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Editor's Note

As Editor, may I welcome you to the first edition of World Competition for 2005.

The March 2005 journal begins with an article from Foad Hoseinian, who draws our attention to the anticipated "passing-on" problem. This issue will have to be addressed by national courts should actions for damages ever become a vital mechanism of competition law enforcement within the European Union. In an in-depth economic analysis, the author demonstrates that overcharging by cartels and monopolies does not simply harm a direct purchaser, but instead an indeterminable number of submarkets. In applying this analysis, he considers the problems associated with assessing damages and whether an alleged violator's indirect purchasers should be able to take legal action on the basis of the fraction of harm passed through to them.

We then consider the rise of the so-called "patent ambush" in the United States. In an enlightening article, my colleague Eliza Petritsi discusses the competition issues associated with the improper disclosure of patents within a standard setting organisation in order to gain monopolisation. The author argues that the European Union has not yet addressed this issue and goes on to offer thoughts on whether Articles 81 and 82 of the EC Treaty are viable tools to combat the problem. Eliza Petritsi considers the experience of the United States before concluding that European Union competition tools may not be enough.

Continuing comparisons between the US and EC, Richard Burnley of the European University Institute, Florence, considers the effects of the GE/Honeywell decision. The Commission's decision exposed a fundamental difference between the US and EC competition authorities' assessment of conglomerate effects. The author argues that in the absence of determinative empirical evidence showing that beneficial effects derive from all conglomerate mergers, there is no reason why the Commission should conform to economic standards applied elsewhere. However, the author advocates for a clear set of rules on the issue.

Building on the strong discussion in the last issue of this journal, we present a further article on the European Commission's decision in *Microsoft*. In a comprehensive article, Professor Francois Lévêque provides an economic analysis of the *Microsoft* decision on refusal to supply information on interoperability and examines the Commission's reasoning on Microsoft leveraging its market power. The author argues that the analysis of incentives to innovate provides a sounder test for ordering compulsory licensing than the new product condition of *Magill*. Prof. Lévêque also gives his thoughts on the remuneration Microsoft can request for licensing interface rights, before considering the effect on Microsoft's incentive to create further innovations.

Finally, we conclude with an article from one of our most regular and appreciated contributors, David S. Evans. Evans considers how economists can assist the development of competition law. Comparing the experiences of the EU and United States, he describes how practical tests have assisted courts with anti-competitive behaviour and reflects on ways economists can design and refine future competition tests.

I wish you pleasant reading.

José Rivas
Editor
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