

Editor's Note

As Editor of *World Competition*, it is a great pleasure to introduce the December 2008 issue which, as ever, is full of high quality contributions. Our first article is written by Ralf Boscheck, who is a member of our Editorial Board. ("Contract Logic and Efficiency Concerns Considerations for an Efficiency Approach to Antitrust Analysis in Keeping with the Logic of Institutional Choice", 25 *W.Comp.* 4 (2002), "Competitive Advantage and the Regulation of Dominant Firms", 30 *W.Comp.* 3 (2007)). In a most interesting article and with the clarity that characterises Ralf's work, he analyses the current status of the pharmaceutical sector from an antitrust perspective on both sides of the Atlantic. The author focuses in the first instance on the US experience and, in the latter part of his article, links it to the current EU initiative.

Our next article tackles the assessment of likelihood of a merger in a cartelized market inducing or enhancing coordinated effects. The author, Ioannis Kokkoris, who has contributed previously to *World Competition*, ("Buyer Power Assessment in Competition Law: A Boon or a Menace?", 29 *W.Comp.* 1 (2006), "The Development of the Concept of Collective Dominance in the ECMR. From its Conception to its Current Status", 30 *W.Comp.* 3 (2007)) criticizes the rare decisional practice by the Commission in this field and brilliantly exposes his arguments in favour of avoiding a presumption of illegality for such mergers and recommends a case-by-case analysis. This candidate has been shortlisted for the Young Writer's Award.

In our third submission, the issue of collective dominance is dealt with by Félix Mezzanotte. This author examines the legal notion of pre-existing collective dominance following the *Impala* case. More particularly, Mr Mezzanotte examines the theory of indirect proof within the *Airtours* criterion and analyses the implications for the test of pre-existing collective dominance. This enlightening analysis leads to a critical conclusion as well as a recommendation for the European Courts and the European Commission.

In the next article, Professor Inge Govaere addresses the topical question of whether or not one can discern a clear and coherent innovation policy rationale underlying the modernisation process of Article 82 TEC in the recent policy statements and practice of the European Commission. In a very interesting conclusion, the author tries to identify a new course of action aspiring to combine dynamic competition and innovation in furtherance of the Lisbon Strategy.

State Aid is the topic of our next contribution from Benjamin Cheynel and Adrien Giraud. These two authors examine the new exception introduced by the Court of

Justice as to the treatment by national courts of recovery requests targeting unlawful State aids. Several arguments are provided to demonstrate that this new exception not only contradicts the Court's recent case law in the field, but may also entail significant and undesirable effects for State Aid policy. These two candidates have been shortlisted for the Young Writer's Award.

With our next submission to this issue we go to Asia. International cartelists today face antitrust investigations and possible fines in a score of national and supra-national jurisdictions. This outstanding contribution from John Connor provides quantitative information about the size and impacts of international cartel activity in Asia and uses a sample of modern private cartels to evaluate the relative effectiveness of three prominent Asian antitrust authorities.

We conclude this issue with a contribution that takes us to India. The Competition Act was enacted in this country in 2002. In an in-depth analysis, Avinash Sharma discusses this new competition regime, its scope, ambit and various dimensions. The article ends with a look into the future, as the author explains whether it will have to face new challenges due to the dynamism of international trade and economic laws in the era of irreversible globalization. This candidate has been shortlisted for the Young Writer's Award.

José Rivas

Editor

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