

Editor's Note

As Editor of World Competition, I have the pleasure of presenting a September 2008 issue full of excellent contributions. Settlements is the topic tackled in our first contribution, written by my friend Wouter Wils, member of the Advisory Board of this Journal and habitual contributor. This is the eleventh time he has written in World Competition. This excellent contribution discusses two very topical issues concerning the use of settlements in public antitrust enforcement. The discussion will be illustrated with two specific examples: the commitment procedure under Article 9 of Regulation 1/2003, and the proposed new settlement procedure in cartel cases.

In our second contribution, a friend and former student colleague of mine, António Goucha Soares introduces us to the so-called “national champions”. This interesting article aims to debate the issue of national champions regarding concentrations with a Community dimension. Some national Governments, for industrial policy reasons, favour the size of domestic undertakings, or prevent the acquisition of national firms by foreign competitors. An in depth analysis is given by the author, who provides a selection of different cases that illustrate the phenomenon.

Further on, Alessandro Marra and Alessandro Sarra tackle the public debate regarding the lack of private antitrust enforcement in the European Union. While the European Commission suggests concentrating on monetary incentives to boost actions for damages, the authors argue that monetary incentives are not sufficient to create an efficient regime of private enforcement. In particular, they develop the theory that in order to increase the number of effective damages actions it is useful to be more aware of the incompleteness of antitrust laws and the relevance of evidentiary requirements needed to initiate a successful lawsuit. Alessandro Marra is candidate for the *3rd Young Writer's Award*.

In our fourth contribution to the issue, Teresa Vecchi deals with oligopolies. This particular playing field is characterised by the presence of few strong players and a high level of transparency that allows undertakings to monitor each other's conducts. This behaviour may have anticompetitive effects through collective dominance. In an enlightening and in-depth analysis, Ms Vecchi concludes that unilateral conducts should be considered as abuses of collective dominance only when they are the manifestation of a collective dominant position, when the other members of the oligopoly are aware of them and, most importantly, when they benefit from them. This article has been shortlisted for the *3rd Young Writer's Award*.

Paul Gorecki has carried out an exhaustive analysis of the interaction between firms and the Competition Authority in Ireland. As the role of the Authority is to promote consumer welfare, it has responsibility for distinguishing those complaints that

have no merit (i.e. the conduct complained of is part of the normal competitive process) and those that do have it (i.e. the conduct restricts competition and harms consumers). The article discusses various ways in which the Authority encourages more pro- and less anti-competitive complaints.

Next we move on to the field of State aid. Mihalis Kekelekis and Phedon Nicolaides, also a regular contributor to this Journal (Fiscal State Aid in the EU: The Limits of Tax Autonomy, 27 *W.Comp.* 3 (2004)) offer us an overview of the relevant legislation concerning the granting of State aid to transport and go through Commission decisions and Courts' jurisprudence in order to analyse how they have been interpreted and applied. The article also outlines the main provisions of the new regulation and concludes with introducing the steps according to which Member States that wish to provide public support via the discharge of public service obligations to transport operators have to proceed.

Our last contribution takes us to Japan. Koki Arai undertakes the revision of the business combination guidelines of Japan and activities of the mergers and acquisitions division of the Japanese Fair Trade Commission during 2006 and 2007 in detail. The main contribution of this article includes an interesting comparison with the US and EU merger guidelines, not only a set of specific standards, but also the ideas that the US and EU adopted or the reason why these standards were selected.

I wish you a pleasant read.

José Rivas
Editor
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