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Editor's Note

Now that the summer break is over and following all the compliments received on the special 25th Anniversary Edition, (Volume 26, No. 2, June 2003), it is with great pleasure that I introduce this new edition for September 2003. The success of the special edition is based on our efforts to provide useful information to our readers and we hope that this edition fulfils that objective.

I am most pleased to present our opening article by my friend Wouter P.J. Wils, who has become a most welcome frequent contributor to World Competition (See W. P.J. Wils, "*The Principle of 'Ne Bis in Idem' in EC Antitrust Enforcement: A Legal and Economic Analysis*", (2003) W.Comp 26:2). On this issue, Wouter P.J. Wils focuses on the role of antitrust law as a "sword" in private litigation. After describing the current situation of private enforcement in EC and US antitrust enforcement, Wils responds to calls, which have been made to stimulate private antitrust enforcement. Wils concludes that public antitrust enforcement is inherently superior to private enforcement. We encourage the readers to discover for themselves the reasons for these controversial conclusions.

In this autumn issue, we continue the debate opened in our June edition with regard to international competition policy. My friend Frank R. Schoneveld advocates for international co-operation of competition policy in respect cartels. After extensive analysis of the positive outcomes that this co-operation would bring, Schoneveld describes the relative merits of the Organisation for Economic Cooperation and Development, the United Nations Conference on Trade and Development, the World Trade Organisation and the International Competition Network as appropriate forums to deal with co-ordination of sanctions. The article no doubt benefits from the wide international litigation experience of the author.

Next we move on to the merger arena. Konstantin Joergens undertakes a careful analysis of the application of the "failing firm" defence by the European Commission and the adjustments that should be made to this criteria when assessing a merger involving a professional service provider. The author explores this requirement in the context of the Andersen's demise. Although the failing firm defence may be appropriate for industrial companies, the author considers that the concept may not be entirely appropriate for professional services firms and proposes to focus on the casualty test instead of over stretching the concept.

World Competition continues to receive submissions from the other side of the Atlantic. On this occasion, Paul Collins and Vicky Eatrides take the readers to Canada to analyse the proposal to de-criminalize the anti-competitive pricing practices under the Competition Act which were released by the Canadian Standing Committee on Industry, Science and Technology in April 2002. The authors tale us through the history that led to the current pricing provisions, to the proposal and the response of the

Federal Government to it. Collins and Eatrides conclude that the de-criminalization of the anti-competitive practices cannot be undertaken in isolation as it has far reaching policy implications.

The next article that this issue deals with is the next challenge for the electronic communications sector in the EC: the new regulatory framework which entered into force in July 2003. The new package is composed of four Directives adopted in March 2002: the ''Framework Directive'', ''the Authorisation Directive'', the ''Access Directive'' and the ''Universal Service Directive''. The new framework integrates competition law methodologies and principles in the sector-specific regulation. Alexandre De Streel undertakes a complete analysis of the advantages and risks of this radical reform.

We conclude this issue with a contribution from Ruwantissa Aberaytne, who makes a return to World Competition (Ruwantissa Aberaytne, ''Competition and Liberalisation in Air Transport'', (2001) W.Comp 24:4). Aberaytne analyses the recent judgements by the European Court of Justice on open skies, which will have far-reaching consequences on the manner in which competition law and frameworks are applied within the European Union in this area. The readers will be able to benefit from the expertise of the author who is a senior official in the International Civil Aviation Authority in Montreal.

The Editor wishes you a pleasant read.

José Rivas
Editor
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