

# Editorial

## EBLR and the Future of European Business Law

European business law is a fertile field for a law review. The mission of the *European Business Law Review* will continue to be to provide a forum for analysis and discussion of European business law, broadly defined. One challenge is to identify issues that are of interest to practitioners and scholars all over Europe. Another is to strike a balance between scholarship, policy discussion and the needs of the practitioner.

We believe it will be easy to respond to these challenges. The practitioner does not primarily require EBLR to provide the short news items he or she gets in so many other ways. In our experience, the demand is for exposition and analysis in sufficient depth to provide the answers, or further references, to the questions arising in practice. This coincides with the needs of the academic community that always provides most of the articles for a law review of excellence, the review practitioners also prefer to read. Practitioners and academics share the wish to involve policy makers in dialogue. The latter need a forum to develop this kind of dialogue.

The pace of reform and developments in European business law is such that the drawing of a distinction between policy, legal scholarship and the service of the practising legal community would be an error. It is our hope that the coming volumes of EBLR will drive this point home.

EBLR welcomes longer articles (up to 7-8,000 words) in addition to the shorter articles the journal will continue to carry, and we fully intend that it shall take its place among the leading European scholarly law reviews without losing any of its present value for the practitioner. It will take some time to achieve this. We have the support of an impressive Advisory Board, including the former Consulting Editor, Professor Laurence Gormley. The Editorial Board has three members, Professor Eva Lomnicka, Professor Richard Whish and Dr Jan Wouters, whose assistance will be of particular importance in the period we try to establish the new EBLR format. We are very grateful to them all.

European company law will be a main concern for the new EBLR. The nine major company law Directives adopted have achieved a certain degree of harmonisation in important areas, and the case law of the European Court has laid down strict requirements to the transposition in the Member States. But the more recent Directives and proposals have attempted to embrace the different solutions of the laws of the Member States, perhaps to the extent of defeating the very purpose of harmonisation. In his covering letter, Director General John Mogg says that the paper 'is aimed at making company law better suited to the realities of the single market'. Is further harmonisation of company law necessary to complete the internal market? What part should the EU play in the regulation of corporate governance? Or in the effort to simplify and deregulate?

In February the Commission issued a Consultation Paper on company law raising the question of the fundamental direction of future harmonisation.

To us, it seems that there are some simple answers. Further harmonisation is necessary. The EU has a major part to play in implementing a modern regime of corporate governance. EU measures should propel forward the deregulation and simplification that national governments seem to be particularly inept at achieving.

The Commission recently published a broad study under the title *The simplification of the operating regulations for public companies in the European Union*. It is produced by Ernst & Young and deals mainly with the corporate governance issues of the draft Fifth Company Law Directive, blocked by the UK. In addition to its analysis of existing proposals and adopted Directives it also contains a technical report on the law of corporate governance in the Member States. The study is a clear demonstration of the utility of comparative research and how important this is as a background for future company law harmonisation.

The area of auditors' liability merits further attention. The Commission presented, in 1996, a Green Paper on the role, the position and the liability of the statutory auditor. The focus of that paper was on the regulatory aspects. Parallel developments in the laws of the Member States concern the conditions for and extent of civil liability. The English Law Commission recently had a look at the question of joint and several liability. It made an extensive comparison with other jurisdictions but they all belonged to the common law. EBLR will aim to provide European perspectives to the UK discussion and those in other countries.

The European Bankruptcy Convention seems close to some form of final adoption, perhaps as a convention between the Member States excluding the UK unless 'New Labour' changes all of that after the impending general election. Analysis of the text of the Convention is important at this stage, but the recent process has shown how many questions are far from resolved by adopting the Convention. The need for substantive harmonisation of the relevant law is highlighted, and EBLR intends to pursue this issue as a matter of priority.

Banking and financial services, labour law and competition law will also raise issues that merit EBLR's attention. EEA and Eastern Europe pose an important range of questions.

The in-depth coverage of the topics just mentioned and individual jurisdictions will be left to the many specialist journals. Major developments will be covered to the extent it is possible. Focus will be on Community law and comparative law.

During the next year we will gradually implement the changes necessary to create a new EBLR. We are of course grateful for proposals and criticisms, particularly in the period immediately ahead when we are struggling with the new format.

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