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## European Competition Day

Stockholm June 11th 2001

After Lisbon and Paris, the third Competition Day will be organised in Stockholm on June 11th.

This event is dedicated to the citizens of the European Union who are not really aware of the positive impact of European competition policy on their day-to-day life.

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## Competition in a Social Market economy

Speech by **Commissioner Monti** at the Conference of the European Parliament and the European Commission on 'Reform of European Competition law' in Freiburg on 9/10 November 2000

Ladies and Gentlemen,

Let me take my turn to welcome you to this conference that has been jointly organised by the European Parliament and the European Commission to discuss the Reform of EC competition policy.

The Commission has launched a reform that aims at overhauling the whole of the competition law framework in order to ensure *more efficient enforcement* of the European competition rules and thereby reinforce their effect. A reform of this scope is an excellent opportunity to re-visit and to re-examine what is basic to our understanding.

The venue here at Freiburg of course reminds us of the Freiburg School. The Freiburg School has made a major contribution to shaping the post-war economy as one of the sources of the concept of *Soziale Marktwirtschaft* – Social market economy.

When we take a close look at what 'Social Market Economy' stands for, we find that we are in the presence of one of those basic concepts to which many policy choices can be traced back.

We also realise that we are in the presence of strikingly modern ideas.

Having said this, it is not my intention to discuss here the issue whether 'Social Market economy' is a model for Europe<sup>1</sup> or whether the concept of Social Market Economy and the historic experience it encompasses is a major building block of what we sometimes call the 'European Model'. Among the many facets of the subject I would rather like to focus on some that, in my view, carry a message from which we can derive important lessons for the future.

### ***Reliance on the Market mechanism***

The term 'Social Market Economy' was of course designed with care. In it the word 'market' takes the central position. That, I think, was intended.

The concept of Social Market Economy stands for reliance on the market mechanism. It is

<sup>1</sup> 'Soziale Marktwirtschaft – Ein Modell für Europa' is the title of a book published by Mr von Wogau.

based on the experience that the market mechanism is the most efficient way to meet the demand from consumers for goods and services. That the market mechanism will bring companies to increase productivity, to expand, to innovate – and to create jobs. In short, it recognises that the market forces are the most efficient generator of prosperity. It therefore calls for a maximum of free market, for reliance on competition wherever possible.

Historically, as we all know, this did not seem evident at all. Those that had the courage to implement what they came to call *Soziale Marktwirtschaft* in post-war Germany were faced with scepticism from almost all political parties and a large part of the population in the early days. At that time, many people, who were lacking the most basic products, simply could not believe that their needs could be catered for without the state or state-run instances organising the economy, fixing prices etc.. When the de-blocking of market forces actually led to providing them with products, services - *and jobs*, they spoke of a *miracle*.

The effects of relying on the market forces are rarely so clearly demonstrated as under the very specific conditions of post-war Germany. However, it is not impossible to witness 'market miracles' nowadays even in the 'old' Member states of the European Community.



Not so many years ago it seemed to be an eternal truth that telecommunications services could best be provided by one public operator per country. Since then, liberalisation of the telecommunications markets throughout Europe has lead to an unprecedented increase in the quality and variety of services combined with an equally unprecedented decrease in prices for the consumer. Hundreds of new companies have entered the market and since the beginning of 1998 thousands of new jobs have been created.

The liberalisation experience of recent years at European level is in my view a striking example of how the courage to rely on the market forces is wanted today.

### *No Laissez-faire capitalism*

Social Market economy does however not stand for Laissez-faire-capitalism. It recognises that a functioning economy is indispensable to produce the material basis without which human society with all its other non-economic – human and cultural - dimensions cannot exist. Where no wealth is created in the first place, none can be redistributed.

For this very reason the idea is not to leave the economy alone to any development it might take, but to create a strong framework that ensures

- First, that social standards and other objectives of the

society are respected. This is reflected for example in individual and collective workers' rights, the control of working conditions, the protection of persons with specific needs etc.

- Second, that the beneficial workings of the market forces are not blocked, restrained or distorted by short-sighted actions of the market actors themselves. Hence the crucial importance of a strong competition law framework.

### *The concept of the Treaty*

If we look at the Treaty, some of the same basic messages are there. Member states agreed on creating a Single Market in which the market forces are to yield a maximum of benefits to the European consumers. This is why they agreed on strong rules to protect the market forces against restriction and distortion by the Member states – e.g. by state aids - and by the economic operators themselves.

You can see the focus on consumer benefit from the wording of the competition rules. It reflects the basic idea that the consumer should benefit to a maximum from the surplus generated. The consumer should receive more offer, better quality, more innovative products and services and lower prices. The Treaty relies on effective competition to achieve this objective.

However, the Treaty also reflects the importance of other values in the 'European Model'. The philosophy becomes very clear from the fine balance the Treaty strikes in an instance where the aim of benefiting from the market forces on the one hand and the aim of ensuring social cohesion on the other hand come to touch: I am of course referring to the area of services of general interest.

### *Services of general interest*

Services of general interest are a key element in the European model of society. A new Article in the EC Treaty now confirms their place among the shared values of the Union and their role in promoting social and territorial cohesion.

In the Community, it is above all the responsibility of public authorities at the appropriate local, regional or national level and in full transparency to define the missions of services of general interest and the way they will be fulfilled. If these public authorities consider that certain services are in the general interest and market forces may not result in a satisfactory provision, they can lay down a number of specific service provisions to meet these needs in the form of service of general interest obligations. The Community level on the other hand will ensure in the application of the Treaty rules and with the instruments at its disposal that the performance of such services, in terms of

quality and prices, responds best to the needs of their users and of citizens at large.

The interplay of local, regional and national levels with the Community level gave rise to many questions. The Commission therefore recently published a new communication on the subject. This Communication sets out the basic features of the fine balance the Treaty strikes in this area by clarifying both the scope and criteria of application of internal market and competition rules. First of all, such rules apply inasmuch as activities concerned are economic activities that affect trade between Member States. Where the rules apply, compatibility with those rules is based on three principles:

- Neutrality with regard to the public or private ownership of companies;
- Member States' freedom to define services of general interest, subject to control for manifest error;
- Proportionality requiring that restrictions of competition and limitations of the freedoms of the Single Market do not exceed what is *necessary* to guarantee effective fulfilment of the mission.

In the communication the Commission also assembles currently available information on the state of play in those areas where Community action has already been taken. It thereby demonstrates the positive impact of this action on the availability, quality and affordability of services of

general interest in the sectors concerned. The experience gained so far confirms the full compatibility of the Treaty rules on competition and the internal market with high standards in the provision of services of general interest. In certain circumstances, in particular where market forces alone do not result in a satisfactory provision of services, public authorities may entrust certain operators of services with obligations of general interest and where necessary grant them special or exclusive rights and/or devise a funding mechanism for their provision.

The experience gained so far clearly shows that the Community in partnership with local, regional and national authorities can develop a proactive policy at European level to ensure that all the citizens of Europe have access to the best services.

### ***Small and Medium sized companies***

A different but equally complex set of objectives is at the basis of our policy towards small and medium-sized companies. Small and medium sized companies have proved to be a major source of innovation and job creation in Europe. This applies in particular to small and medium sized companies that implement new business ideas, be it in new markets, be it by discovering promising niches in existing markets. With the spread of new communication technologies the access to a larger customer base in the

whole of the Internal Market will hugely increase the chances of such companies of succeeding and at the same time improve consumer choice.

The Community has taken a range of activities in order to promote the competitiveness of small and medium sized companies. Small and medium sized companies are directly and indirectly the beneficiaries of a number of Community funding programs. They are also in the back of our minds in various initiatives of horizontal scope like the simplification of legislation that we are undertaking. And the impact of each and every initiative taken by the Commission on SMEs is analysed in detail before the initiative is taken.

In the area of competition policy in particular, small and medium sized companies are beneficiaries of Community action and the reform we are currently undertaking is going to increase this effect.

Small and medium-sized businesses with little market power are generally more likely to be victims of infringements of the Community competition rules than actively to engage in infringements themselves. They are therefore 'natural' beneficiaries of competition policy and will profit from stepping up enforcement.

The activities of small and medium sized companies themselves very often fall within the scope of block exemption regu-



lations. This means that under the present Regulation No 17 they are already generally much less concerned to notify agreements with a view to individual exemption decisions.

Alongside the reform of the rules implementing Articles 81 and 82 through the proposed Regulation, the Commission, pursuing the more economic and reasonable approach has initiated a reform of the substantive rules in block exemption regulations, Commission notices and guidelines. A new type of block exemption regulation simplifies compliance for companies with little or no market power by introducing market share thresholds (with the exception of certain hard-core restrictions). Under this type of regulation, the vast majority of small and medium-sized businesses are able to act within 'safe harbours'.

### ***A strong competition law framework for the future Community***

This brings me to the second pillar of a strong framework: protecting the functioning of the market forces against restrictions by the companies themselves. There can be no doubt that the Treaty has provided us with strong rules in Articles 81 and 82. The decision making practice of the Commission and the case law of the Court of Justice over the last almost forty years have contributed to shaping a full-blown, strong competition law

framework. There can be no serious doubt about that.

The world around us and the markets however have been changing and continue to do so. The completion of the internal market, globalisation of trade and rapid technological change bring about new conditions. Markets and companies have outgrown the nation state to which they were confined to a large extent in the past.

In addition, the Community is facing two major challenges at once:

- It is a few years only from the most important enlargement in its history that will potentially almost double the number of Member states.
- At the same time the 'European model' is put to the test of increasing international 'competition of systems' – a challenge that has become much more visible since the introduction of the EURO.

The question that is before us is therefore how to make the most of the excellent tools that the Treaty provides us *in the future conditions*.

If we want to uphold and develop the 'European model' of benefiting from the market forces to a maximum without however exposing our societies to a laissez-faire capitalism, we must implement a strong framework at European level, in the

future to some extent at international level.

*A strong framework is one that ensures efficient implementation of the rules*

This leads of course inevitably to the crucial question: What is a *strong* framework under the conditions mentioned? The Commission is convinced that the actual impact of the competition rules is determined by their efficient implementation. Similar to companies that adapt to competitive pressure, the Community system of protecting competition must adapt to the challenges facing it by becoming more efficient. This is the guiding principle of the overall reform effort launched by the Commission.

### ***Horizontal agreements***

One important element in our efforts to modernise European competition policy is the ongoing reform of our policy on horizontal co-operation agreements. The Commission has prepared on the one hand revised block exemption Regulations for R&D and Specialisation agreements and on the other hand draft guidelines on the applicability of Article 81 to horizontal co-operation.

The aim of these texts is to clarify the application of competition policy in the area of horizontal co-operation agreements not to rewrite it. This is an important point to underline, since the proposals

have been criticised by some observers in Germany as constituting a major change in approach to horizontal co-operation agreements. I would emphasise that this is definitely not the case. It is clear that we have to keep a very close eye on horizontal agreements. It is generally recognised that agreements which are concluded between competitors have a greater potential for producing negative effects on competition than other forms of agreement. This is clearly the case where competitors agree to fix prices, share markets or limit production.. We certainly do not want to give the impression that horizontal agreements which produce serious negative effects will be viewed favourably in the future.

However, absent hardcore restrictions horizontal agreements must be analysed in their economic context to establish whether they produce negative effects on the market. This is nothing new and corresponds with the text of Article 81 of the Treaty, and the existing case law.

But we need an updating and clarification of rules on horizontal agreements for two reasons:

Firstly, as a reaction to economic realities. Companies need to respond to increasing competitive pressure and a changing market place driven by globalisation, the speed of technological progress and the generally more dynamic nature of markets. Co-operation can often be a way to share risk, save costs, pool know how and launch innovation faster. In par-

ticular for small and medium sized enterprises co-operation is an important means to adapt to the changing market place. Consumers will share these benefits, provided that effective competition is maintained in the market.

The proposed reform therefore adopts a more economic approach both for the block exemptions and for the treatment of individual cases. We should recognise in particular that for most forms of co-operation, where the companies involved do not have market power, the effect of co-operation is not anti-competitive, provided that there are no hardcore restrictions. This focus on the really anti-competitive agreements will make our policy towards horizontal co-operation more effective for today's economic environment.

The second reason for our review in the field of horizontal agreements is that a clarification of the rules is an essential pillar in our attempts to modernise competition policy. The approach is similar to that recently adopted for vertical agreements and serves an important purpose in the context of the over-all reform: It allows companies to assess themselves whether or not an agreement is restrictive of competition and whether it comes under Article 81(3).

The Commission aims at finalising the block exemption Regulations and the Guidelines by the end of this year. This would not only avoid a legal vacuum after the expiry of the current Regula-

tions, it would also largely contribute to keeping EC competition policy up-to-date.

### *New implementing regulation*

The aim to strengthen the EC competition framework is in particular reflected in the Commission's proposal for a new implementing regulation for Articles 81 and 82. A large part of the Conference will be dealing with this subject and I do not intend to pre-empt what you, the experts on this matter, will discuss in much more detail. However I would like to highlight a few points.

The objective to achieve more efficient enforcement is of course reflected in the proposed much stronger involvement of national competition authorities and national courts in the implementation of the EC rules. More enforcers means more deterrent effect. It is of course also reflected in the proposed abolition of the notification system that will allow the Commission to refocus its direct enforcement action on the detection of the most serious infringements instead of handling notifications.

It is also behind the Commission's proposal that the Commission and the national competition authorities should form a network and work closely together in the application of the EC competition rules. The network will provide an infrastructure for mutual exchange of information, including confidential informa-



tion, and assistance, thereby expanding considerably the scope for each member of the network to enforce the competition rules effectively. The network will also ensure an efficient allocation of cases based on the principle that cases should be dealt with by the best placed authority.

Under the Commission's proposal the action of public authorities will be complemented by more private enforcement through national courts. National courts will play an important and enhanced role in the enforcement of Community competition rules. They can grant damages and order or refuse the performance of contracts.

More efficient enforcement is quite obviously also behind the adaptation and clarification proposed to the Commission's powers of investigation.

A major leap forward in terms of efficient enforcement throughout Europe will also be achieved if the Council adopts the Commission's proposal to provide for exclusive application of the EC competition rules to cases affecting trade between Member states.

In the public debate, it was mostly companies that have raised the issue of the present patchwork of 16 competition law systems in the Community, calling for more level playing field. There is much to say in favour of that argument, in par-

ticular with a view to enlargement and despite the fact that many national laws are more or less similar to the EC rules: Historic experience teaches us that no such thing as two identical sets of rules exist even if the letter of the law is the same or similar. You can easily see that from the numerous countries to which the French Civil Code was exported: Through case law and modifications they soon grew apart.

However, it is the enforcers who should long have adopted the argument. Because it means that they will work more efficiently. National enforcers will fully contribute and benefit from a shared and growing basis of common case practice. Application of the rules by all will be hugely enriched by the sharing of experience. Experience gained in Member state A will no longer be confined to the books on the competition law of A, it will be available to enforcers in all other member states – and the Commission.

Finally, applying the EC competition rules will also mean that national competition authorities will acquire a new power: They will fully participate in the application of the autonomous EC rules – under the ultimate control of the Court of Justice.

## *Conclusion*

This brings me back to the beginning of this 'tour d'horizon' on the roots and the present reform of competition policy in Europe. We have seen that many elements which are still guiding principles to our action today go back a long way and that it is most useful to reinforce our awareness of those basic elements in order not to miss the lessons they can teach us.

The development of the Community is an unprecedented one. This is true for what has been achieved in terms of integration – and in particular market integration to the benefit of consumers, companies and our societies as a whole. It is also unprecedented as regards the application for membership by a large number of candidate countries and as regards the international role the Community is called upon to play.

We will have to rise to these challenges. We must re-think and adapt our basic concepts on another scale. The Commission itself has taken some time to realise all the implications of overhauling the EC competition law framework today. Maybe we all need some time and some more in-depth discussion on the issues raised by this reform. I am confident that this conference will help to enhance our thinking.

## Horizontal Co-operation Agreements: New Rules in Force

*Joachim LÜCKING and Donnadh WOODS,  
DG COMP-A-1*

On 1 January 2001 new rules for the assessment of horizontal co-operation agreements entered into force. The adoption by the Commission of the new 'block exemption' Regulations for Specialisation<sup>2</sup> and R&D<sup>3</sup> agreements and of the horizontal guidelines<sup>4</sup> on 29 November 2000 successfully concluded a reform project which started in late 1997.

The new Regulations replace the previous 'block exemption' Regulations on specialisation agreements<sup>5</sup> and on research and development (R&D) agree-

ments<sup>6</sup> which expired on 31 December 2000. The guidelines not only replace two notices, which provided guidance in respect of certain types of co-operation agreements falling outside Article 81<sup>7</sup> and the assessment of co-operative joint ventures<sup>8</sup>, but also cover a wider range of the most common types of horizontal agreements, and complement the block exemption regulations on R&D and Specialisation.

