

Editorial: Fair Trading in EC Law

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This Special Issue presents updated and revised versions of most of the papers presented at a most stimulating and energetic conference on Competition Law and Consumers organised by the Department of European and Economic Law of the University of Groningen in September 2004.¹ The authors have taken account of more recent developments in the field and consider the interaction of competition law and the interests of consumers from a number of viewpoints, painting a picture which is as disturbing as it is informative and critical.

Hans *Micklitz* leads the batting with an examination of enforcement of Community competition law, which highlights the importance of private enforcement in the development of consumer law in Europe. The path ahead is not, however, an easy one, in view of the obstacles he identifies, although he gives a detailed examination of action taken so far at the Community level, and a stimulating discussion of the German reform debate on private enforcement of competition law. Next, Paul *Nihoul* examines progress towards a new organization of markets in the European Union, looking at shifting attitudes to competition, illustrating his analysis through examination of the field of comparative advertising. Thomas *Wilhelmsson* then examines cooperation and competition relating to standard contract terms in consumer contracts, highlighting the contradictions between the competition-based information strategy for consumers propounded by the Commission and the relatively lenient approach to cooperation between businesses concerning standard contract terms within competition law. Rita *Wezenbeek*, a Commission official, writing in a personal capacity, highlights the role of consumer interests at the heart of the Commission's motives to undertake enforcement actions with particular reference to the example of transport. She also highlights the role of the consumer liaison officer, established by the Commission to ensure a permanent dialogue with European consumers. Finally, Hans *Vedder* concludes with an article discussing how competition can be used to protect consumers better. The Special Issue then signs off with two book reviews.

It may be thought that despite the specific mention of the interests of consumer in Articles 81(3) and 82 EC, the interests of consumers have not always been adequately expressed and protected in competition law practice, at least as far as

¹ The Conference took place the day after the defence at Groningen of Malek Radeideh's thesis on consumer law, which has been published as Radeideh, *Fair Trading in EC Law* (Europa Law, Groningen, 2005).

enabling the consumers to obtain remedies for anti-competitive practices to which they have fallen victim. Mere public enforcement of competition law, in terms of the imposition of fines does not yet seem to have led many regular customers of DG Comp to repent of old habits. The time has certainly come to consider whether at the level of the Member States, or as a matter of Community law, the time has finally come to provide for better specific remedies against anti-competitive practices at the initiative of either individual consumers or of consumers' representative organisations. *Vedder's* conclusion notes that competition law is considered not to be consumer protection law. Yet competition plays a vital role not merely in B2B relationships but also in B2C relationships, just as consumer protection law is not logically limited to B2C situations but also concerns B2B. Competition law must certainly not protect competitors rather than competition, but in protecting competition, it must take due account of legitimate consumer concerns – even if these are not always the concerns of the conscious price-shopper!

I do hope that the contributions in this issue will go some way towards encouraging a rethinking of the importance of protecting the interests of consumers in the application of competition law.