Editorial

Dear Reader,

There is arguably no bigger antitrust issue in the world at the moment than scrutiny of the way Google runs its business and its online activities. But it would be all too easy to become distracted by such big-ticket investigations. Of equal importance is the way that countries in the developing world are beginning to build their regulatory structures for competition oversight. And as if to prove that the work is never done, more evolved antitrust regimes are still fine-tuning the way they police corporate behaviour. This issue of World Competition, as ever, in dealing with such subject matters and more, reflects the breadth of preoccupations on the minds of leading practitioners and authorities in the world of antitrust law and enforcement.

In our September issue, our first article written by Michael Frese and Ingrid Vandenborre, takes a look at MFN (most favoured nation) clauses and whether they are dealing with an end of tolerance from the competition authorities. The authors analyse the importance of transparency when dealing with MFN clauses, consider whether MFN clauses deserve their seemingly bad reputation and whether they do restrict competition. From theories of harm and efficiency to the possibility of integrating market transparency in the analysis of European competition law, this article gives the reader guidance on the topic and leaves us with considerations when it comes to most favoured nation clauses and their future.

Remaining in the online world, Thomas Hoppner discusses search engines and the markets for multi-sided platforms. In his article he explains the need to define a relevant market as well as the importance of the criterion of demand substitutability when trying to do so. He offers a definition of multi-sided markets and makes the case for a three-way definition of the market.

Our third article deals with competition law in media markets and its contribution to democracy. Josef Drexel raises the importance of a 'second layer' of merger control by sector-specific media regulators and the taking of a 'holistic approach' when it comes to promoting media diversity and democratic values. Through analysis of case law he shows that the democratic goal can then be used either for or against intervention, while at the same time promoting diversity of content and ideas in copyright-related media markets.

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Laura Guttuso reminds us of the ongoing importance of leniency and settlement policies, the 'ambivalent role' they play, and the risk they may undermine deterrence. Citing; among others, European Commission and UK practices, she shows some of the practical challenges such policies can have. In the second part she deals with the importance of fairness and due process when it comes to the effective administration of leniency and settlement policies.

To explain the evolution of the European Commission's approach towards failing-division defence, Ruchit Patel first takes us through an overview of how US authorities have broached the issue, starting with the judgment in *International Shoe v. FTC* by the US Supreme Court. While the Commission has a record of dismissing a failing-division defence where the parent company is in sound financial health, Patel observes that this may, rightly, be changing.

We round up our articles in this issue with Robert Mudida, S. Wagura Ndirtu and Thomas W. Ross taking a look at the new competition policy regime in Kenya. After analyzing the Colonial Period and the Price Control Act of 1956 as well as the restrictive trade practices, monopolies and price control act of 1988, the authors review the country's 2010 Competition Act.

I trust that you will enjoy reading these articles and accompanying book reviews as World Competition continues its engagement with and contribution to debate in the global antitrust community.

José Rivas
Editor
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