The new rules embody a shift from the legalistic approach underlying the previous legislation towards a more economic approach in the assessment of horizontal co-operation agreements. The basic aim of this approach is

to allow competitor collaboration where it contributes to economic welfare without creating a risk for competition. In the context of modernisation, the new rules also give clear guidance to courts and national authorities as to the assessment of horizontal co-operation in EC competition law.

### The block exemption Regulations

The new Regulations exempt all R&D and specialisation agreements, subject to certain conditions and the exclusion of hardcore restrictions. They thus follow the model set by the Vertical Block Exemption Regulation<sup>9</sup> to move away from a clause-based approach and to give greater contractual freedom to the parties of such agreements.

In addition to this increase in flexibility, the following principal changes have been incorporated into the new R&D block exemption Regulation:

- a) Deletion of the requirement to draw up a framework programme prior to entering into R&D agreements. This requirement does not make sense economically, as it is often not practical for companies to enter into such agreements prior to undertaking R&D.

<sup>2</sup> Regulation (EC) No 2658/2000 on the application of Article 81(3) of the Treaty to categories of specialisation agreements OJ L 304, 05.12.2000, p.3.

<sup>3</sup> Regulation (EC) No 2659/2000 on the application of Article 81(3) of the Treaty to categories of research and development agreements (OJ L 304, 05.12.2000, p.7).

<sup>4</sup> Guidelines on the applicability of Article 81 of the Treaty to horizontal co-operation agreements (OJ C 3, 06.01.2001, p.2).

<sup>5</sup> Commission Regulation (EEC) No 417/85 of 19 December 1984 on the application of Article 85(3) of the Treaty to categories of specialisation agreements (OJ L 53, 22.02.1985, p.1.), as last amended by Regulation (EC) No 2236/97 (OJ L 306, 11.11.1997, p.12.).

<sup>6</sup> Commission Regulation (EEC) No 418/85 of 19 December 1984 on the application of Article 85(3) of the Treaty to categories of research and development agreements (OJ L 53, 22.02.1985, p.5.), as last amended by Regulation (EC) No 2236/97 (OJ L 306, 11.11.1997, p.12.).

<sup>7</sup> Commission Notice concerning agreements, decisions and concerted practices in the field of cooperation between enterprises (OJ C 75, 29.7.1968, p.3.).

<sup>8</sup> Commission Notice concerning the assessment of cooperative joint ventures pursuant to Article 85 of the EEC Treaty (OJ C 43, 16.2.1993, p.2.).

<sup>9</sup> Commission Regulation (EC) No 2790/1999 of 22 December 1999 on the application of Article 81(3) of the Treaty to categories of vertical agreements and concerted practices (OJ L 336, 29.12.1999, p. 21.).





- b) Increase in the market share threshold for exemption from 20% to 25%. This increase recognises that R&D collaboration is particularly conducive to the creation of efficiencies, while on the other hand restrictive effects are less likely than for other types of co-operation.
- c) If the agreement foresees joint distribution of the products which were jointly developed, the market share threshold is increased from previously 10% to 25%. There is no economic rationale for impeding joint distribution of products which are jointly developed and produced, below the level of 25 % market share.
- d) Increase in the safety margin for market share fluctuations from 2% to 5%. This increase acknowledges that market shares may be difficult to measure in certain market situations.
- e) Increase in the period during which joint exploitation of jointly developed products is covered irrespective of market share. This period has been increased from five to seven years in view of the fact that there are a number of industries where R&D investments are unlikely to be recouped within five years. The same seven-year period is proposed for the permission of certain restrictions that go along with joint exploitation.
- f) Deletion of the non-opposition procedure. This procedure is no longer

necessary as all restrictions other than hardcore are exempted subject to certain conditions.

- g) A provision has been added which allows the withdrawal of the block exemption in those cases where an agreement would eliminate effective competition in R&D on a particular market. This is necessary to protect competition in innovation, as it would not be feasible to apply the normal market share thresholds of the Regulation to totally new products.

As regards the new Specialisation block exemption Regulation, the following are the principal changes:

- a) Extension of the scope of the Regulation to cover unilateral specialisation between competitors. This is a form of outsourcing, where one party agrees to cease manufacture of certain products and to purchase these from another party, who agrees to manufacture and supply these products. Unilateral specialisation between competitors is covered by this Regulation because of its increased importance in many industries and its potential to create efficiencies. Unilateral specialisation between non-competitors is in principle covered by the Vertical block exemption Regulation.
- b) In case of reciprocal specialisation, incorporation of a cross-supply obligation so that no party leaves the

market downstream of production. This is necessary to prevent parties from partitioning markets under the guise of a reciprocal specialisation agreement.

- c) Deletion of the turnover threshold. There is no economic rationale for such a threshold as there is no clear link between turnover and market power.
- d) Increase in the safety margin for market share fluctuations from 2% to 5%, as for the R&D block exemption Regulation.
- e) Possibility for exclusive supply or exclusive purchase obligations. This is important to facilitate outsourcing, where the parties are seeking security of supply or demand in view of their investments and where they may need to protect intellectual property rights.

Both Regulations foresee a transitional period of 18 months, during which agreements which do not satisfy the conditions of the new Regulations but which satisfy the conditions for exemption provided for in the old Regulations continue to be covered. However, as the new Regulations are wider than the old ones this should in any event only apply to a very small number of agreements.

### The Guidelines

The horizontal guidelines are applicable to R&D and production agreements not covered by the block exemptions as well as to all

other common types of competitor collaboration. The following types are covered: R&D, production, purchasing, commercialisation, standardisation, and environmental agreements.

The guidelines describe the general approach which should be followed when assessing horizontal co-operation agreements and set out a common analytical framework, which has been summarised previously in the CPN.<sup>10</sup> This will help companies to assess with greater certainty whether or not an agreement is restrictive of competition and, if so, whether it would qualify for an exemption.

Legal certainty is further increased through the provisions of so called "safe harbours". These are provided for purchasing agreements and commercialisation agreements which do not include hardcore restrictions and which are concluded between companies below a certain level of market power, defined in terms of market share. Similar to coverage by a block exemption regulation, once inside these safe harbours, economic operators do not normally have to assess the impact of their agreements on the market.

In the case of purchasing agreements, while recognising that there is no absolute threshold which indicates that a buying co-

operation creates some degree of market power and thus falls under Article 81(1), the guidelines highlight that in most cases, it is unlikely that such market power exists if the parties to the agreement have a combined market share of below 15% on the purchasing market(s) as well as a combined market share of below 15% on the selling market(s). In the event of agreements below these market share thresholds falling under Article 81(1), the guidelines state that below those levels of market share it is likely that the conditions of Article 81(3) are fulfilled by the agreement in question.<sup>11</sup>

In the case of commercialisation agreements which do not involve the fixing of prices, the guidelines highlight that, in most cases, it is unlikely that a sufficient degree of market power exists if the parties to the agreement have a combined market share of below 15%. In the event, of an agreements below this level of market share falling under Article 81(1), the guidelines state that below this level of market share it is likely that the conditions of Article 81(3) are fulfilled by the agreement in question.<sup>12</sup>

## Conclusion

This reform is another milestone in the Commission's efforts to modernise EC competition rules.

A more efficient policy towards horizontal co-operation will reduce the regulatory burden for companies, while ensuring an effective control of agreements between companies holding market power. This will benefit consumers, companies and the Commission alike.

The two block exemption Regulations and the guidelines are available on the Competition DG's web site at:

[http://europa.eu.int/comm/competition/antitrust/legislation/entente3\\_en.html#reform\\_cooperation\\_rules](http://europa.eu.int/comm/competition/antitrust/legislation/entente3_en.html#reform_cooperation_rules)

<sup>10</sup> See Lücking, Horizontal Co-operation Agreements: Ensuring a modern policy, in CPN, 2/2000, p. 41-44.

<sup>11</sup> See paragraph 130 of the Guidelines.

<sup>12</sup> See paragraph 149 of the Guidelines.



## An overview of the application of the Leniency notice

Miguel Ángel PEÑA CASTELLOT, DG COMP-A-1

### I. Introduction

Economists and competition law enforcers alike agree that cartel behaviour constitutes one of the most (if not the most) serious restriction of competition.

Firms involved in a cartel substitute competition on the merits by explicit or tacit collusion among themselves in respect of the level of prices, the types of goods and services offered, the quantities produced or sold, the categories of customers served or the geographic areas covered by each of them. By doing so, they try to impede the functioning of the market and then preclude an efficient allocation of resources.

It is not surprising that competition authorities devote considerable efforts and resources to prevent, detect and fight cartels.

Economic theory shows that in many cases, cartels are inherently unstable. The viability of cartels depends to a large extent on their ability to set up control and retaliation mechanisms that dissuade cheating by cartel members. On many occasions, firms involved are very different in terms of market position, cost structures and overall strategy. As a result, incentives to participate and to stay in a cartel are

rarely the same for all involved and hence some firms are more committed to the cartel than others.

As part of their cartel-busting efforts, a growing number of competition authorities all over the world are trying to promote and exploit that inherent instability of cartels by means of leniency programs which set out the conditions under which enterprises cooperating with a given competition authority may be partially or fully exempted from criminal and/or civil sanctions which would otherwise have been imposed upon them for their participation in a cartel.

The European Commission adopted its own leniency program in July 1996 under the name *Commission Notice on the non-imposition or reduction of fines in cartel cases*<sup>13</sup> (hereinafter the Leniency Notice).

<sup>13</sup> Published in the OJ C207 of 18.7.1996.

It has to be noted that the Commission tries to foster cooperation by firms in respect of other restrictions of competition. In that respect, cooperation by firms in cases other than cartels is one of the attenuating circumstances listed in the Guidelines on fines (Guidelines on the method of setting fines imposed pursuant to Article 15 (2) of Regulation 17/62

The present article intends first to summarise the contents of the Leniency Notice and then to provide an overview on how it has been applied so far<sup>14</sup>.

### II. Summary of the Leniency Notice

The Leniency Notice is structured as an introduction and four sections. Sections B, C and D set up three decreasing non-overlapping ranges of discounts. Each section lists a number of cumulative conditions to be fulfilled by firms in order to benefit from the discounts.

Finally, Section E deals with a number of additional procedural matters.

#### 1. Section B: from 75% reduction to total exemption from the fine.

In order for Section B to apply, the following conditions have to be fulfilled:

- a) a firm should inform the Commission about a secret cartel before the Commission has undertaken an investigation, ordered by decision, of the enterprises involved, provided that it does not already have sufficient information to establish the existence of the alleged cartel;
- (b) the firm has to be the first to adduce decisive evidence of the cartel's existence;
- (c) the firm has to put an end to its involvement in the illegal ac-

and Article 65 (5) of the ECSC Treaty. OJ C9/3 of 14.1.1998).

<sup>14</sup> Until end of January 2001.



tivity no later than the time at which it discloses the cartel;  
 (d) it has to provide the Commission with all the relevant information and all the documents and evidence available to it regarding the cartel and has to maintain continuous and complete cooperation throughout the investigation;  
 (e) the firm has not compelled another enterprise to take part in the cartel and has not acted as an instigator or played a determining role in the illegal activity.

## 2. *Section C: reduction from 50% to 75% of the fine.*

Section C can apply to firms that both satisfy the conditions set out in Section B, points (b) to (e) above and disclose the secret cartel after the Commission has undertaken an investigation ordered by decision on the premises of the parties to the cartel which has failed to provide sufficient grounds for initiating the procedure leading to a decision.

## 3. *Section D: reduction from 10% to 50% of the fine*

This section applies to firms that cooperate without having met all the conditions set out in Sections B or C. The Notice then gives two examples:

- before a statement of objections (S/O hereinafter) is sent, a firm provides the Commission with information, documents or other evidence which materially contribute to establishing the existence of the infringement;

- after receiving an S/O, an enterprise informs the Commission that it does not substantially contest the facts on which the Commission bases its allegations.

It has to be noted that a distinction has often been made in practice between what could be defined as “active” cooperation, encompassing the first paragraph (cooperation without fulfilling all conditions of Sections B and C) and the first example in Section D (cooperation before the sending of an S/O) and what could be defined as “passive” cooperation, namely the second example above (not contesting the facts in the S/O).

The main practical reason to do so is that whereas “active” cooperation provides the Commission with information useful for establishing the relevant facts, “passive” cooperation helps basically to facilitate the preparation of the final decision by the Commission<sup>15</sup>.

It should also be noted that, in several cases, a further distinction was made within active cooperation under Section D

between the first paragraph and the first example above. On the one hand, the first paragraph has then been sometimes applied to quite substantial and/or early cooperation; that is cooperation that could have deserved Sections B or C should all relevant criteria have been fulfilled. On the other hand, the first example was applied in other cases of less substantial or not so early cooperation before the S/O.

## 4. *Section E*

As indicated above, Section E deals with several procedural issues and provides for a number of additional clarifications. Among those, it is particularly relevant to mention that the determination by the Commission of whether or not the conditions set out in Sections B, C and D are met will only be made at the adoption of the decision.

This is balanced by the recognition that in view of the expectations created by the Leniency Notice, provided that all the relevant conditions are met, non-imposition or reductions of fines will be granted.

## III. Application of the Leniency Notice

Since its entry into force in July 1996, the Leniency Notice has been applied in seven cartel cases: *Alloy surcharge*<sup>16</sup>, *British*

<sup>15</sup> Regarding this category of reduction, Section E of the Notice states that should an enterprise which has benefited from a reduction in a fine for not substantially contesting the facts then contest them for the first time in proceedings for annulment before the Court of First Instance, the Commission will normally ask that court to increase the fine imposed on that enterprise.

<sup>16</sup> *Alloy surcharge*. Commission Decision of 21.1.98 relating to a proceeding pursuant to Article 65



*Sugar*<sup>17</sup>, *Pre-insulated Pipes*<sup>18</sup>, *Greek Ferries*<sup>19</sup>, *Seamless Steel Tubes*<sup>20</sup>, *FETTCSA*<sup>21</sup> and *Amino acids*<sup>22</sup>.

### 1. Application of Sections B and C

Sections B and C of the Leniency Notice have not been applied so far.

of the ECSC Treaty. OJ L100/55 of 1.4.98.

- 17 *British Sugar*. Commission Decision of 14.10.98 relating to a proceeding pursuant to Article 81 (ex Article 85) of the EC Treaty. OJ L76/1 of 22.3.99.

It has to be noted that the application of the Notice in the *British Sugar* case was made in part by analogy, as the cooperation with the Commission took place before the publication of the Leniency Notice.

- 18 *Pre-insulated Pipes*. Commission Decision of 21.10.98 relating to a proceeding pursuant to Article 81 (ex Article 85) of the EC Treaty. OJ L24 of 30.1.99.

- 19 *Greek ferries*. Commission decision of 9.12.98 relating to a proceeding under Article 81 (ex Article 85) of the EC Treaty. OJ L109/24 of 27.4.98

- 20 *Seamless Steel Tubes*. Commission decision of 8.12.99 relating to a proceeding under Article 81 of the EC Treaty (case IV/35.860). Not yet published.

- 21 *FETTCSA*. Commission decision of 16.5.00 relating to a proceeding under Article 81 of the EC Treaty (case IV/34.018). OJ L268/1 of 20.10.2000.

- 22 *Amino Acids*. Commission decision of 7.6.00 relating to a proceeding pursuant to Article 81 of the EC Treaty and Article 53 of the EEA Agreement (case Comp/36.545). Not yet published.

However, the possible application of Sections B or C has been assessed in three cases so far. In all of the three the conclusion was that some of the criteria for the application of Sections B or C were not fulfilled. Hence, firms were granted reductions in application of Section D.

The reasoning supporting the above conclusion in each of the above three cases is summarised below:

In the *Alloy surcharge case*, many firms involved in the cartel expressed their willingness to cooperate with the Commission following inspections carried out at their respective offices. It has to be noted, however that the S/O had been sent before firms expressed such willingness. On that basis, Section B was not applicable, as no company reported the infringement before the start of the Commission's investigation. Furthermore, Section C was also refused because even if one company (Avesta) ended the infringement as soon as it disclosed the agreement to the Commission, it was not the first to supply decisive evidence of the existence of the agreement.

In *British Sugar*, the firm Tate & Lyle brought the infringement to the Commission's attention before the Commission had taken any investigative steps. So, in principle it could have benefited from Section B. However, its cooperation was neither continuous nor complete, and so, at the end of the day it benefited from a

40% reduction in application of Section D, first paragraph.

Finally, the *Amino acids* case started in July 1996, shortly before the US antitrust authorities charged several cartel participants with engaging in illegal conspiracy.

