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Editor's Note

We begin this December 2006 issue with a contribution by David Geradin. The contribution reflects on industry standardization, which Geradin states is critical to promoting innovation and competition in the technology-driven sectors. The article argues in favour of standard setting organizations (SSOs) and recognizes the valuable activities that they undertake, but finds criticism for recent proposals in the area of rewarding innovators, particularly in relation to suggested schemes for apportioning royalties.

Secondly, we consider recent enforcement practice at Member State level with an article by Helmut Brokelmann. Brokelmann provides an overview of the enforcement practice of Articles 81 and 82 EC by Spanish and Portuguese competition authorities and courts, since the entry into force of Regulation 1/2003 and the establishment of the European Competition Network.

We then move on to two articles dealing with liability for EC antitrust infringements. The first article, written by Aitor Montesa and Ángel Givaja considers the likelihood of a parent company being found liable for infringements committed by a subsidiary company. The authors review the stance taken by the Commission, the Court of First Instance and the European Court of Justice and attempt to identify a consistent position in this potentially costly area of enforcement policy. We welcome this interesting contribution, which has been shortlisted for the *1st World Competition Young Writer Award*.

The theme of liability continues with a timely article by Enrico Leonardo Camilli, who considers the approach to setting fines in cartel cases. The article provides a critical analysis of the EC fining policy, including an assessment of how successful the implementation of economic theories regarding deterrence have been in practice and an overview of the improvements that Camilli believes will be seen following the introduction of the 2006 Guidelines on fines. This contribution has also been shortlisted for the *1st World Competition Young Writer Award*.

In our fifth contribution to the issue, Francesco Russo explains how the protection afforded to minority shareholders by corporate governance legislation can, in fact, be used to circumvent Competition Law. More generally, the article explores how even a non-controlling share in a company's equity can be used to anti-competitive effect, and criticizes the European Courts and Commission for failing to take effective action to tackle this problem. Russo himself proposes a solution, arguing for the adoption of European legislation based on the United States model. We have selected this paper for the *1st World Competition Young Writer Award*.

We continue the comparison of European and American competition practice in our next contribution, by Shilei Zhu. Zhu considers the similarities and differences between EU and United States horizontal merger laws, exploring the basic models and

economic analyses adopted on either side of the Atlantic, and the different approaches taken to due process, judicial review, and remedies. This practical contribution has also been shortlisted for the *1st World Competition Young Writer Award*.

Finally, in our closing contribution, Mor Bakhoum takes us to West Africa for an in-depth analysis of the competition policy of the West African Economic and Monetary Union. Bakhoum explains that the relative infancy of the organization itself, and the lack of a competition culture in many of its Member States, give rise to specific concerns that are not reflected in the more developed EU. In particular, Bakhoum provides a comprehensive survey of the division of competences between WAEMU and its Member States, and argues in favour of placing more power in the hands of the Members. This contribution is very close to my heart as some years ago I was fortunate to advise and draft the secondary legislation in the field of competition of the West African Economic and Monetary Union.

I wish you a nice reading.

José Rivas
Editor
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