiro  
Santiago de Chile

## Europe

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Amsterdam	Frankfurt	Madrid	Seville
Antwerp	Funchal	Manchester	Sheffield
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Belgrade	Glasgow	Monaco	Sofia
Berlin	Hamburg	Moscow	Strasbourg
Bratislava	Istanbul	Munich	Stuttgart
Bristol	Kyiv	Paris	Tirana
Brussels	Leipzig	Podgorica	Utrecht
Bucharest	Lisbon	Poznan	Vienna
Budapest	Ljubljana	Prague	Warsaw
Cologne	London	Reading	Zagreb
Duesseldorf	Luxembourg	Rome	Zurich



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