The firm Ajinomoto informed the Commission about the existence of the cartel covering a period from June 1992 (when the firm Archer Daniels Midland entered into the EEA lysine market) to June 1995. In doing so, Ajinomoto was the first to come in and give decisive evidence of the cartel to the Commission.

However, Ajinomoto was also a ringleader in the cartel and failed to inform the Commission of an earlier cartel involving the then three Asian producers Ajinomoto, Kyowa and Sewon (a cartel dating back to July 1990). On that basis, the Commission applied the maximum reduction in the fine provided for in Section D of the Leniency Notice (50%).

The Commission also granted a 50% reduction to Sewon in view of the fact that it gave information to the Commission about the earlier cartel while also producing further evidence of the later cartel.



## 2. Application of Section D

### 2.a Active cooperation

*2.a.i) Section D, first paragraph: cooperation not covered by Sections B or C*

In addition to the firms mentioned above, Cheil and Kyowa received a reduction of 30 % each in the *Amino acids* case because they also provided the Commission with substantial evidence confirming the existence of the infringements.

*2.a.ii) Section D, first example: co-operation before the S/O is sent*

In *Pre-insulated Pipes*, five firms, including the leader (ABB) received a reduction of 40% for co-operating with the Commission before the S/O, but only after Article 11 requests were sent. The five firms assisted the Commission in the establishment of the relevant facts. ABB, for example, gave information to the Commission regarding the origins of the cartel in Denmark. Logstor gave information that permitted the Commission to establish that the members of the cartel had decided to continue its operation after the investigation.

The co-operation of a second group of companies in the same case (Pan-Isovit and Starpipes) was found to be borderline between active cooperation and merely non-contesting the facts. They nevertheless were granted a reduction of 33%.

In the *Seamless steel tube* case, the Commission accepted that the firm Vallourec supplied information on the existence and content of the infringing agreement. The information enabled the Commission to establish the infringement of Article 81(1) with less difficulty. In addition, Vallourec informed the Commission that it was not substantially contesting the facts on which the Commission had based its statement of objections.

Hence the above co-operation was rewarded with a reduction of 40% in the amount of the fine in accordance with the first and second indents of the second paragraph of Section D.

### 2.b Passive cooperation

*2.b.i) Section D, second paragraph: non-contesting the facts in replies to the S/O*

A reduction for non-contesting the facts has been granted to firms in the majority of cartel cases so far:

In the *Alloy Surcharges* case, the Commission granted a 40% reduction to Usinor and Avesta, because they cooperated extensively with the Commission, but only after the S/O was sent.

The rest of firms involved were granted a 10% reduction for accepting the facts (basically the existence of the new surcharge) after the issuing of the S/O.

In *British Sugar*, a reduction of 10% was granted to all firms

involved (including Tate & Lyle, for whom the total discount was 50%).

In *Pre-insulated Pipes*, the firm Ke-Kelit was granted a reduction of 33%.

In *Greek Ferries*, a 20% reduction was granted to all firms.

In the *Seamless steel tubes* case a 20% reduction was granted to the firm Dalmine.

In the *FETTCSA* case, the parties abandoned the agreement following the receipt of the S/O. They also undertook to the Commission not to enter into and implement any agreement having the same stated objectives as the *FETTCSA* without first formally notifying it to the Commission. Despite those elements, the Commission only granted a 10% reduction to all firms. In doing so, the Commission took into account that it only became aware of the actual infringement in the context of the *FETTCSA* agreement (the agreement not to discount) as a result of the parties' replies to formal requests for information about their activities under the *FETTCSA* agreement.

Finally, in the *Amino acids* case, although the firm Archer Daniels Midland did not co-operate with the Commission during the investigation, it nevertheless did not contest the facts as set out in the S/O. That was the basis for granting a 10 % reduction to that firm.



#### IV. Conclusion

The Leniency Notice has proven to be useful in the nearly five years since its entry into force. However, its application so far

has already pointed to a number of issues that may warrant a revision of the original text. Foreseeing this eventuality the Commission stated, in the introduction to the Notice, that it

would examine whether it was necessary to modify the notice as soon as it had acquired sufficient experience in applying it. Preparatory work to this end will begin during the first half of 2001.

### Patents in the Computer Industry

#### *What are patents?*<sup>23</sup>

A patent is the grant of a legal monopoly – the monopoly being the exclusive right to exploit an invention. It should be noted that a patent does not necessarily entail an economic monopoly. Thus for example, in the case where the patent is never commercialised, or where it does not enjoy commercial success – the legal monopoly is of little practical or economic significance. The invention claimed does not have to be (and in many cases is not) a finished product suitable for consumer use. The invention may for example be a process rather than an object.

The information disclosed in a patent has two functions: (1.) to set out the exact scope of the legal monopoly that is being

claimed, and (2.) to explain to someone skilled in the relevant art at least one way in which the supposed invention can be implemented, so that the patent will eventually benefit the public. There is no requirement to explain the best way of implementing the invention,<sup>24</sup> or to describe an implementation which is at all cost effective. As long as the patent shows one manner in which the invention can be performed it will be sufficient. Importantly, there is no need to explain how the patentee (the holder of the patent) implements the invention, nor how to produce any finished commercially saleable product which incorporates the invention. Thus patents in the computer industry often set out their invention using block diagrams, in which the internal workings of each labelled block are not disclosed.

#### *How do undertakings obtain patents?*

Patents are granted by designated Patent Offices (for example the European Patent Office or the British Patent Office). These offices examine patent applications to ensure the proposed patent conforms to certain procedural requirements, and attempt to ascertain that the proposed invention is in fact novel (has not been published or performed publicly anywhere in the world before) and is inventive (consists of an inventive step i.e. it is not an obvious development of the prior art already known in the field). Another condition is the industrial applicability of the invention. European patent law (contrary to U.S. patent law) requires a patentable invention to provide a “technical contribution”. In practice, however, the question of industrial application is hardly an issue.

The rigor of the examination is necessarily limited. The fees charged to applicants are in the region of a few thousand Euros, (which should be compared against the costs of litigating a

<sup>23</sup> Briefing Paper for DG COMP Dir C lunchtime conference on 26 October 2000 on “Patentability of Software”; based on a presentation by law firm Bristows and reworked by Andreas Knaut and Dina Kallay.

<sup>24</sup> As for example there used to be under UK domestic patent law prior to implementation of the EPC.

patent before a Court<sup>25</sup>). The limited budget the Patent Office has in each case cannot therefore cover either an exhaustive search of all prior art in the world or the interviewing of a skilled person in the particular field in question. Patent Office examiners have to do their best with a limited budget and limited time to weed out obviously inadequate patent applications. Where there is any doubt concerning a patent application, the Office will generally find in favour of the applicant<sup>26</sup> – not least because it knows that if the patent is ever asserted against an alleged infringer (which only happens in a tiny fraction of cases given the vast number of patents which are granted every year) the Court will have a second chance to consider more fully the merits of the patent. In summary it is much easier to obtain a patent than it is to uphold its validity in a court of law. (For example, in the UK, only a minority of patent cases which reach trial result in a verdict showing the patent in question was valid and infringed).

<sup>25</sup> In the UK this will likely involve legal fees of around one million euros for each side; much of which is spent on producing expert evidence about the validity of the patent.

<sup>26</sup> It should be noted, however, that the EPO procedure allows for anybody to file an observation or a post-grant opposition to a patent, which invoke a further and more severe examination.

### *The information typically required for product development in the computer industry*

The amount and quality of information necessary to develop products (which is greater than that disclosed in any relevant patents) is often considerable. Such information may include specialised software, functional models, external specifications, and access to extensive hardware developers manuals. A lot of this information is needed to ensure satisfactory interoperability and even with such information available it is usually necessary to carry out considerable development and design work to produce a viable commercial product.

### *Patents as gateways*

Whilst a patent may only cover one small aspect of the design or functionality of a product (and does not therefore disclose any technical information relating to other necessary aspects), that function may be necessary to the product's operation. In such circumstances the patent may act as a gateway, provided that the patent was indeed commercialised and that the protected functional feature is sufficiently unique so as to constitute a separate product market. If an undertaking wishing to provide the product cannot obtain a licence from the patent holder (and a court action challenging the validity of the patent is not feasible due to its costs, lengthy time scale, or poor prospect of success) it will be completely blocked from the

market, no matter how small in terms of complexity of the final product the particular patented aspect may be. This is particularly true where a patent supposedly covers interface or interoperability requirements because in such cases any product purporting to be compatible with the patented product must include the patented feature.

### *The manner in which patents are commercially used in the IT industry*

Most undertakings of any size in the computer industry operate a policy of seeking to obtain a significant number of patents each year. Most have substantial patent departments which will often be given a certain target number of first filings of patents each year, and will be expected to ensure that each new product the undertaking develops is well covered by patents. Often the sequence of events leading up to a patent application is not that an 'invention' is made which is patented and then products are developed making use of the invention – but rather that products are developed and the patent department are asked to consider what aspects of the new product might justify the grant of a patent. Each of the key players in the industry holds portfolios of hundreds or thousands of patents.

The interoperability / interconnection requirements and the large number of patents (more of which are constantly being granted) mean that it is almost





impossible to manufacture any computer component without the likelihood of some other undertaking's patents being infringed. Furthermore, the nature of new technologies is often such that each new product must build upon numerous previous patents rather than start from scratch ("sequential innovation"). These three factors mean that cross-licensing on reasonable commercial terms is the norm within the IT industry. Such licences should be for the mutual benefit of the parties, enabling each to offer a wider range of products than it would otherwise be possible. This also benefits society as a whole by widening the range of products available, maintaining the speed of innovation and ensuring a competitive market. Patents are thus normally used as valuable commercial assets in a highly interdependent industry not to kill off suppliers or commercial collaborators, but to achieve a win/win agreement in which both parties achieve freedom to operate in a rapidly evolving market.

The computer industry<sup>27</sup> works therefore by the grant of broad cross-licences covering all present and future patents (for the life of the licence), with cash payments flowing back and forth between the parties. Payments will normally take the form of

lump sums rather than running royalties and are commonly based on the numbers of patents held and the value of products each party expects to manufacture or sell during the period of the licence.

Coming to any definitive conclusion as to whether a given product infringes a given patent is in itself a difficult and expensive exercise. For any undertaking to keep track of the thousands of patents which its competitors together hold, and to evaluate whether or not any aspect of its own products falls within the claimed protection of any of those patents is expensive and time consuming and for SME's may be practically impossible. Large undertakings with extensive cross-licensing programs can cut the number of patents which they may need to investigate by 90% or more. Of course undertakings with small patent portfolios will expect to pay more for their cross-licences than established players with large portfolios because their bargaining power is respectively smaller.

#### *The approach in other industries*

The manner in which patents are used commercially differs from industry to industry. In contrast to the computer industry (where each saleable product may infringe literally hundreds of patents, and individual model lifespans are extremely short), the pharmaceutical industry for example uses patents quite differently. There, single patents are

much more likely to entirely cover (and so disclose practical information about) the active ingredient in a saleable product. There is little or no interdependence and each commercially successful invention will represent enormous research and development costs. In addition many successful drugs will have a lifespan which exceeds the 20 year life of the patent. Broad cross licensing arrangements or industry licences are therefore far less common, as undertakings are more likely to reserve the exploitation of their invention to themselves. Licences are typically only granted in territories where the patent owner has too limited a presence to market the product effectively. If patent cases are fought, they can be resolved before the patent protection becomes irrelevant (as pharmaceutical products do not become so rapidly obsolete).

#### *Patent litigation in the computer industry*

Patent Litigation is rare in the IT industry. Most companies see it very much as a last resort – if every potential patent infringement resulted in an application for an injunction, rather than a licence, the flow of new products and benefits of interoperability would almost immediately cease. It is not surprising that most large players in the IT industry take a long-term view and settle their differences whenever possible. Where patents are asserted by way of litigation in the computer industry (which is very rarely, given the number of pa-

<sup>27</sup> In line with other industries with compatibility requirements and a large number of patents concerning different aspects of the technology such as general (non-IT) electronics.

tents granted) it is generally as a commercial tool to persuade reluctant undertakings to accept a licence and pay royalties. Apart from these broader considerations, patent litigation can however be an effective tool for large companies, often to the benefit of large undertakings (and detriment of smaller players in the industry) regardless of the outcome of the proceedings themselves. This is due to a combination of factors including:

- The high financial costs associated with patent litigation (see above);
- The extensive management and technical personnel resources which are required to conduct patent litigation – the lawyers conducting the litigation require considerable support from their clients (particularly concerning the technical aspects of the litigation, how the products work and were designed etc.). As indicated above, large undertakings have dedicated patent departments which in addition to their patent prosecution role (obtaining patents), have the training and manpower to support litigation. In contrast, small undertakings engaged in patent litigation may find the drain on their senior management and research personnel so great that normal day-to-day business is compromised;
- The long time-scale typically involved in resolving proceedings – in most of the key jurisdictions patent cases

are unlikely to be resolved at first instance (i.e. not counting any appeal stages) in less than 12-18 months. With appeals this time frame estimate extends to 3 years or more. In the computer industry this often exceeds the life span of the products in question – a defendant who is kept off the market whilst proceedings are fought out in the courts is, in a sense, in a “no-win” situation. Even if he shows he did not infringe the patent (or that the patent is invalid) the market opportunity will have vanished by that time (this applies, of course, only to cases where the Court initially granted an interim injunction against the alleged infringer);

- The global nature of the industry means that defendants are potentially exposed to litigation in many different jurisdictions. Large undertakings with deep pockets can multiply the costs and drain on an opponent by launching patent infringement actions in a variety of different territories;
- The nature of the product distribution chain means that it is easy to involve an opponent’s downstream customers in the litigation.

These factors together mean that the extensive patent portfolios of large undertakings can be used as extremely effective weapons, sometimes described as patent ‘minefields’. The existence of

these minefields and the fear, uncertainty and doubt which they can sow in the minds of competitors and their customers means that it is extremely difficult for a smaller undertaking to ‘cross’ a larger undertaking with such a patent minefield – even if the smaller undertaking believes there is no merit whatsoever in for example the larger undertaking’s claims that interfacing components infringe a valid patent right.

## 8. Some possible implications of software patents for competition authorities<sup>28</sup>

Commercially valuable (technical) information can be protected in different ways. Besides patents, copyright – which has been the traditional method for protecting software – and trade secrets provide for protection. Although these traditional methods have their own downsides, e.g. the lack of an internationally accepted definition for trade secrets, they may be less competition-restrictive than patents, since they offer a lower level of protection, i.e. a less powerful legal monopoly. However, one of the traditional arguments in favour of patents, is that they strongly encourage innovation because they provide incentives for innovators by ensuring them income that will compensate them for their costly initial in-

<sup>28</sup> These remarks are not meant to take a position on the usefulness of patentability of software in general, but a personal view on some possible implications.



vestment. They may also better protect small companies against bigger companies. In competition cases, patent protection will be increasingly argued as a defence for conduct which violates competition rules. These cases are sure to be complicated, because the practical analysis of patent-competition interface scenarios is highly complex.<sup>29</sup>

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<sup>29</sup> The Commission has provided some guidance on competition-patent interface issues in its EC Regulation 240/96 which analyses and exempts different technology transfer agreements under Art. 85 (3). See also the 1995 U.S. Dept. of Justice/ FTC Intellectual-Property Licensing Guidelines for additional insights and analysis of the issue.

## «CARBONATE DE SOUDE»

### La Commission réadopte 3 décisions annulées pour non-authentification

*Françoise MALBO, DG COMP-E-1*

L'affaire Carbonate de soude «Soda Ash», rappelle à la Commission que les règles de formes, même lorsqu'il s'agit de normes issues de son propre règlement intérieur doivent être scrupuleusement respectées.

Pour mémoire, la Commission avait adopté en 1990 plusieurs décisions infligeant des amendes à Solvay et ICI pour entente et abus de position dominante.

Les sociétés avaient introduit des recours contre ces décisions et invoqué en particulier à l'appui de leur demande, le fait que les décisions notifiées n'avaient pas été authentifiées, par l'apposition des signatures du Président et du Secrétaire exécutif de la Commission, dans les conditions prévues à l'article 12 alinéa 1 de son règlement intérieur alors en vigueur.

La Cour de Justice, confirmant les arrêts du Tribunal de Première Instance, a accueilli le 6 avril 2000 la demande des requérants en confirmant l'annulation des décisions.

C'est dans ce contexte que la Commission a réadopté le 13 décembre 2000 trois décisions dans des termes identiques.

La condamnation de Solvay pour entente illicite et secrète contraire aux dispositions de l'article 81 CE a ainsi été confirmée. Il s'agissait d'un accord garantissant à une entreprise allemande, (qui n'a pas jugé utile de former un recours contre la décision initiale de 1990, qui est donc restée valide à son égard) un volume minimal de vente et la dédommageait de tout déficit en lui rachetant les quantités nécessaires pour porter ces ventes au minimum garanti. L'objectif était de maintenir artificiellement le prix du carbonate de soude sur le territoire allemand.

