

## Editor's Note

As the editor of *World Competition*, I am delighted to open the June 2010 issue of the journal with the announcement of the winner of the 4th *World Competition Young Writer's Award*. The prize goes to Alessandro di Giò for his excellent article "Contract and Restitution Law and the Private Enforcement of EC Competition Law" (*World Competition* 32, no. 2 (2009)). On behalf of the team of *World Competition* I congratulate the author.

I would also like to remind you that in 2010 we are running the 5th edition of *World Competition Young Writer's Award*. Authors who meet the criteria for participation are encouraged to submit their articles for the contest.

The first article of the present issue comes from Eric Gippini-Fournier. The author investigates the question of the standard of proof applied in EU competition cases. Based on an extensive analysis of the case law of the EU Courts, he submits that the notion of standard of proof, understood in common law countries as a certain evidentiary threshold to be achieved to prove a case, is largely absent from the EU Courts' reasoning process. Rather, the judges seem to decide cases according to persuasiveness of the evidence without being bound by preset evidentiary thresholds, which is the usual approach in the civil law tradition. The article then provides valuable insights into the factors which may influence the process of persuasion of judges in competition litigation before the EU courts.

The second submission is by Kai Hüschelrath and Jürgen Weigand who develop a theoretical framework to enforce anti-predation rules. After discussing the economic rationale for predatory behaviour and its welfare effects, the authors examine different intervention options against predation. They propose the ways to refine and amend the anti-predation enforcement regime based on a differentiated approach depending on the characteristics of the industry where the rules are applied. According to the authors, this would discourage anticompetitive price cuts but preserve the incentives for legitimate price competition.

In the third article Jacques H. J. Bourgeois and Stéphanie Strievi submit an original proposal for the compensation of consumers harmed by anticompetitive conduct. The authors propose to compensate the victims of competition law infringements at the public enforcement stage. In particular, they suggest that compensation could be an undertaking in the commitment procedure under Article 9 of Regulation 1/2003, or, alternatively, that it could be considered as a mitigating circumstance in the process of setting the fine. According to the authors, such treatment of compensation would be beneficial for both

private and public enforcement of competition law. Stéphanie Strievi has been shortlisted for the *5th World Competition Young Writer's Award*

Our next contribution comes from Ariel Ezrachi, who has previously published in our journal ("Behavioural Remedies in EC Merger Control – Scope and Limitations", *World Competition* 29, no. 3 (2006): 459–479). The author addresses the issue of private labels sold by supermarkets in competition with branded goods. According to Mr. Ezrachi, while the effects of private labels on competition can be both positive and negative, the existing EU competition rules are not sufficient to address anticompetitive effects which may be caused by them. Whether regulatory intervention to deal with private labels is warranted is subject to further discussion.

The article by Abel Mateus discusses the relationship between the competition law regime and the level of development of a country. The main submission of the article is that there is no single competition law model which would fit all countries and the choice of competition law should be determined by the institutional development of the individual state. Based on previous influential research in the fields of development economics and law and economics, the author proposes the criteria for establishing a competition law regime which take into account the level of institutional development. The article may serve as a useful research agenda for designing competition rules worldwide.

The article by Yo Sop Choi highlights the peculiarities and problems in enforcement of competition law in the Republic of Korea. The author discusses the drawbacks of the current broad application of the provisions on unfair business practices by the Korean competition authority and proposes several amendments to the competition legislation which would make its application more coherent and predictable. Mr. Choi is a candidate for the *5th World Competition Young Writer's Award*.

Finally, Thomas Cheng ("A Tale of Two Competition Law Regimes – The Telecom-Sector Competition Regulation in Hong Kong and Singapore", *World Competition* 30, no. 3 (2007): 501–526) takes us to another Asian jurisdiction and discusses competition law enforcement in the television broadcasting sector in Hong Kong. Television broadcasting is one of the only two sectors in Hong Kong subject to competition law enforcement. The author provides an overview of the competition law cases in the sector and takes a critical view of the decisional practice of the Broadcasting Authority, the sectoral regulator. Mr. Cheng underlines the limitations of a sectoral approach to competition law and expresses the hope that the situation will improve with the anticipated adoption of cross-sector competition legislation. This article has also been nominated for the *5th World Competition Young Writer's Award*.

I wish you a pleasant read.

José Rivas  
Editor  
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