

## Editor's Note

As Editor of *World Competition*, I am most honoured to begin our September issue with an innovative article on the decentralized application of EC Competition Law by Judge Koen Lenaerts of the Court of Justice of the European Communities and Damien Gerard. The authors analyse the role of national courts under the new decentralized system which entered into force on 1 May 2004. Amongst other matters, they address the concerns that have been expressed on the ability of national courts of the enlarged Europe to handle complex antitrust cases and on the consistency on the application of the rules. In addition, the article also deals with the way in which the Community courts will be affected by the reform. The article goes on to draw some thoughts from the experience of judicial enforcement of the antitrust laws in the US. The authors conclude by referring to the role of counsel in this new era. We are certain that the article will provide welcome guidance to national courts, national authorities and members of counsel all over Europe.

We go on to deal with another parallel reform, that of the Technology Transfer Block Exemption Regulation. Maurits Dolmans and Anu Piilola already discussed in *World Competition* the Commission's draft Regulation (see: Maurits Dolmans and Anu Piilola, *The Proposed New Technology Transfer Block Exemption: Is Europe better off with the current regulation?*, 26 W.Comp. 4 (2003)). Now that the Regulation has been finally adopted, these two authors comment upon the outcome of the legislative reform. We have no doubt that their thoughtful analysis of the improvements and difficulties in the new Technology Block Exemption Regulation will be a highly valuable tool for practitioners.

We are proud to count on a new contribution by Professor Phedon Nicolaides (see Phedon Nicolaides, *Decentralised State Aid Control in an Enlarged European Union: Feasible, Necessary or Both?*, 26 W.Comp. 2 (2003) and *Fiscal Aid in the EC: A Critical Review of Current Practice*, 24 W.Comp. 3 (2001)). Further to his previous contribution to *World Competition* on fiscal aid, Professor Nicolaides reviews the current status of the application of EC State aid rules to tax measures. Of utmost interest is the critical evaluation of the most recent Commission policy trends with regard to regional taxes.

Estelle Derclaye contributes again to *World Competition* with a brief follow-up note on the *IMS Health* judgment (see Estelle Derclaye, *Abuses of Dominant Position and Intellectual Property Rights: A Suggestion to Reconcile the Community Courts Case Law*, 26 W. Comp 4 (2003)). As the author forecast in December 2003, the Court of Justice clarified in the *IMS Health* judgment its case-law on abuses of dominant positions. The author presents the judgment as a triple victory: for clarity and legal certainty, for

copyright and for IMS. However, some points remain unresolved. Perhaps the *Microsoft* judgment will cast some light on them.

Our next contribution leads us to the other side of the Atlantic. Joel Davidow, a regular contributor to *World Competition* (see Joel Davidow, *International Implications of US Antitrust in the George W. Bush Era*, 25 *W.Comp* 4 (2002)), undertakes a very enlightening review of the most recent developments of international relevance in the US antitrust arena. We will leave it for the reader to discover the main highlights of a two-year period that the author describes as “vigorous conservatism”.

We continue our academic debates on the frontier line between trade and competition policy. Prof. Josef Drexel introduces us to Europe’s initiative on a WTO Multilateral Framework Agreement on competition policy. In his article, the author supports principles of a possible WTO competition law considerably different from those proposed by the European Community. By meeting the interests of developing countries in his proposals, Prof. Drexel seeks to demonstrate that a WTO competition law appropriately designed may contribute to the solution of the problems entailed to globalisation.

Finally, we conclude this issue with an interesting insight of the first five years of implementation of the new Thai competition regime. Dr Mark Williams analyses the structure and content of the new law and institutions in Thailand. Furthermore, the author attempts to explain the reasons for the observed weak enforcement of the new law. The article will try to argue that the success of any competition regime requires the existence of a functioning democracy.

I wish you all pleasant reading,

José Rivas  
Editor  
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#### **Erratum**

The title of M. Piaskoski and N. Finkelstein’s article in *World Competition* 27(2): 259 (June 2004) should have read “*Do Merger Efficiencies Receive ‘Superior’ Treatment in Canada? Some Legal, Policy and Practical Observations Arising from the Canadian Superior Propane Case*”.