Les deux autres condamnations étaient fondées sur l'abus par Solvay et ICI de leur position dominante sur le marché du carbonate de soude. En effet les deux entreprises avaient mis en place au cours des années 1980 un système de ristournes visant à écarter le leur «territoire» respectif, l'Europe Occidentale continentale pour Solvay et le Royaume-Uni et l'Irlande pour ICI, tout risque de concurrence réelle.

Ce type de comportement est constitutif d'une pratique par nature contraire aux dispositions de l'article 82 CE.

ICI et Solvay avaient, chacune sur son propre «territoire», mis en œuvre un système dit de 'la tranche supérieure' dont l'objectif était l'exclusion des concurrents.

En effet, la plupart des gros utilisateurs de soude ont besoin d'un fournisseur principal pour l'essentiel de leurs besoins, mais souhaitent généralement disposer d'un second fournisseur pour ne pas être exclusivement dépendants du premier.

Afin de minimiser l'effet concurrentiel de ce deuxième fournisseur, Solvay et ICI avaient mis en place un système de prix double. Le tonnage de base était vendu à un prix «normal», tandis que les quantités supplémentaires «tranches supérieures» que le client aurait pu acheter à un autre fournisseur étaient offertes avec des rabais substantiels et secrets.

Dans certains cas, ces pratiques impliquaient que le tonnage marginal était offert par Solvay ou ICI pratiquement à la moitié du prix «normal». Ces sociétés faisaient comprendre aux clients que le prix spécial de la tranche supérieure dépendait de leur accord pour s'approvisionner essentiellement, si non pour la totalité de leurs besoins, auprès de l'opérateur dominant.

Ces pratiques avaient pour effet d'empêcher les autres producteurs d'entrer réellement en concurrence avec Solvay et ICI.

Pour être compétitifs, ces producteurs auraient dû appliquer à



la **totalité** de leurs livraisons les rabais très importants que Solvay et ICI consentaient uniquement sur la **tranche supérieure** de leurs livraisons.

Les infractions à l'article 82 CE ont été considérées comme étant

d'une très grande gravité et des amendes de 10 et 20 millions d'Euros sont infligées à Solvay et ICI.

Pour le partage du marché avec l'entreprise allemande, Solvay se

voit également infliger une amende de 3 millions d'Euros.

Ces amendes, qui sont identiques à celles infligées dans les décisions de 1990, étaient pour l'époque particulièrement importantes.

# OPINION AND COMMENTS

*In this section DG COMP officials outline developments in community competition procedures. It is important to recognise that the opinions put forward in this section are the personal views of the officials concerned. They have not been adopted or in any way approved by the Commission and should not be relied upon as a statement of the Commission's or DG COMP's views.*

## Les premières exemptions par catégorie en matière d'aides d'État

Adinda SINNAEVE, DG Comp-A-3

### I. Introduction

Le 12 décembre 2000 la Commission européenne a arrêté trois règlements qui constituent une nouvelle étape dans le processus de modernisation du contrôle sur les aides d'État. Il s'agit de deux règlements d'exemption par catégorie, respectivement pour les aides d'État en faveur des petites et moyennes entreprises (PME)<sup>30</sup> et les aides à la formation<sup>31</sup>, ainsi que d'un règlement codifiant la règle "de minimis"<sup>32</sup>.

Les règlements d'exemption présentent une véritable innovation car c'est la première fois que la Commission recourt aux exemptions par catégorie – instrument bien connu en matière d'anti-

trust - dans le domaine des aides. Dorénavant, les aides aux PME (y inclus les aides régionales octroyées aux PME) et les aides à la formation, qui remplissent les conditions fixées dans les règlements, ne seront plus soumises à l'obligation de notification préalable.

La modernisation des procédures en matière d'aides d'État a été rendue possible suite à l'adoption par le Conseil de deux règlements en application de l'art. 89 du traité CE. Le premier règlement, adopté en 1998, a habilité la Commission à exempter certains types d'aide de l'obligation de notification préalable et constitue la base juridique des trois présents règlements.<sup>33</sup> Le deuxième règlement date de 1999 et a codifié les différentes procédures dans le domaine des aides d'État.<sup>34</sup>

Les trois nouveaux règlements ont été adoptés après une très

large consultation de toutes les parties concernées. Conformément au règlement 994/98, les projets de règlements ont été examinés deux fois avec les États membres au sein du comité consultatif en matière d'aides d'État. Les projets ont également été publiés au Journal officiel du 28 mars 2000 afin de permettre à toutes les parties intéressées de présenter leurs observations.

### II. Objectifs des nouveaux règlements d'exemption

Les règlements d'exemption visent à remplacer par un contrôle ex post, pour certains types d'aide, le système de notification préalable prévu par l'article 88, paragraphe 3 du traité. Ils définissent les critères garantissant la compatibilité des aides concernées avec le marché commun et sont directement applicables dans les États membres. Pour les aides visées par les exemptions, il incombe donc dorénavant aux administrations nationales de vérifier, lors de l'octroi d'une aide ou de la mise à exécution d'un régime d'aides, si ces aides remplissent toutes les conditions pour bénéficier de l'exemption.

Ainsi, les règlements d'exemption introduisent une certaine décentralisation du contrôle sur les aides. L'État membre vérifiera en premier lieu, si l'aide est conforme aux règlements, alors que dans le système actuel la Commission décide, sur la base d'une notification, si l'aide envisagée est compatible avec les critères dé-

<sup>30</sup> Règlement (CE) No 70/2001 de la Commission du 12 janvier 2001 concernant l'application des articles 87 et 88 du traité CE aux aides d'État en faveur des petites et moyennes entreprises, JO L 10/33 du 13.1.2001.

<sup>31</sup> Règlement (CE) No 68/2001 de la Commission du 12 janvier 2001 concernant l'application des articles 87 et 88 du traité CE aux aides à la formation, JO L 10/20 du 13.1.2001.

<sup>32</sup> Règlement (CE) No 69/2001 de la Commission du 12 janvier 2001 concernant l'application des articles 87 et 88 du traité CE aux aides de minimis, JO L 10/30 du 13.1.2001.

<sup>33</sup> Règlement (CE) N° 998/98 du Conseil du 7 mai 1998 sur l'application des articles 92 et 93 du traité instituant la Communauté européenne à certaines catégories d'aides d'État horizontales, JO L 142/1 du 14.5.1998.

<sup>34</sup> Règlement (CE) N° 659/1999 du Conseil du 22 mars 1999 portant modalités d'application de l'article 93 du traité CE, JO L 83/1 du 27.3.1999.



finis dans des lignes directrices et des encadrements.

La Commission a choisi d'adopter, dans un premier temps, des exemptions par catégorie pour les aides en faveur des PME et les aides à la formation, parce que ce sont des domaines dans lesquels les États membres et elle-même ont acquis une expérience et une pratique suffisantes pour définir les critères d'exemption de la procédure actuelle de notification à leur appliquer. A l'avenir des exemptions pour d'autres catégories d'aides peuvent également être envisagées.

La simplification des procédures présente des avantages évidents pour les entreprises, les États membres et la Commission. Les États membres pourront accorder des aides sans avoir à les notifier ni à attendre l'autorisation de la Commission, ce qui allègera la charge administrative liée à l'octroi des aides et réduira la durée des procédures nationales d'octroi d'aides. Quant à la Commission, les exemptions par catégorie lui permettront de libérer des ressources, car elles épargneront à ses services l'appréciation de nombreux cas types dont la compatibilité avec le marché commun ne pose normalement pas de problème. Le système gagnera en efficacité et les services de la Commission pourront davantage se concentrer sur les cas plus importants. Les entreprises bénéficieront indirectement de ces formalités

administratives simplifiées et d'une plus grande transparence.

### **III. Contenu des règlements d'exemption**

Etant donné que les exemptions par catégorie visent principalement à simplifier les procédures, le contenu des règles matérielles concernant la compatibilité des aides avec le marché commun n'a pas subi de modifications substantielles. Les règlements ont largement repris les critères de compatibilité qui jusqu'à présent étaient définis, pour les aides à la formation, dans l'encadrement de 1998<sup>35</sup> et pour les aides aux PME, d'une part dans l'encadrement des aides aux PME de 1996<sup>36</sup>, d'autre part dans les lignes directrices sur les aides à finalité régionale de 1998<sup>37</sup>.

#### *a) Les aides en faveur des PME*

Tout d'abord, le règlement a repris la définition de PME établie dans la recommandation de la Commission du 3 avril 1996 et depuis lors utilisée dans la plupart des politiques communautaires.

Selon cette définition une entreprise moyenne/petite est une entreprise employant moins de 250/50 personnes, dont soit le chiffre d'affaires annuel n'excède pas 40/7 millions

d'euros, soit le total du bilan annuel n'excède pas 27/5 millions d'euros, et qui respecte le critère de l'indépendance.

Les PME peuvent bénéficier d'aides en faveur d'investissements dans des immobilisations corporelles (terrains, bâtiments, équipement...) ou incorporelles (dépenses liées au transfert de technologie). L'intensité d'aide peut être calculée soit en pourcentage des coûts d'investissement éligibles ou en pourcentage des coûts salariaux afférents aux emplois créés. Dans les régions qui ne peuvent pas bénéficier d'aides régionales, les aides à l'investissement ne peuvent pas dépasser 15 % des coûts éligibles, pour une petite entreprise, et 7,5 % des coûts éligibles, pour une entreprise moyenne. Lorsque l'investissement est réalisé dans les régions les plus pauvres de l'UE, relevant de l'art. 87, paragraphe 3, point a, le montant maximal des aides à l'investissement correspond au plafond applicable aux aides à finalité régionale, selon la carte régionale autorisée par la Commission, majoré de 15 %, pour autant que l'intensité nette totale de l'aide ne dépasse pas 75 %. Dans les régions relevant de l'art. 87, paragraphe 3, point c, l'aide peut excéder le plafond régional de 10 % au maximum et ce, pour autant que l'intensité nette totale ne dépasse pas 30 %.

Les PME peuvent également bénéficier d'aides en faveur de services de conseil et d'aides

<sup>35</sup> JO C 343/10 du 11.11.1998.

<sup>36</sup> JO C 213/4 du 23.7.1996.

<sup>37</sup> JO C 74/4 du 10.3.1998.



pour la participation à des foires et des expositions. Ces aides peuvent représenter jusqu'à 50 % des coûts.

#### *b) Les aides à la formation*

En ce qui concerne les aides à la formation, le règlement reprend les dispositions qui étaient prévues dans l'encadrement existant en ce qui concerne les coûts éligibles et les intensités maximales.

Les intensités qu'une aide à la formation peut atteindre varient selon qu'il s'agit d'une formation "spécifique" ou d'une formation "générale". Cette dernière comprend des enseignements qui ne sont pas uniquement ou principalement applicables au poste de travail actuel ou futur du salarié dans l'entreprise bénéficiaire, mais procurent des qualifications largement transférables à d'autres entreprises ou à d'autres domaines d'activité. Dans le cas d'une formation spécifique, par contre, les qualifications procurées ne sont pas transférables à d'autres entreprises ou ne le sont que de façon très limitée. Par conséquent, des aides plus élevées peuvent être justifiées lorsqu'une entreprise envisage un projet de formation générale (50 % des coûts admissibles pour les grandes entreprises et 70 % pour les PME) que dans le cas d'une formation spécifique (respectivement 25 % pour les grandes entreprises et 35 % pour les PME). Ces taux standard sont majorés de respectivement 5 points de pourcentage pour les régions relevant de l'article 87,

paragraphe 3, point c et de 10 points de pourcentage pour les régions relevant de l'article 87, paragraphe 3, point a. Par ailleurs, lorsque la formation est dispensée à des travailleurs défavorisés, une majoration de 10 points de pourcentage est autorisée, indépendamment de la région dans laquelle l'entreprise est située. Ainsi, l'aide maximale pour la formation peut atteindre 90 % des coûts éligibles (formation générale dans une PME, située dans une région assistée au titre de l'article 87, paragraphe 3, point a et donnée à une catégorie de travailleurs défavorisés).

#### **IV. Contrôle**

Bien que les règlements d'exemption simplifient et décentralisent les procédures en matière d'aides, ils ne doivent pas être compris comme le signe d'un assouplissement de la politique de la Commission. Bien au contraire, la Commission envisage un contrôle plus strict, notamment sur les grands cas. C'est une des raisons pour laquelle les deux règlements d'exemption prévoient un seuil de notification pour les aides d'un montant élevé. Tous les projets d'aide qui dépassent ces seuils restent soumis à l'obligation de notification préalable.

Par ailleurs, les règlements d'exemption prévoient différents instruments de contrôle. Lorsqu'ils mettent à exécution des aides exemptées, les États membres doivent transmettre à la

Commission, en vue de sa publication au Journal officiel, un résumé des informations relatives à ces aides. Ils doivent aussi lui remettre au moins une fois par an un rapport sur l'application des exemptions par catégorie. La Commission rendra ces rapports accessibles aux autres États membres.

Les États membres doivent aussi tenir des dossiers détaillés sur toutes les aides exemptées. Ces dossiers doivent inclure toutes les informations nécessaires pour établir que les conditions du règlement concerné ont été respectées. Ainsi, la Commission pourra, par exemple suite à une plainte, envoyer à l'État membre concerné une demande de renseignements à laquelle ce dernier doit être en mesure de répondre. Les dossiers doivent être conservés pendant 10 ans à partir de l'octroi d'une aide individuelle ou, dans le cas d'un régime d'aide, de la dernière aide octroyée sur la base du régime. Ce délai de 10 ans s'explique par le fait que, conformément à l'article 15 du règlement 659/1999 du Conseil (règlement de procédure), le pouvoir de la Commission de prendre une décision de récupération est limité à 10 ans. Avant l'expiration de ce délai, une aide pourrait faire l'objet d'une décision de récupération en cas de non-respect des conditions du règlement d'exemption.

Enfin, le système d'exemption élargira les possibilités de contrôle des aides d'État au niveau national. Lorsqu'un plai-





gnant considère qu'une aide a été octroyée en violation des conditions du règlement, il peut s'adresser non seulement à la Commission, mais également aux juridictions nationales, étant donné qu'un règlement est directement applicable dans les États membres. Le juge national pourra alors, soit constater que l'aide est en réalité conforme au règlement d'exemption, soit décider qu'il s'agit d'une aide illégale et, dans ce cas, il devra prendre toutes les mesures nécessaires, allant jusqu'au remboursement, à l'encontre de cette infraction à l'article 88, paragraphe 3 du traité.<sup>38</sup>

## V. Le règlement *de minimis*

La Commission a également arrêté un règlement concernant les aides dites "de minimis". Ce règlement codifie la règle "de minimis" actuelle, établie dans une communication du 6 mars 1996.<sup>39</sup> Cette règle, inspirée de l'adage antique "de minimis non curat praetor" prévoit que les aides n'excédant pas le plafond de 100 000 euros par entreprise sur une période de trois ans ne constituent pas des aides d'État au sens du traité, car elles sont trop petites pour affecter les échanges entre États membres ou menacer de fausser la concurrence. Ne remplissant pas tous les éléments de l'article 87, paragraphe 1 du traité, ces mesures ne tombent donc pas

sous l'obligation de notification de l'article 88, paragraphe 3. Par conséquent, la règle "de minimis" n'affecte en rien la possibilité du bénéficiaire d'obtenir d'autres aides d'État, même pour le même projet. Dans ce cas, il ne s'agit pas d'un cumul entre deux aides puisque le montant "de minimis" ne constitue juridiquement pas une aide d'État.

Afin d'assurer le contrôle sur le cumul entre plusieurs mesures "de minimis", qui peuvent être octroyées par différentes autorités à différents niveaux (national, régional, local), le règlement prévoit que l'entreprise bénéficiaire doit toujours être informée du caractère "de minimis" de l'aide qui lui est octroyée. Elle doit alors à son tour fournir à l'administration concernée des informations complètes sur d'autres montants "de minimis" qu'elle aurait reçus au cours des trois années précédentes. Alternativement, le contrôle peut également être assuré par un registre central dans lequel toutes les mesures "de minimis" sont enregistrées. Dans un tel système, une administration pourrait à tout moment vérifier le montant déjà reçu par chaque entreprise.

Il est à noter que les secteurs de l'agriculture, de la pêche et des transports restent exclus du champ d'application de ce règlement.

