

Editor's Note

As editor of *World Competition*, I am very honoured to introduce our first issue of 2006 with a new and enlightening contribution by Wouter Wils (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, “The Combination of the Investigative and Prosecutorial Function and the Adjudicative Function in EC Antitrust Enforcement: A Legal and Economic Analysis”, *W. Comp.* (2004) 27:2, “Is Criminalization of EU Competition Law the Answer?”, (2005) *W. Comp.* 28:2). In his contribution, Wouter Wils brings our attention to the investigatory powers of the European Commission (and of the Member States’ competition authorities) for the enforcement of Articles 81 and 82 of the EC Treaty. I have no doubt that the article will provide essential guidance for practitioners and national authorities who are trying to navigate the decentralized system of enforcement of EC competition rules.

The second contribution of March 2006 deals with a fairly new topic, that of compulsory insurance of loss to property caused by natural disasters. Professor Roger van den Bergh and Michael Faure raise interesting questions on the compatibility of compulsory catastrophe insurance schemes with competition law. The authors conclude that the policy debate on compensation of property loss due to natural catastrophes should take into account the anti-competitive effects of regulatory interventions in the insurance market. The article initiates an interesting debate on whether grounds of national solidarity may justify certain restrictive regulatory measures to enable compensation for loss caused by natural disasters.

Tabiama Madiéga, in his contribution, thoroughly analyses market definition under the EU regulatory framework for electronic communications. In particular, Madiéga highlights some interesting issues relating to whether the analysis of potential competition at an earlier stage would be beneficial. Madiéga also provides examples of the way in which the rapid pace of innovation is challenging market definition. This article has been shortlisted for the *1st World Competition Young Writer Award*.

Next, we resume the debate on the state action defence under EC law launched by Fernando Castillo de la Torre in our December 2005 issue (Fernando Castillo de la Torre, “State Action Defence in EC Competition Law”, (2005) 28:4). In this issue, a contribution by Judit Szoboszlai will focus on the issue of delegation of state regulatory powers to private parties. This new contribution argues that the recent order of the Court of Justice in the *Mauri* case seems to move towards a stricter standard which requires that Member States ensure active supervision over delegated decisions rather than merely approve them formally. This move, if confirmed, would approach the case-

law of the European Court of Justice to the *Midcal* doctrine in the United States. This article has been shortlisted for the *1st World Competition Young Writer Award*.

In our fifth contribution, Pietro Crocioni advocates the reform of EC state aid control rules. Crocioni questions the current system of supranational control of state aid in those cases in which the aid could distort competition, but where it is unlikely that there will be significant negative spillovers for other states. Crocioni argues for a gradual alignment of the economic foundations of state aid control assessment and those of antitrust infringement assessment in EC law.

Moving on to the interaction between competition, trade and economic development, Professor Frédéric Jenny (“Competition Law and Policy: Global Governance Issues”, (2003), W. Comp. 26:4) examines the reality of anticompetitive practices in developing countries. His contribution seeks to raise public awareness of the situation in developing countries in order to reverse a trend in public opinion which is founded more in theory than in practice. By showing that the economies of developing countries are subject to a wide array of anticompetitive practices which affect the competitiveness of their economies, Frédéric Jenny seeks to water down the scepticism regarding the practicality of enforcing competition law regimes in developing countries.

Finally, we conclude this issue with a new contribution by Ioannis Kokkoris (“Merger Simulation: A Crystal Ball for Assessing Mergers”, (2005) W.Comp 28:3), analysing buyer power in its different aspects. In particular, Kokkoris focuses on countervailing buyer power and on anticompetitive buyer power. The contribution provides us with some useful guidance on the existing precedents of cases involving buyer power under Articles 81 and 82 of the EC Treaty and under the European Merger Control Regulation. This article has been shortlisted for the *1st World Competition Young Writer Award*.

I wish you a pleasant read.

José Rivas
Editor
March 2006