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Editor's Note

Several events and reforms of significant importance in the field of antitrust have recently come into force in the European Union. World Competition has tried to keep up with these changes without leaving aside its global vocation. The outcome of these attempts is our June 2004 issue, which in our view provides the reader with a very valuable and balanced selection of articles. I would like to warmly thank all the contributors who have made this issue possible.

To begin with, we are honoured to include a significant contribution by Enrique González Díaz, former head of the Merger Task Force of the European Commission, on the reform of European Merger Control (see also F.E. González Díaz, "Recent Developments in EC Merger Control Law—The Gencor Judgment", (1999) W.Comp 22:3). This remarkable article analyses the changes in jurisdiction, substance and procedure brought about by the legislative and non-legislative measures integrating the merger control reform package. The views of González Díaz on the current merger reform will no doubt provide our readers with an invaluable insight to the new legislation.

Following this, Wouter P.J. Wils very kindly shares with us a ground-breaking contribution of utmost interest (see also W.P.J. Wils, "The Principle of *Ne Bis in Idem* in EU Antitrust Enforcement: A Legal and Economic Analysis", (2003) W.Comp 26:2, "Should Private Antitrust Enforcement be Encouraged in Europe", (2003) W.Comp. 26:3 and "Self Incrimination in EC Antitrust Enforcement: A Legal and Economic Analysis", (2003) W. Comp 26:4). Wils compares from a legal and economic perspective the current system of EC antitrust enforcement, in which the European Commission combines the investigative, prosecutorial and adjudicative function, with an alternative system in which the last of the three functions would be transferred to the European Courts. Wils concludes that the arguments in favour of the alternative system are stronger with regard to Articles 81 and 82 EC than in the field of mergers. In the aftermath of the antitrust reforms, these thoughts provide us with a hint as to where any future reforms might be concentrated. We leave it to the author to examine the reasons and the consequences for this interesting view.

We continue with a joint article by Maurits Dolmans and Thomas Graf, both of whom are previous contributors of World Competition (see Maurits Dolmans and Anu Piilola, "The Proposed New Technology Transfer Block Exemption" and Romano Subiotto and Thomas Graf, "Analysis of the Principles Applicable to the Review of Exclusive Broadcasting Licences under EC Competition Law", both in (2003) W.Comp 26:4). The authors go through the different elements applied in EC law in the assessment of a finding of abuse by tying. Dolmans and Graf conclude that, if

properly applied, these elements serve to distinguish innocuous practices from harmful ones. We particularly appreciate the views on the recent Microsoft case, on which both authors worked, which sets up an important precedent for Microsoft's use of its platform monopoly.

On 1 May 2004, ten new Member States joined the European Union. World Competition therefore wishes to pay special attention to this event. In an attempt to familiarize our readers with the economies of the new Member States, Russell Pittman takes us through the application of the provisions on the abuse of a dominant position in Central and Eastern European Competition Laws. Russell Pittman concludes that the fears of over-enforcement of these provisions that some expressed years ago have not materialized. There is no evidence at all that the competition authorities of Central and Eastern European countries have used these provisions to discourage competition by successful companies. On the contrary, the author suggests that a more aggressive application of competition laws should be encouraged.

Finally, we return to the merger control arena to conclude with an article by Michael Piaskoski and Neil Finkelstein that continues the debate on the role of efficiencies under Canadian competition law and in other jurisdictions (see also Marc Duhamel and Peter G.C. Townley, ''An Effective and Enforceable Alternative to the Consumer Surplus Standard'', (2003) W. Comp 26:1). The authors look at the Canadian *Superior Propane* case to explore the treatment of efficiencies in an exhaustive and useful way for practitioners. Their analysis advocates a greater receptivity and understanding of efficiencies in all jurisdictions.

I wish you all an enjoyable read.

José Rivas
Editor
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