## VI. Entrée en vigueur et abolition des règles existantes

Les trois nouveaux règlements sont entrés en vigueur le vingtième jour après leur publication au *Journal officiel des Communautés européennes*, c'est à dire le 2 février 2001. A partir de cette date, les règles existantes, c'est-à-dire l'encadrement des aides à la formation, l'encadrement des aides aux PME et la communication relative aux aides "de minimis" sont abolies. En effet, étant donné que le contenu des textes existants a presque entièrement été inclus dans les nouveaux règlements, il n'y avait plus de raison de les maintenir. Au contraire, une duplication de textes se superposant n'aurait pas amélioré la transparence que la Commission cherche à renforcer dans ce domaine.

Les règlements d'exemption n'excluent cependant pas la possibilité qu'un État membre notifie une aide aux PME ou à la formation, par exemple lorsqu'il a un doute concernant sa conformité avec le règlement d'exemption. La Commission examinera ces notifications en premier lieu sur la base des critères définis par les règlements. On ne peut exclure toutefois que la compatibilité d'une telle aide notifiée puisse également se fonder sur une autre base juridique (par exemple une autre dérogation de l'article 87, paragraphe 3).

Les trois règlements seront applicables jusqu'au 31 décem-

<sup>38</sup> Voir l'arrêt de la Cour C-39/94, SFEI, Rec. 1996, I-3547.

<sup>39</sup> JO C 68/9 du 6.3.1996.

bre 2006, ce qui assure une concordance avec la période de programmation des fonds structurels.

## VII. Conclusion

Par ces trois règlements, la Commission a fait un progrès significatif dans les efforts qu'elle déploie en vue de moderniser et rendre plus efficaces les règles communautaires de concurrence.

Sans modifier les règles de fond, les règlements simplifient beau-

coup les procédures et rendent en même temps le droit des aides plus transparent et plus efficace. A l'avenir, lorsque d'autres encadrements ou lignes directrices devront être révisés, la Commission devra examiner si une révision ou un remplacement par un règlement d'exemption est mieux approprié. La réponse à cette question dépendra aussi de la finalité de l'aide : pour certains types d'aides il est plus difficile de définir les critères de compatibilité dans un règlement que dans un encadrement. En effet, dans un règlement, les cri-

tères doivent être très précis en réduisant le plus possible toute marge d'appréciation. L'exercice de transformation d'un encadrement en règlement d'exemption suppose également que la Commission ait acquis une expérience suffisante dans l'application des critères définis dans l'encadrement concerné. C'est une des raisons pour lesquelles la Commission a considéré que, dans le cas des aides à l'environnement, un nouvel encadrement était à ce stade plus approprié.

## Adoption du nouvel encadrement des aides d'Etat en faveur de l'environnement

*Alain ALEXIS, DG COMP- A-3*

Le 21 décembre 2000, la Commission a marqué son accord de principe sur le nouvel encadrement communautaire des aides d'Etat en faveur de l'environnement, qui est entré en vigueur dès sa publication au Journal officiel, le 03 février 2001<sup>40</sup>.

Il convient de constater que la protection de l'environnement est devenue un enjeu politique majeur et que les interventions des Etats membres se développent à cet égard, notamment sous la pression des citoyens qui

sont de plus en plus sensibilisés par cette question.

L'importance de l'environnement est également soulignée par l'article 6 du traité CE qui prévoit notamment que les exigences de la protection de l'environnement doivent être intégrées dans la mise en oeuvre des politiques de la Communauté, notamment la politique des aides d'Etat.

La politique communautaire en matière d'environnement est aussi fondée sur le principe du *pollueur/payeur*, qui veut que les coûts de la protection de l'environnement soient au

maximum intégrés dans les prix des produits et des services.

C'est dans ce contexte qu'il faut voir le rôle des aides d'Etat. Ces aides ont manifestement un rôle à jouer pour améliorer la protection de l'environnement, mais il est important de souligner qu'elles ne constituent pas la solution miracle. Les aides ont incontestablement un rôle à jouer comme élément incitatif, mais ne peuvent pas assurer le développement d'activités dont la viabilité économique n'est pas possible.

Ces principes ont guidé la Commission pour la préparation du nouvel encadrement.

*Ainsi, en ce qui concerne les aides en faveur de l'investissement, le projet écarte les aides pour se mettre en conformité avec de nouvelles normes com-*

<sup>40</sup> JO C37



munautaires. Ces normes constituent le droit commun que toutes les entreprises doivent respecter, et il ne paraît pas justifié d'aider les entreprises à simplement respecter la loi. Une exception est toutefois prévue pour les PME qui pourront continuer à bénéficier d'une aide pendant une durée de trois ans à compter de l'adoption de nouvelles normes communautaires, afin de réaliser les investissements requis.

Par contre, le projet prévoit des aides pour le *dépassement des normes communautaires*, que ce dépassement résulte d'une décision volontaire des entreprises, ou d'une décision de certains Etats membres de faire mieux que le minimum communautaire. Il s'agit en effet d'investissements qui vont dans le bon sens en terme d'environnement, et qu'il convient donc d'encourager.

*Des aides en faveur de l'investissement sont également prévues pour la réhabilitation de sites pollués*, et en cas de *relocalisation d'entreprises*. Ceci concerne le cas d'entreprises installées en milieu urbain ou en zone Natura 2000, et qui doivent déménager pour s'installer dans une zone dans laquelle leur présence pose moins de difficultés. De telles actions sont positives en terme d'environnement, et doivent être encouragées.

*En ce qui concerne les aides au fonctionnement*, deux domaines méritent une attention particulière.

Il s'agit tout d'abord des *énergies renouvelables*, pour lesquelles les Etats Membres pourront choisir entre 4 options :

- *La première option* permet de donner des aides destinées à couvrir la différence entre les coûts de production et le prix de marché, jusqu'à l'amortissement des investissements. La rémunération du capital et les frais financiers pourront être pris en considération si nécessaire. Cette option donne donc aux investisseurs la garantie de rentabiliser leurs investissements.
- *La deuxième option* consiste à donner des aides dans le cadre d'instruments de marché, notamment certificats verts ou système d'appel d'offres. Ces systèmes tendent à se développer, et ils peuvent constituer des instruments économiques efficaces pour développer les énergies renouvelables.
- *La troisième option* vise à octroyer des aides en fonction des coûts externes évités, c'est à dire les coûts que la société aurait dû supporter si la même quantité d'énergie avait été produite à partir d'énergies traditionnelles.
- *La quatrième option* est l'option valable pour les autres aides au fonctionnement, c'est à dire des aides limitées à 5 ans et en principe dégressives. Cette option est certes

plus stricte, mais elle peut se révéler suffisante dans les cas où les Etats membres souhaitent apporter un soutien limité à un projet qui peut se révéler compétitif à court terme.

La seconde catégorie importante concerne les *aides au fonctionnement sous forme de réductions de taxes*.

La taxation constitue un instrument que les Etats membres utilisent de plus en plus pour contribuer à l'amélioration de l'environnement. Toutefois, dans certains cas, l'introduction d'une nouvelle taxe n'est possible que si celle-ci s'accompagne de dérogations en faveur de certaines entreprises, qui se trouveraient dans une situation compétitive très défavorable vis à vis de leurs concurrents, si elles devaient payer immédiatement cette nouvelle taxe.

En conséquence, bien que le principe des dérogations ne soit pas souhaitable, celles-ci peuvent s'avérer nécessaires pour assurer l'adoption de nouvelles taxes favorables à l'environnement.

La Commission estime donc que, sous certaines conditions, ces dérogations peuvent être autorisées. Dans ce cadre, les Etats membres pourront choisir entre trois options :

- *La première option* permet d'accorder des dérogations pouvant aller jusqu'à 10 ans lorsque les entreprises si-

gnent des engagements pour améliorer l'environnement.

- *La deuxième option* permet de donner des aides pour la même période de 10 ans *sans engagements*, si les entreprises, après réduction de la taxe, continuent à payer une

partie significative de cette taxe.

- *La troisième option* permet de donner des aides pour une durée de 5 ans, et en principe dégressives.

Ces mesures constituent un ensemble cohérent et équilibré, permettant de répondre aux attentes des Etats membres, dans le respect des dispositions du traité en matière d'aides d'Etat.

Ce nouvel encadrement est valable jusqu'au 31 décembre 2007.

## Economie souterraine - La Commission approuve un régime italien d'aides à l'emploi visant à combattre le travail au noir

*Nicoletta FALCONE et Paola ICARDI, DG Comp-G-1*

Le 4 octobre 2000, la Commission européenne a approuvé un régime italien d'aides à l'emploi visant à combattre l'économie souterraine. Il sera d'application pendant un an à partir de cette date.

Ce régime prévoit des réductions de charges sociales en faveur des entreprises qui concluent des contrats de 'réalignement' avec les travailleurs non déclarés. Par ces contrats, elles s'engagent à régulariser, au terme d'une période de cinq ans, la position de ces travailleurs et à élever progressivement le niveau de leur rétribution et des cotisations sociales à ce qui est prévu par les contrats collectifs nationaux.

En ce qui concerne les travailleurs qui sont complètement irréguliers, la réduction des charges sociales dues par les entreprises bénéficiaires est totale

pendant la première année de ces contrats, de 80% pendant la deuxième année, de 60% pendant la troisième, de 40% pendant la quatrième année pour atteindre le niveau de 20% à partir de la cinquième année. Pour ce qui est des travailleurs partiellement irréguliers, la réduction des charges sociales est de 50% de celle prévue pour les travailleurs totalement irréguliers.

Ce régime intègre et complète le régime déjà approuvé par la Commission le 3 mars 1999<sup>41</sup>, pour la durée d'un an, aussi bien en terme de durée qu'en termes d'intensité des aides. Il s'agit en effet :

- a) d'une part, d'une prorogation d'un an de la possibilité d'accès au régime déjà approuvé, dans la mesure où, pendant une année supplémentaire, les entreprises qui emploient des travailleurs irréguliers peuvent conclure des contrats de réalignement,
- b) et d'autre part, d'un renforcement de la mesure déjà approuvée, moyennant des dégrèvements totaux des charges sociales, au lieu de réductions maximales de 75% telles que prévues par l'ancien régime de 75%.

Afin d'éviter des discriminations entre les entreprises qui ont déjà conclu des contrats de réalignement au titre du régime approuvé par la Commission en mars 1999 et les entreprises qui concluront ces contrats au titre du régime en objet, le régime prévoit pour les entreprises en cours de réalignement (c'est-à-dire pour celles ont déjà accédé au régime précédemment approuvé), une mesure spécifique aboutissant à une équivalence des deux régimes :

- a) la durée et l'intensité de la mesure spécifique corres-

<sup>41</sup> Voir décision de la Commission du 3.03.1999, communiquée aux autorités italiennes par lettre SG(99) D/2482 du 8.04.1999.



- pondent à celles prévues par le nouveau régime en faveur des entreprises qui n'ont pas encore bénéficié des contrats de réaligement ;
- b) à cet effet, l'aide est octroyée sous forme de crédits de cotisations qui seront exercés par les entreprises en compensation des charges sociales dues relativement aux rétributions des travailleurs intéressés par les contrats de réaligement ;
  - c) ces crédits, calculés en fonction du différentiel d'aide entre le régime en objet et celui approuvé par la Commission en mars 1999, seront étalés sur une période de cinq ans et seront exercés selon des tranches également dégressives.

La Commission a observé que le travail non déclaré constitue pour l'Union européenne une des questions d'intérêt commun dans le domaine de l'emploi dans la mesure où il menace le financement des services sociaux, affaiblit la protection sociale des citoyens, réduit les perspectives du marché du travail et nuit à la concurrence.

La nature même du travail non déclaré rend son examen difficile. Il est difficile en effet de se prononcer avec certitude sur l'ampleur de ce phénomène étant donné qu'il ne se prête qu'à des estimations.

En moyenne, on peut estimer que la taille de l'économie non déclarée de l'Union européenne est comprise entre 7 et 16% du PIB de l'Union européenne, ce qui correspondrait à une fourchette

de 10 à 28 millions d'unités de travail, soit 7 à 19% du total des emplois déclarés. Les estimations de l'économie souterraine varient sensiblement selon la méthode utilisée, mais elles permettent néanmoins de distinguer certains groupes de pays. Dans un premier groupe, l'économie non déclarée avoisinerait 5% du PIB (pays scandinaves, Irlande, Autriche et Pays-Bas). Dans un deuxième groupe (Italie et Grèce), elle est estimée à plus de 20%. Plus ou moins à mi-chemin entre ces deux extrêmes, il existe deux groupes intermédiaires : celui formé par le Royaume-Uni, l'Allemagne et la France et un peu au-dessus celui formé par la Belgique et l'Espagne<sup>42</sup>.

Le principal attrait de l'économie informelle pour les employeurs, les salariés et les travailleurs indépendants est de nature économique. Ce type d'activités permet d'augmenter les revenus tout en échappant à l'impôt sur le revenu et aux cotisations sociales. La motivation de l'employeur est la réduction des coûts. D'un point de vue historique, trois facteurs contribuent ensemble, mais à des degrés divers, à l'existence du travail non déclaré :

- a) l'émergence d'une demande très disparate de "services personnalisés" aux familles et aux individus (soins, nettoyage, etc.). Ces services se caractérisent par une forte densité de main-d'œuvre et

une faible croissance de la productivité ;

- b) la réorganisation de l'industrie et des entreprises en grands axes de désintégration verticale et en chaînes de sous-traitance afin d'assouplir la production et d'accroître les capacités d'innovation et d'adaptation à des situations spécifiques et aux fluctuations du marché. Ce type de flexibilisation aboutit à une augmentation du nombre de travailleurs indépendants et de travailleurs-entrepreneurs dont certains exercent peut-être des activités dans le cadre de l'économie informelle ;
- c) l'incidence de l'expansion des technologies "légères", telles que les ordinateurs personnels, qui ouvrent de nouvelles perspectives de travail et de nouveaux champs pour les activités de service.

Dans le cadre du marché du travail non déclaré, l'Italie représente un des pays les plus touchés par ce phénomène. Les données de l'Institut National de Statistique (ISTAT) montrent qu'en 1997, sur un total estimé de 28,7 millions d'emplois et 22,2 millions d'unité de travail à temps plein (unità di lavoro equivalenti a tempo pieno – ULA-), 17,9 millions et 17,2 millions de ULA sont réguliers. Il en résulte, en conséquence, que 10,8 millions d'emplois et 5 millions de ULA, correspondant à 37,6% des emplois totaux du pays et à 22,5% des ULA, sont irréguliers. En outre, le travail irrégulier semble se concentrer dans le secteur agricole et dans le secteur des services privés : en 1997, les emplois irréguliers

<sup>42</sup> Communication de la Commission sur le travail non déclaré du 7.04.1999 COM(1998) 219.

liers se regroupent à concurrence de 5 millions dans le secteur agricole (1,3 millions de ULA), 4,4 millions dans les services privés (2,6 millions de ULA) et 1,4 millions dans l'industrie (1,1 millions de ULA). En outre, les estimations relatives au marché du travail non déclaré au niveau territorial reflètent les différences structurelles qui caractérisent les zones du pays et montrent à quel point le phénomène a un poids beaucoup plus important dans le Mezzogiorno que dans les régions du Centre-Nord (les emplois irréguliers du Mezzogiorno correspondent à 50,8% (33,6% ULA) contre 31,5% (18,0% ULA) des régions du Centre-Nord)<sup>43</sup>.

Le travail non déclaré fait partie intégrante du problème posé par le fonctionnement du marché italien du travail. Dans le Plan National pour l'emploi pour l'année 2000, les autorités italiennes ont mis en évidence que le présent régime d'aides constitue un élément de la politique structurelle du marché du travail pour le Mezzogiorno. La Commission a pris acte de ces mesures dans le Rapport conjoint sur l'emploi 2000 du 6 septembre 2000<sup>44</sup>. Dans ce contexte, les contrats de réaligement ont déjà été insérés dans le cadre d'interventions visant la lutte contre l'économie souterraine.

Pour ce qui est de l'évaluation de la compatibilité de ce régime avec le traité, les mesures ont été examinées à la lumière des Lignes directrices communautaires concernant les aides à l'emploi. Si la Commission réserve un préjugé favorable aux aides à la création d'emploi, elle impose le respect de conditions plus strictes dans le cas d'aides au maintien de l'emploi.

De telles aides s'apparentent à des aides au fonctionnement et peuvent être autorisées, sous certaines conditions, dans les régions éligibles à la dérogation de l'article 87 paragraphe 3 point a) du traité. Les Lignes directrices relatives aux aides à l'emploi ne précisant pas elles-mêmes ces conditions, il est fait référence aux Lignes directrices concernant les aides à finalité régionale<sup>45</sup>, selon lesquelles les aides au fonctionnement peuvent être autorisées à condition qu'elles soient justifiées en fonction de leur contribution au développement régional, de leur nature et que leur niveau soit proportionnel aux handicaps qu'elles visent à pallier. Les aides au fonctionnement doivent d'ailleurs être limitées dans le temps et dégressives.

Le régime sous examen ne prévoit pas des aides qualifiables 'strictu sensu' comme étant des aides à la création d'emploi. Il s'adresse en effet à des travailleurs qui exercent déjà une activité dans les entreprises bénéficiaires et il n'a pas pour but le recrutement de nouveaux travailleurs mais la régularisation de la position des travailleurs irréguliers.

Les Lignes directrices indiquent que l'aide au maintien de l'emploi est le soutien donné à une entreprise en vue de l'inciter à ne pas licencier les travailleurs qu'elle occupe. Le présent régime ne fait pas explicitement référence à l'incitation à ne pas licencier les travailleurs. Il faut toutefois remarquer que les travailleurs irréguliers ne peuvent jouir d'aucune des garanties normalement prévues par les contrats d'emploi, notamment en ce qui concerne la durée et la continuité du travail. Toute mesure favorisant la régularisation contribue donc à éliminer cette précarité et, de ce fait, peut être assimilée à une aide au maintien de l'emploi, tout en tenant compte de la nature particulière de cette mesure qui favorise le passage d'une situation de travail illégale à une situation légalisée et couverte par le droit social.

Le régime en cause prévoit la limitation des aides aux régions du Mezzogiorno italien qui sont éligibles à la dérogation prévue à l'article 87, paragraphe 3, alinéa a) du traité CE. Il s'agit de régions où le travail non déclaré représente un phénomène particulièrement grave et s'encadre dans le contexte d'une économie sous-développée, de zones fortement dépendantes des secteurs particulièrement affectés par le travail irrégulier, présentant de forts handicaps structurels et un grave sous-emploi.

En outre les aides sont limitées dans le temps, l'accès à ce régime n'étant prévu que pour une période très limitée (un an à partir de l'approbation de la Commission), et elles sont substantiellement

43 Voir : 'L'economia sommersa, problemi di misura e possibili effetti sulla finanza pubblica : audizione del Presidente dell'Istituto nazionale di Statistica V Commissione bilancio, camera dei deputati, 16.07.1998'.

44 COM(2000) 551 final Volume I

45 J.O. C 74 du 10 mars 1998.



## ➤ OPINION AND COMMENTS

dégressives. En effet, d'un dégrèvement total des charges sociales pendant la première année des contrats de réalignement, on passe à un dégrèvement de 20% pour la cinquième année, afin d'amener l'entreprise bénéficiaire, lors de la sixième année, à une situation de normalité aussi bien sur le front des rétributions que sur celui des cotisations sociales.

Dans ce contexte, la Commission a donc estimé que ces aides sont nécessaires à la promotion d'un développement durable et équilibré de l'activité économique dans la mesure où, en l'absence de celles-ci, la situation de l'emploi et des investissements existants, qui constituent la base du développement, pourrait se détériorer ultérieurement. La promotion de la

culture de la légalité ne pourra qu'aider les entreprises à profiter de nouvelles opportunités et à participer à l'amélioration de la situation de l'emploi dans ces régions.

# ANTI-TRUST RULES

Application of Articles 81 & 82 EC and 65 ECSC

Main developments between 1<sup>st</sup> October 2000 and 31st January 2001

## Commission adopts a Report on the evaluation of Regulation (EC) No 1475/95 concerning the distribution of motor vehicles and publishes two further studies

Konrad SCHUMM and Graziella RADICE, COMP-F-2

### INTRODUCTION

Motor vehicle distribution and servicing agreements are governed by the sector specific block exemption, Commission Regulation (EC) 1475/95<sup>46</sup>, which entered into force on 1<sup>st</sup> July 1995<sup>47</sup> and which will expire on 30 September 2002. Article 11(3) provides that "the Commission will draw up a report on the evaluation of this Regulation on or before 31 December 2000" with particular regard to "the impact of the exempted system of distribution on price differentials of contract goods between the different Member States and on the quality of service to final users". The European Commission adopted this evaluation report on 15 November 2000

It has also published two studies produced by consultants regarding:

(1) "Car Price Differentials in the E.U.: An Economic Analysis" (H. Degryse and Prof. F. Verboven, K.U. Leuven and C.E.P.R.); and

(2) "The Natural Link between Sales and Service" (Autopolis)

The report, the Commission's Press Release, and the two studies are available on the Commission Internet site under : [http://europa.eu.int/comm/competition/car\\_sector/](http://europa.eu.int/comm/competition/car_sector/)

### REPORT ON THE EVALUATION OF THE REGULATION

#### Content of the report

The report is a factual analysis of the operation of Regulation 1475/95. It does not contain any proposals for the future. It analyses in particular whether or not the assumptions on which the Regulation is based are still valid and whether the objectives that it pursues have been met. The Commission invited interested third parties who wished to comment on the report to present their comments by 16 January 2001. A hearing for interested parties involved in the automotive industry will take place on 13 and 14 February 2001.

The report has been drawn up using replies to the eight different questionnaires<sup>48</sup> sent by the Commission to the most important parties directly concerned by the Regulation, some recent studies on the motor vehicle industry and distribution, the Commission's biannual car price report, and also the Commission's own experience in dealing with this sector.

The report describes in its first four sections the rationale behind the specific EU competition rules for motor vehicle distribution. It also describes the economic context in which motor vehicles are distributed and in which after-sales services are provided. Furthermore, it provides information on the developments which can be expected to take place in the next few years, in particular with regard to the Internet. In section five the report gives an account of the enforcement of the Regulation by the Commission. Section six is the main part of the report and assesses the Regulation and the assumptions and objectives on which it is based. Section seven analyses whether or not the

<sup>46</sup> Commission Regulation (EC) No 1475/95 of 28 June 1995 on the application of Article 81(3) of the Treaty to certain categories of motor vehicle distribution and servicing agreements (OJ L 145, 29.06.1995, p.25)

<sup>47</sup> It replaced Regulation (EEC) No 123/85

<sup>48</sup> Questionnaires addressed to : (1) individual car manufacturers and their associations; (2) individual importers and/or their associations; (3) consumer associations; (4) associations of independent resellers and intermediaries; (5) associations of producers of spare parts; (6) associations of independent repairers; (7) associations of franchised dealers; and (8) companies active in electronic commerce (car sales via the internet)





Regulation is adapted to future developments in the field of distribution, mainly the Internet and other new distribution methods.

#### RESULT OF THE REPORT

##### *Some objectives of the Regulation have not been attained*

The report comes to the conclusion that the block exemption has not achieved part of the aims pursued by the Regulation since its adoption in 1995, when the Commission renewed its permission to use selective and exclusive distribution networks for the sale of motor cars. In particular, consumers do not seem to derive from this distribution system a fair share of the benefits resulting from the restriction exempted by the Regulation, as required by Article 81(3) of the Treaty, and cannot take full advantage of the European single market.

#### THE TWO STUDIES

##### *The study on car price differentials*

The first study, carried out by economists Prof. Frank Verboven of Antwerp University and Hans Degryse of K.U. Leuven, analyses the reasons for car price differentials within Europe. The

aim was to determine more precisely what proportion of the price differentials is due to “structural” factors (such as tax or currency fluctuations) not related to cross-border trade restrictions.

The first of the two methods used measures price differences across the Community for individual car models. The second technique involves the use of indices made up of a basket of different cars. The first method came to the conclusion that a substantial proportion of the price differentials across Europe could not be attributed to structural factors. When the second method was applied, however, the conclusion was that the differentials could in general be explained fairly well by structural factors. The United Kingdom was an exception: no matter which method was applied, the price difference between the UK and other Member States remained high.

##### *The study on the link between sales and service*

The second study was carried out by Autopolis. It analysed the so-called “natural link” between sales and after-sales services, on which Regulation 1475/95 is based.

Autopolis concluded that although some consumers want their car serviced by the same firm that sold them the vehicle, the sales-service link is in the main not driven by a genuine market need, but is rather “forced” by car manufacturers operating within the Regulation. The imposed link curtails the activities of many types of undertaking engaged in car repair outside the franchise network. Autopolis observed that lack of standardisation in electronic diagnostic equipment might also be being used by the car manufacturers to shut independent repair shops out of a large part of the repair and servicing market.

##### *Follow-up regarding the future regime for motor vehicle distribution and servicing agreements*

Before the **end of the year 2001**, the Commission intends to publish proposals for the new motor vehicle distribution and servicing regime that will be applicable after Regulation 1475/95 expires on **30 September 2002**. The proposals will take into account comments received from interested parties and views aired at the hearing on 13 and 14 February 2001.

## Triumph's export ban for motorcycles brought to an end upon Commission's intervention

*Lazaros TSORAKLIDIS, DG COMP-F-2*

The European Commission has decided to end its action against the motorcycle manufacturer Triumph after the company stopped prohibiting its Benelux dealers selling to UK customers<sup>49</sup>.

Triumph is a manufacturer of motorcycles of large engine capacity (750cc and over). Its motorcycles are sold in all Member States of the European Union (EU). Triumph's market share for this kind of motorcycle in the entire Union is below 5%. Market shares in individual Member States are also below 5% except in the United Kingdom where it oscillates around 10%. Motorcycle distribution is not covered by the block exemption granted by Regulation 1475/95 which concerns only the selective and exclusive distribution system for cars, trucks and buses.

Following the reception of British customers' letters, the Commission started an inquiry on its own initiative to investigate the existence of the alleged export prohibition from Belgium and the Netherlands to the United Kingdom. For that purpose, sur-

prise inspections were carried out in April 1999 at Triumph's premises, at Greenib's premises (the Benelux importer), and at a number of dealers in Belgium and the Netherlands.

The Commission found evidence proving that Greenib urged its Benelux dealers to stop export sales of Triumph motorcycles. Documents found at the premises of the Belgian and Dutch dealers confirmed such instruction.

Three months after the inspections, Triumph admitted having imposed an export prohibition via Greenib on its Benelux dealers from April/May 1997 to March 1998 to prevent its dealers from selling to UK customers. According to Triumph, the action to reduce parallel trade was a result of the currency fluctuations between sterling and other currencies. Price differences between the UK and Belgium and the Netherlands reached 30% for certain models at the time.

To ensure that the restriction does not recur, Triumph decided to take and implement a number of actions.

Firstly, it issued a newsletter in July 1999 to its UK dealers and to Greenib stating that parallel imports are legal, and that Triumph cannot and does not oppose them. Triumph also asks the distributors to ensure that the dealers remain free to sell motorcycles to any customer irrespective of that customer's country of origin or where the motorcycle is to be used. Also, dealers must be prepared to carry out authorised warranty work on all Triumph motorcycles within the warranty period, no matter where the motorcycles was purchased.

Secondly, Triumph issued a memorandum to all involved Triumph staff regarding parallel imports confirming that no action may be taken to prevent them.

The action taken by Triumph to make a statement in a Newsletter was not considered sufficient by the Commission to ensure that the export prohibition was effectively brought to an end, since it was not sure that Greenib had passed on the information to every Benelux dealer.

Therefore Triumph was required by the Commission to send individual letters to its Benelux importer and to all 36 Benelux dealers in which it clearly states that the dealers are free to sell motorcycles to any customer irrespective of that customer's country of origin or where the motorcycle is to be used. Triumph has also been required to

<sup>49</sup> Press release IP/00/1014 of 15 September 2000



ensure that its dealers remove any information on their Internet Home Pages indicating that they are not selling Triumph motorcycles to UK citizens.

It is to be recalled that an export prohibition constitutes one of the most severe restrictions of competition contrary to Article 81 of the Treaty. However, given the

limited period of time during which the ban was applied, the limited impact that it was able to produce on the market, and given that Triumph has acknowledged the facts, has taken appropriate measures to cease the export ban, and has implemented all the requested measures asked for by the Commission to inform dealers of their

obligations, the Commission considers that it is not necessary in the present circumstances to pursue the case further.

By its action the Commission sends a clear message to the motorcycle manufacturers that it will act against similar infringements should they occur and sanction them where appropriate.

## **Commission Decision of 20 September 2000 imposing a fine on Opel Nederland and General Motors Nederland for obstruction of exports of new cars from the Netherlands**

*Ulrich KRAUSE-HEIBER, DG COMP-F-2*

### **1. Introduction**

The Commission imposed a fine of €43 million on Opel Nederland B.V., the Dutch importer of cars of the Opel brand, and on its parent company General Motors Nederland B.V., for having obstructed, during the period from September 1996 until January 1998, exports of new cars to end consumers from other Member States<sup>50</sup>. This is the second major Commission decision, following the one against Volkswagen AG of January 1998<sup>51</sup>,

where consumer complaints led the Commission to investigate practices of car manufacturers and their importers, and to sanction them with a high fine.

This decision underlines once more the Commission's determination to preserve the right of consumers to buy new cars in the Member State where prices and other sale conditions are most favourable, which is one of the main benefits of the Single Market.

### **2. Background**

In the Netherlands, prices for new cars before taxes are generally substantially lower than in other Member States, such as Germany, France and the United Kingdom<sup>52</sup>. The case against Opel Nederland began with inspections which the Commission carried out in December 1996, on the basis of information received from customers wanting to buy cars in the Netherlands at cheaper prices. The documents found during these inspections prove that, because of high export demand from customers from other Member States, Opel Nederland had developed and pursued, from end of August / September 1996 onwards, a strategy consisting of three measures, destined to restrict or to prevent dealers from selling cars to customers, including end consumers, from abroad.

<sup>50</sup> See Commission Press Release IP/00/1028 of 20.9.2000 and OJ L 59 of 28.2.2001, p. 1.

<sup>51</sup> See Commission Press Release IP/98/94 of 28 January 1998 and OJ L 124 of 25.4.1998. This decision has been largely confirmed by the European Court of First

Instance, in its judgement of 6 July 2000 (see IP/00/725 of 6 July 2000). The fine of €102 million - reduced to €90 million by the Court - is one of the most important fines ever imposed on a single undertaking. For a further analysis of this judgement, see Competition Policy Newsletter No. 3, October 2000, p. 50.

<sup>52</sup> See, for example, Commission Press Release IP/01/227 of 19 February 2001 concerning the Report on Car Prices within the European Union as per 1 November 2000.

## 3. The measures applied by Opel Nederland

This strategy aimed at restricting or preventing sales of new cars of the Opel brand from the Netherlands to non-resident customers, and consisted of three measures.

Dealers had been told that the number of cars which they were expected to sell on the basis of their dealer contract (the so-called sales targets) should be sold principally within the Netherlands. By this measure, Opel Nederland intended to limit the scope for export sales.

Furthermore, by way of direct instructions given by its responsible District Managers to a number of exporting dealers, and on the basis of subsequent commitments received from a number of these dealers to stop all export sales, Opel Nederland could be sure of a substantial reduction of exports. It shall be noted that almost all of the exporting dealers were located in areas close to the German and Belgian borders, in which export business traditionally plays an important role.

As a third measure, Opel Nederland operated, from October 1996 until January 1998, a number of sales campaigns, which each contained a provision that bonus payments would be refused in the case that dealers carry out sales to end consumers from abroad.

## 4. Assessment under Article 81 of the EC Treaty

All the measures applied by Opel Nederland were considered to violate the provisions of Article 81 (1), which prohibit all agreements between undertakings which may affect trade between Member States, and which have as their object or effect the prevention, restriction or distortion of competition within the Single Market. Commission Regulation (EC) No 1475/95 concerning motor vehicle distribution<sup>53</sup> obliges car manufacturers and their importers not to restrict, either directly or indirectly, the freedom of final consumers, authorised intermediaries or dealers of their own distribution network, to buy new motor vehicles in the Member State of their choice. The Regulation allows that sales to non-authorised resellers may be prevented by the manufacturer and/or the importer. The Regulation therefore assures for European consumers the option of buying a car wherever it is most advantageous to them.

The measures applied by Opel Nederland became part of the contractual relationship between Opel Nederland and its Dutch contract dealers. According to established case law, instructions

given to dealers do not constitute unilateral acts outside the scope of application of Article 81, but an agreement in the sense of that Article, if it is taken in the course of a current commercial relationship which underlie an existing general agreement<sup>54</sup>.

The measures had as their object the restriction of "intra-brand" competition<sup>55</sup>. Opel dealers in the Netherlands were prevented from exploiting competitive advantages they enjoy as a result of existing price differences, over Opel dealers in other Member States, by selling vehicles to

<sup>54</sup> See CFI Judgement of 6 July 2000, case T-62/98, Volkswagen AG / Commission of the European Communities, pt. 236, and the case law mentioned therein. See ECJ Judgement of 17 September 1985, connected Cases 25 and 26/84, Ford Werke AG and Ford of Europe Inc. / Commission, ECR 1985, p. 2725.

<sup>55</sup> In its above mentioned judgement in the case "Volkswagen", the CFI confirmed, by referring to its case law, that the effects of export restrictions in place need not to be established for the application of Article 81, if it can be proved that the object of the measures is to restrict competition, something which is very clear for measures aiming at limiting parallel export and thus at partitioning markets (see pts. 178 and 181 of the judgement). The CFI thus confirmed that the object of a measure is already sufficient to establish an infringement, and that also Article 15 of Regulation No 17 does not specify that the infringement has to be assessed by reference to the actual results which occur on the market or to the harm caused to purchasers of the relevant products.

<sup>53</sup> OJ No L 145 of 29.6.1995. This Regulation, which expires on 30.9.2002, exempts all selective and exclusive distribution systems for motor vehicles and their spare parts pursuant to Article 81 (3) of the Treaty, provided that certain conditions are fulfilled.



customers who are not resident in the Netherlands. The Commission showed in its decision that the measures adopted covered not only export sales which may be prohibited by the importer under Regulation No 1475/95 (sales to non-authorised resellers not belonging to the Opel distribution network), but also those which must not be prevented (sales to end consumers from other Member states, either directly or via an authorised intermediary, and to Opel dealers from other Member states).

The appreciability of the restriction of competition results in particular from the market position of Opel and the price differences for Opel cars across the European Union, creating incentives for parallel trade, and the territorial protection granted to Opel dealers in other Member States by the measures applied by Opel Nederland.

The appreciability of an effect on trade between Member States became apparent from the exclusion of the Dutch market as a source for exports into Member states with higher price levels for cars of the Opel brand.

In this context, it shall be noted that the Court of First Instance stated in its judgement in the "Volkswagen" case, that "*to be capable of affecting trade between Member States, a decision, an agreement or a concerted practice must make it possible to foresee with a sufficient degree of probability, on*

*the basis of a set of objective elements of law or fact, that it may have an influence, direct or indirect, actual or potential, on the pattern of trade between Member States capable of hindering the attainment of the objectives of a single market between States. In that regard it is necessary to consider in particular whether the measures in question are capable of bringing about a partitioning of the market in certain products between Member States and thus rendering more difficult the interpenetration of trade which the Treaty is intended to create ... Practices restricting competition and extending over the whole territory of a Member State are by their very nature capable of reinforcing the compartmentalisation of markets on a national basis, thereby holding up the economic interpenetration which the Treaty is intended to bring about*<sup>56</sup>."

## 5. The determination of the fine

In determining the level of the fine, the Commission took into account the fact that the measures applied by Opel Nederland were destined to prevent consumers from taking advantage of the benefits of the Single Market. It also considered that the company should have known that its behaviour was incompatible with the European com-

petition rules, and in particular with the provisions of Regulation No. 1475/95<sup>57</sup>.

As compared to the infringement established in the earlier Commission decision against Volkswagen AG<sup>58</sup>, it was considered that the infringement committed by Opel Nederland is of similar nature to the one committed by Volkswagen. It is a very serious infringement of European competition rules, as held by the CFI in its judgement on the "Volkswagen" case, since it acts against one of the most fundamental objectives of the Community, in particular the achievement of the Single Market<sup>59</sup>.

<sup>57</sup> In this context, it should be noted that, on 15 November 2000, the Commission adopted the Report on the evaluation of the application of Regulation No. 1475/95 as required in its Article 11. The Report has been the subject of a hearing on 13 and 14 February 2001, where all parties interested in automobile distribution had the possibility of submitting their views. The Report and the outcome of the hearing will form the essential basis for determining the future legal framework for car distribution and servicing, after expiry of the current block exemption Regulation on 30 September 2002.

<sup>58</sup> See Commission Press Release IP/98/94 of 28 January 1998.

<sup>59</sup> CFI, Judgement of 6 July 2000, Case T-62/98, Volkswagen / Commission, not yet published; see also Commission Press Release IP/00/725 of 6 July 2000 concerning this judgement. Volkswagen AG lodged an appeal on 14 September 2000 against this judgement with the ECJ (case C-338/00 P Volkswagen / Commission).

<sup>56</sup> CFI, Judgement of 6 July 2000, case T-62/98, Volkswagen / Commission, not yet published, pt. 179.

## ➤ ANTI-TRUST RULES

The fine imposed on Opel Nederland and General Motors Nederland is however lower than the one inflicted on Volkswagen AG. This does not however imply a more lenient attitude of the Commission in regard to this type of infringement. It simply reflects the fact that the Commission must take into account the specifics of each case and, inter alia, the intensity with which the illicit measures were applied, and their duration. The companies have lodged an appeal against the decision with the CFI in December 2000<sup>60</sup>.

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<sup>60</sup> Case T-368/00 Opel / Commission



## Collecte et recyclage des batteries usagées en Italie : droits exclusifs, exigences environnementales et droit de la concurrence

Vincenzo BACCARO, DG COMP-F-1

Le 23 novembre 2000, la Commission a, sans prendre des mesures formelles, décidé de clôturer une affaire ouverte contre le consortium qui coordonne en Italie la collecte et le recyclage des batteries usagées au plomb (COBAT), pour abus de position dominante sur le marché italien des déchets au plomb susceptibles de recyclage, en acceptant les modifications proposées par COBAT à son mode de fonctionnement. Le cas en question impliquait des aspects relevant du droit de la concurrence et des aspects d'intérêt général à caractère environnemental, qu'il fallait prendre en compte. En effet, le déchet en question a une valeur économique, puisqu'il existe un marché du plomb secondaire ou de deuxième fusion ; ce marché est alimenté, entre autre, par les batteries usagées, une fois drainée la composante liquide d'acide sulfurique dans laquelle le plomb est dissous, composante qui représente la partie la plus dangereuse et polluante pour l'environnement.

### CONTEXTE GENERAL

L'Etat italien, par le biais de sa législation en matière d'environnement, a donné un droit exclu-

sif à un consortium obligatoire (COBAT) pour la collecte, le stockage et la vente, même à l'étranger, des batteries usagées et autres déchets contenant du plomb, visant à obtenir un très haut pourcentage de collecte. Plus précisément, la loi et le statut de COBAT imposent aux détenteurs et aux collecteurs de déchets au plomb de lui conférer ce matériel de rebut, qu'il se charge de vendre aux entreprises de recyclage. Le système COBAT vise donc à accomplir une mission d'intérêt générale à caractère environnemental.

COBAT est financé essentiellement par les revenus des ventes des déchets et par un mécanisme dit du *sovrapprezzo*, une surcharge existant sur la vente des batteries neuves, répercutée sur les consommateurs finals, en guise d'une imposition indirecte.

COBAT ne réalisait pas directement la collecte des déchets, mais sur la base de son droit exclusif, l'organisait en utilisant des entreprises - déjà en possession des agréments prévus par la loi - qu'il sélectionnait ultérieurement moyennant des appels d'offres et auxquelles il assignait des zones territoriales exclusi-

ves. Les firmes non sélectionnées ne pouvaient opérer que comme sous-mandataires des premières. En pratique, les entreprises de collecte qui n'étaient pas insérées dans le système COBAT, même si en possession des agréments prévus par la loi, se voyaient obliger à travailler de manière non rentable en Italie. Il ne leur restait que la vente à l'exportation, ce que COBAT considérait également comme illicite.

C'est ainsi que le titulaire d'une entreprise effectuant la collecte dans le nord ouest de l'Italie, exclue du système COBAT, a porté plainte auprès de la Commission. Entre autre il a dénoncé la rigidité du système mis en place par COBAT, qui pénalisait les firmes non sélectionnées pour l'assignation de zones de collecte exclusive et également l'opposition de COBAT à ses exportations vers une entreprise de recyclage située en France. En outre, concernant les ventes du déchet effectuées par COBAT, il a signalait que le consortium semblait appliquer aux entreprises italiennes des prix de vente plus favorables que le prix en vigueur sur le marché européen pour des produits similaires.

### EXAMEN DE LA COMMISSION

La Commission a examiné la plainte sous l'angle de l'article 82, après avoir écarté les profils concernant les mesures législati-

ves/ réglementaires existant en la matière en Italie, qui relevaient de l'article 86 et 226 du traité, pour lesquels un « dossier Italie » a été ouvert auprès du Secrétariat Général. Ces mesures relèvent essentiellement du domaine de la libre circulation des déchets dangereux récupérables dans le marché intérieur et du domaine de la législation en matière environnementale. Elles n'imposent, ni favorisent, n'impliquent de restrictions de concurrence ni directement, ni de la part de COBAT.

Suivant l'article 82 du traité, l'analyse a donc concerné les mesures adoptées par (et imputables directement à) COBAT, entreprise en position dominante - vu son droit exclusif - sur le marché italien des batteries usagées et des déchets recyclables au plomb, afin d'établir si ces mesures pouvaient relever de comportements abusifs. Dans l'appréciation globale, la tâche d'intérêt général à caractère environnemental qui est inhérente à la constitution de COBAT a été prise en compte de manière appropriée. Dès lors, les actes directement imputables à COBAT qui pouvaient relever d'un abus ont été appréciés sur la base du *principe de proportionnalité* par rapport à l'objectif d'intérêt générale.

L'enquête de la Commission a permis de conclure que les comportements adoptés par le consortium étaient des actes qui ne se justifiaient pas entièrement dans la perspective de l'accomplissement de l'objectif

environnemental assigné par la réglementation et pouvaient donc représenter des infractions au droit de la concurrence, notamment à l'article 82 du traité.

Concernant la collecte des déchets : le comportement de COBAT visant l'organisation du réseau de collecte sur le sol italien, (système des exclusivités de zone) impliquait une discrimination non nécessaire entre collecteurs - chargés et non - car seulement les premiers avaient droit à recevoir une compensation de la part de COBAT pour le service de la collecte. En outre, COBAT, sur la base de son interprétation de la législation en vigueur, avait mis en place des actes d'obstruction vis-à-vis des exportations des déchets, en essayant de limiter les débouchés des entreprises tierces à son système. Concernant la vente des déchets : COBAT appliquait, à l'égard des firmes de recyclage nationales (les *piombifere*) des modalités de vente différentes par rapport aux modalités de vente aux entreprises de recyclage des autres pays communautaires, les ventes à ces dernières entreprises étant d'ailleurs très rares. En plus, le consortium appliquait, aux entreprises de recyclage italiennes, des prix de vente plus favorables en relation au prix du marché européen pour des produits similaires.

## MODIFICATIONS ADOPTÉES PAR COBAT

Suite à l'intervention de la Commission, COBAT - probablement conscient de la présence d'éléments restrictifs ou abusifs

dans sa conduite non justifiés par l'objectif environnemental en question - a adopté des modifications à son *modus operandi*. Le nouveau système élimine les infractions, sans mettre en danger la réalisation de l'objectif environnemental dont le consortium est le garant.

COBAT garde la tâche générale d'assurer que la collecte et le stockage des déchets au plomb soient faits en conformité avec les prescriptions législatives existantes. La collecte est désormais libéralisée, étant permise à toute entreprise agréée par la loi à cet effet, sans aucune restriction territoriale, ni exclusivité de zone, sauf un monitoring exercé par le consortium. La micro-collecte dans des zones difficiles du territoire italien est assurée par COBAT à travers un "appel à numéro vert".

Les collecteurs peuvent décider soit de remettre les déchets à COBAT qui les payera sur facture à un prix - égal pour tous les collecteurs - qui tient compte du prix du marché et des cotations internationales du plomb, soit d'exporter les batteries. Quant aux ventes de COBAT aux entreprises de recyclage, italiennes ou étrangères, elles seront faites selon le critère de la meilleure convenance économique pour COBAT, afin de baisser autant que possible le *sovrapprezzo* qui pèse sur les consommateurs finals de batteries neuves.



## **CONCLUSION**

Etant donné que les modifications de la part de COBAT restaurent un rôle essentiellement de monitoring pour le consortium et réduisent les interventions sur les mécanismes du

marché, qui caractérisaient son fonctionnement précédent, il s'avère que les impératifs découlant de la mission d'intérêt général impartie à COBAT ont été réconciliés avec l'exigence qu'une entreprise ayant reçue par la loi un droit exclusif respecte

les règles communautaires de concurrence, alors que l'application de ces règles ne fait pas échec à l'accomplissement en droit ou en fait de la mission particulière qui lui a été donnée.

## **Appeal against the annulment by the Court of First Instance (CFI) of a 1996 Commission decision fining German pharmaceuticals company Bayer**

*Annette KLIEMANN, COMP/F-3*

On 5 January 2001, the European Commission filed an appeal with the European Court of Justice (ECJ) in Luxembourg against the annulment by the Court of First Instance (CFI) of a 1996 Commission decision fining German pharmaceuticals company Bayer AG 3.0 million Euros. The decision found that Bayer had infringed Art. 81 (1) of the EC Treaty by unduly restricting exports of its leading cardio-vascular drug, Adalat, from France and Spain to the United Kingdom. Art. 81 (1)

prohibits agreements which restrict competition and impair trade between the European Union Member States.

The Commission believes it proved that Bayer entered into an agreement with its French and Spanish wholesalers to prohibit re-exports of Adalat into the UK, where prices were considerably higher. But the CFI ruled on 26 October 2000 that the existence of such an agreement had not been established.

In the Commission's view, this case essentially deals with the standard of proof required for finding an agreement in the sense of Art. 81 (1). In its appeal it submits that the CFI has raised the standard required by the established case-law. The Commission seeks clarification from the ECJ on this point.

Such clarification is important for the future of the Commission's policy of ensuring a single market for pharmaceuticals and other goods, such as cars, in Europe. The Commission wants to continue its policy under Art. 81 (1) EC of challenging agreements between a manufacturer and his distributors, e.g. supply quota arrangements, which partition the Common Market along national lines.

# MERGERS

*Application of Council Regulation 4064/89*

## Merger Control: main developments between 1<sup>st</sup> September 2000 and 31<sup>st</sup> December 2000

Neil MARSHALL, Anna PAPAIOANNOU and Walter TRETTON

### I. Policy developments

#### Merger Review - progress/scope of the exercise

Following the *Report from the Commission to the Council on the application of the Merger Regulation thresholds*<sup>61</sup>, an extensive fact finding exercise has been launched directly addressing companies involved in multiple filing proceedings as well as Member States and applicant countries. The intention is to collect "hard facts" on the cost, timing and resources constraints which multiple filings impose upon the undertakings concerned.

Among other issues, the intention is to examine the legal uncertainty that this has created, and in particular whether multiple filings have in practice ever led to the adoption of incompatible decisions. In the course of its assessment, the Commission will be examining efficiency aspects, which are of interest not only to the parties involved, but also to the regulatory authorities and most importantly to the market and to consumers.

The review will not be limited to the threshold-related issues. Some non-threshold issues were mentioned in the annex to the Commission's report to the Council, as they had already been raised by Member States or industry. For example, issues that are of special interest to the Member States will be examined, in particular the referral system. In relation to such referrals, in December the Commission sent questionnaires to companies which have been notifying parties in cases where a request for referral has been made over the past five years.

The Commission aims to include conclusions of this further investigation in a consultation document in the course of 2001.

It should be emphasized at this point that the Commission does not view the merger review exercise as an opportunity to merely increase its power in the field of merger control. The review is meant to function as a tool for re-examining the current work allocation system and for making the necessary adjustments to it with a view to safeguarding a set of principles underpinning merger control in the EU. It will be of utmost importance that the review strengthens the coherence of the overall

system of European merger control.

#### *Remedies Notice*

On 21<sup>st</sup> December 2000 the European Commission adopted a Notice on remedies acceptable to solve competition problems raised by mergers and acquisitions. The Notice is designed to provide the business and legal communities with guidance and predictability on merger control policy in the European Union. It also builds up on 10 years of application of the EU's merger regulation.

The Notice sets out guidance as to the important substantial and procedural considerations that merging parties in Europe and around the world must deal with when proposing remedies to win regulatory clearance in the European Economic Area – the 15 EU states, plus Norway, Liechtenstein and Iceland.

The Notice on remedies focuses on the following areas:

- the general principles under which remedies can be proposed and implemented in merger proceedings;
- an overview of the main types of remedies that have been accepted in merger cases to date (e.g., divestiture provisions, termination of exclusive agreements, and licensing arrangements to provide access to infrastructure and key technology);
- the specific requirements for submission of remedies in Phase I and Phase II pro-

<sup>61</sup> Europa competition website:  
<http://europa.eu.int/comm/competition/mergers/review/>



ceedings, respectively; and the major elements for implementing divestiture commitments, including the provisions for the appointment of a trustee for oversight, preservation of the assets and/or activities to be divested, and Commission approval of the potential purchaser.

The Notice stresses the role and duties of the Commission and of the merging parties when dealing with problematic cases. In particular it emphasises that it is the role of the merging parties to propose ways to address the competition problems identified by the Commission and to show that the remedies offered eliminate the problems and restore effective competition.

As shown by past practice, the Notice also confirms a preference for structural remedies, usually divestiture of assets, rather than behavioural commitments, which would require monitoring on the part of the Commission.

The Commission also stresses that activities to be divested must consist of "a viable business that, if operated by a suitable purchaser, can compete effectively with the merged entity. Normally a viable business is an existing one that can operate on a stand-alone-basis".

Finally, the Notice also clarifies and strengthens the importance of deadlines for negotiating remedies. When the Commission

is concerned about reduction of competition, it starts a so-called second-stage review which lasts a maximum of four months. If that in-depth inquiry confirms the Commission's concerns, companies must submit commitments "within not more than three months from the day on which proceedings were initiated".

The Notice stresses the highest importance of respecting the deadlines for undertakings given the Commission's strict and legally binding timetable for merger control. If deadlines are not strictly respected both in Phase I and II the Commission reserves the right to reject late undertakings unless they remove all concerns in a clear cut way without requiring any further market testing or if justified by exceptional circumstances.

## **II. Recent cases**

### **Introductory remark**

Between 1<sup>st</sup> September and 31<sup>st</sup> December 2000 there were 114 cases notified to the Commission as compared to 136 in the second four month period of 2000, and 107 in the same period in 1999. Four decisions were taken after in-depth investigations (two clearances, two conditional clearances – see below), six in-depth investigations were opened and 125 cases were cleared at Phase 1 (i.e. after only an initial investigation). Of the phase 1 clearances, four were cleared subject to conditions (see below), and 41 were decisions taken in accordance with the newly introduced

Simplified Procedure (see CPN No 3, October 2000). The Commission also took one Article 9 partial referral decision during the period.

### ***Decisions following an additional four month investigation (Decisions pursuant to Article 8, Merger Regulation)***

#### **Bosch / Rexroth**

The transaction is part of a broader plan by Mannesmann to offload its non-telecommunications activities. The Commission's investigation found that the combined firms would have a dominant position on the market for hydraulic piston pumps. Although Rexroth produces only axial piston pumps and Bosch radial piston pumps, the Commission's review showed that there was a high degree of substitutability between the two types of products.

To prevent the creation of a dominant position, Bosch agreed to sell its own radial piston pumps business to a competitor. However, the investigation showed that for effective competition to be restored it was not sufficient to sell; the Commission had to make sure that the acquirer was a strong competitor, otherwise Bosch would, over time, have been able to win back the market shares lost through the sale. This is because Bosch's strong customer relations in the industrial hydraulics field would have been sufficient to persuade such customers to switch from radial to axial piston pumps. The Com-

mission therefore insisted that the merger should not be put into effect until a suitable buyer was found, leading Bosch to propose Moog, a strong competitor in Europe, very quickly. This was the first time the Commission has imposed the finding of an "upfront buyer" for divestments linked to merger regulatory approval.

### **Framatome/Siemens/Cogéma**

On 6<sup>th</sup> December 2000, the European Commission cleared a joint venture which combines the nuclear activities of Framatome SA of France with those of Siemens AG of Germany. The joint venture, as initially notified, also involved the participation of Cogéma, a second French company active in the nuclear sector. In its original form, the joint venture operation threatened to create or reinforce dominant positions in the markets for fuel assemblies used in nuclear reactors.

Regulatory clearance was possible after it was agreed that Cogéma would not be part of the joint venture. A declaration by France that it will see to it that *Électricité de France* (EdF) will exit from the capital of Framatome and will open up its procurement policy for fuel assemblies was a further alleviating factor. In this way, Europe's largest electricity nuclear market, France, becomes accessible to competitors of the new joint venture.

### **Boeing / Hughes**

The European Commission decided to clear the proposed acquisition by the Boeing Company of the satellite business of Hughes Electronics Corporation following an in-depth investigation. The investigation found that HSC would remain subject to competition from other large satellite prime contractors, such as Lockheed Martin, S/S Loral, Alcatel Space Industries and Astrium.

Boeing is active in commercial aircraft, defence and space industries. The US-based company supplies navigation satellites and has substantial activities in the field of satellite launch services, where it operates its family of Delta launchers and has an interest in Sea Launch, another launch service operator. Hughes, a subsidiary of General Motors, is the world's leading manufacturer of commercial geostationary communication satellites ("GEO satellites"), with market shares around 35-40%. Hughes also produces certain satellite equipment and provides satellite-based communication and pay-TV services. The transaction will combine the parties' satellite manufacturing activities and result in vertical integration between Hughes' satellite operations and Boeing's launch activities.

The Commission's investigation has shown that HSC's position will probably not be significantly strengthened as a result of the transaction since HSC's seve-

rance from the Hughes group will not create new major opportunities for HSC, and might instead cause HSC to lose the custom of Hughes' satellite operating companies (PanAmSat, DirecTV and Hughes Network Systems), which represented approximately 45% of HSC's satellite orders between 1997 and 1999.

The Commission also investigated whether the parties could induce Hughes customers to choose Boeing as a launch service operator by making the integration of its satellites with third party launch vehicles more expensive than in the case of Boeing vehicles. There were also fears that Hughes could influence the launch vehicle selection to the advantage of Boeing in the case of Delivery In Orbit contracts. The extensive customer enquiry indicated that HSC would be more likely to lose contracts if it attempted to increase the costs of integration of its satellites to non-Boeing launchers.

In the course of the proceedings, the parties offered a series of commitments aimed at comforting the Commission in its decision. While the Commission took note of these undertakings, they were not a condition to the approval.

Pursuant to the bilateral agreement of 1991 on antitrust co-operation between the European Commission and the United States of America, the European Commission closely co-operated



with the Federal Trade Commission (FTC).

### **AOL / Time Warner and EMI / Time Warner**

The European Commission approved the proposed merger between America Online Inc (AOL) and Time Warner Inc after the parties proposed a number of undertakings, whereas EMI Plc and Time Warner Inc decided to terminate their agreement in order to withdraw the notification they had submitted to the Commission for regulatory clearance. In view of this, the Commission has not taken any decision with regard to the EMI Plc/Time Warner Inc notification.

For a detailed discussion of these cases, please see the article written by Valérie Rabassa in this Newsletter.

### ***Conditional clearances after phase 1 (pursuant to Articles 6.1(b) and 6.2)*<sup>62</sup>**

#### **Unilever / Bestfoods**

The Commission cleared the acquisition of US company Bestfoods by Anglo/Dutch company Unilever after the parties made substantial concessions to resolve competition concerns. The two companies overlap in the

production and distribution in a large number of national markets for food products both for retailing and for food services across the EEA. The undertakings include the divestment of a significant number of brands such as Lesieur, Royco and Oxo. The total value of the divestment package in terms of annual retail sales is estimated to be in the order of 500 million euros.

This acquisition would have led to overlaps in nearly 150 separate national food-related markets. In the food retail sector, where the customers are mainly supermarkets and food retail operators, Unilever and Bestfoods have overlapping activities that would have created competition concerns in the markets for instant and regular dry soups, dry side dishes, cold sauces, hot sauces (wet and dry), jams and other culinary products such as bouillon. Virtually all the countries in the EEA were affected.

The deal would also have created competition problems in the food service sector which comprises food sales to a variety of catering customers such as hotels, leisure clubs, cafés and restaurants. For example, in the Nordic countries (in the markets for dry soups and hot sauces in Finland, Sweden and Denmark and in the markets for bouillon in Sweden and Denmark) as well as in Ireland (in the markets for dry hot sauces) and in the UK (for dry sauces and bouillon).

To remove the Commission's concerns in the above-mentioned

markets, Unilever undertook to divest a number of significant brands, which are Lesieur, Batchelors, McDonnells, Bla Band Royco and Oxo. The divestments will include the whole range of products currently sold under those brands both in the food retail and in the food service sector. The divestments will also include arrangements to ensure that the purchasers will not only acquire the present market share attached to the brands, but also their full brand value.

#### **Vivendi / Canal+ / Seagram**

In October, the Commission approved the acquisition by French telecommunications and media company Vivendi and its subsidiary Canal+ of Canada's Seagram. The transaction significantly affected three markets, namely pay-TV, the emerging pan-European market for portals and the emerging market for on-line music.

With respect to the pay-TV market, the Commission found that, because of Canal+'s likely exclusive access to the premium films produced and co-produced by Universal, Europe's largest pay-TV operator would have strengthened its dominant position in a number of countries.

Vivendi offered a package of commitments including access for competitors to Universal's film production and co-production. In particular, the parties undertook not to grant to Canal+ 'first-window' rights covering more than 50% of Uni-

<sup>62</sup> A conditional phase 1 clearance was also taken in **Volvo / Renault Vehicules Industriels** on 01.09.2000. This case has previously been discussed in CPN No3, October 2000 and is therefore not repeated here.

versal production and co-production. Films shown on pay-TV shortly after cinema exhibition and video rental are said to be released on 'first window', that is before they are available more widely on television. This commitment covers the following countries: France, Belgium, Italy, The Netherlands, Spain, and the Nordic countries, and has a duration of five years. Vivendi also undertook to divest its stake in British pay-TV company BSkyB, which has links with Fox, a major US film studio.

By adding Universal's music content to Vivendi's multi-access portal, Vizzavi, the transaction also raised serious doubts as to the creation of a dominant position on the emerging pan-European market for portals and

on the emerging market for on-line music. In order to remove these concerns, Vivendi offered to give rival portals access to Universal's online music content for five years.

#### **Article 9 referral**

##### **C3D / Rhône / Go-Ahead**

The European Commission decided to refer part of the proposed takeover by French company C3D and Rhône Capital LLC of the Go-Ahead Group Plc to the UK competition authorities. The referral to the UK authorities only relates to the bus passenger market in London. The Commission cleared those parts of the deal which relate to services to airports, rail transport and bus services outside London as its investigation showed that there

were no competition concerns in these areas.

The UK competition authority informed the Commission that it had identified one market within the UK in which the conditions for a referral existed, namely a market for passenger transport by bus in the London area. The UK competition authority considered that, for a number of reasons, this market represents a distinct market within the UK territory and that the notified operation could lead to the creation of a dominant position in the south or south-west of London. The UK is well placed to carry out the necessary review as it has recently investigated a number of operations in the London bus passenger transport market, namely Cowie/British Bus and Metroline/MTL North London.

## **The Commission's review of the media merger wave**

*Valérie RABASSA, DG COMP-B-2*

The media industry involves a wide and diversified set of activities vertically related. Indeed, different players such as content providers, rights holders and content distributors all operate in the value chain from the production of content such as films, TV programming, or music, to its delivery via theatres, TV chan-

nels and today the Internet. A brief market overview suggests a strategy of integration of some by the most dynamic players of the media and the Internet sectors. Indeed, from April to October 2000, the Commission has had the opportunity to examine three such concentrations under the EC Merger Regulation.

On 28 April, the Commission received a notification of a proposed merger between two US firms America Online Inc (AOL) and Time Warner. The proposed merger would have created the first vertically-integrated Internet content provider, distributing Time Warner branded content (music, news, films, etc.) through the AOL Internet distribution network. In particular, AOL would have had access to a very large share of music copyrights and neighbouring rights at the EEA level, by virtue of its agreement with Bertelsmann in Europe and the deal with Time



Warner/EMI (see below). The new entity would have been able to play a gate-keeper role and to dictate the technical standards for on-line music distribution over the Internet and could have imposed its software-based music player as the dominant software player.

Following this transaction, on 5 May 2000, the British group EMI and Time Warner notified an agreement to the Commission by which they would have combined their music recording and publishing businesses. The Commission found that this merger would lead to a collectively dominant position for the major players (EMI/Time Warner, Universal, Bertelsmann, and Sony) in the market for recorded music, to single dominance in the market for music publishing, and that it raised vertical concerns in relation to the AOL/Time Warner deal in the markets for on-line music delivery and music software.

Last but not least, on 14 July 2000, the Commission received a notification of a proposed concentration by which the French group Vivendi would acquire sole control over the Canadian group Seagram (Seagram's music and films activities are conducted through the Universal Group). Foreclosure issues would have arisen through the integration of Universal's content (music and films) and the delivery mechanisms of Vivendi (through its pay-TV Canal+ or its Internet 'portal' Vizzavi).

All merging parties were considered as 'major' players in the media and in the Internet sectors. By merging, these concentrations reflect the motivation of the players to gain access to all stages in the vertical chain and in particular to increase products and services diffusion, create multi-media offshoots, or develop technologies for conditional access with the risk of a durable gate-keeper role. Indeed, vertical integration between content providers and delivery distributors may produce, under certain circumstances, anti-competitive effects such as foreclosure effects. Foreclosure effects refer to any dominant firm's practice that denies or limits proper access to an essential input that it produces to some users of this input. The aim of such foreclosure is to extend market power from one segment of the market to another. The purpose of this article is to set out the most important features of the Commission's analysis in the above vertical mergers cases. The joint exercise of market power is also examined in certain segments of the music business.

The first case, AOL/Time Warner (Case COMP/M.1845, Decision of 11 October 2000), is a second phase clearance decision with commitments, the second, EMI/Time Warner (Case COMP/M.1852 aborted on 5 October 2000) was withdrawn towards the end of a second phase investigation. The last case – Vivendi/Seagram – was a first phase clearance decision

with commitments (Case COMP/M.2050, Decision of 13 October 2000).

### *AOL/Time Warner*

Time Warner is one of the world's biggest media and entertainment companies with interests in television networks (e.g. CNN and TNT), magazines (e.g. Time, People) and book publishing, music, filmed entertainment and cable networks. AOL is the leading Internet access provider in the United States and the only provider with a presence in most EU Member States. In Europe AOL operates mainly through two joint ventures (AOL Europe and AOL Compuserve France) with its commercial partner Bertelsmann.

The Commission found that due to the above mentioned structural links and some existing contractual arrangements with Bertelsmann, AOL/Time Warner would also have had preferred access to Bertelsmann's content and, in particular, to its large music library. As a result, AOL/Time Warner would have controlled the leading source of music publishing rights in Europe, where Time Warner and Bertelsmann together hold approximately [30-40%] of the market. The parties proposed undertakings that met the competitive concerns identified by the Commission by aiming essentially at severing the links between Bertelsmann and AOL. In particular, they have put in place a mechanism by which

Bertelsmann will progressively exit from AOL Europe and the French joint venture AOL Compuserve. Moreover, as the result of the commitments, AOL will be prevented from exercising certain rights under the agreements with Bertelsmann. Indeed, the proposed undertakings eased the competition concerns raised by the transaction in the fields of :

**On-line delivery of music through the Internet and music player.** The Commission has looked at whether the new entity would be able to play a gatekeeper role and dictate the technical standards for on-line music distribution over the Internet (both music downloads and streaming). Furthermore, it has examined whether AOL could impose Winamp, its software-based music player, as the dominant software player. This has been analysed on the background that AOL would have access to a very large share of music copyrights and neighbouring rights at the EEA level, by virtue of its agreement with Bertelsmann and the deal with Time Warner/EMI. Due to the commitments and the fact that the Time Warner/EMI deal was abandoned, AOL/Time Warner will lack the critical mass, in terms of publishing rights, necessary to dominate the on-line music distribution market or monopolise the music player. As a result of the commitments, the parties will take interim measures to ensure that the relationships between AOL and Bertelsmann will be kept at arm's length until Bertelsmann's

exit has been completed; AOL Time Warner will not take any action that would result in Bertelsmann music being available online exclusively through AOL or being formatted in a proprietary format that is playable exclusively on an AOL music player.

The proposed undertakings also solved any competition problems that the transaction could have created in the UK market for **dial-up Internet access**, where AOL could have bundled access with music content offerings and, in general, used music as a promotional tool or a loss leader.

**Paid-for-content other than music (films, TV programming and financial news) and Internet broadband access.** The Commission found that the new entity would not be able to dominate the market for paid-for-content as Time Warner's content can by no means be regarded as dominant in Europe. Moreover, the new entity would not be in a position to dominate the fast Internet access market since neither AOL nor Time Warner have any broadband infrastructure in Europe. The Commission has also examined whether AOL/Time Warner could leverage their market power in the US into Europe and arrived at the conclusion that given the characteristics of the European markets (which are largely dominated by the incumbent telephone companies) this possibility is very remote. In this respect, the Commission has taken note of a commitment

given by the parties not to request that carriage in the EEA is a pre-condition for content carriage in the AOL network in the USA.

### ***EMI/Time Warner***

EMI is one of the leading players in music recording and publishing world-wide including highlighted label such as Virgin. By merging with Time Warner, the main markets at stake were those for recorded music and music publishing, whether the music is distributed on-line or through more traditional means.

**Recorded music.** The Commission concluded that the concentration would have led to a collective dominance situation between four main players, (i.e. 'the majors': EMI/Time Warner, Universal, Sony, and Bertelsmann), holding together around 80% of the recorded music market on the EEA and world-wide level.

It is likely that the concentration would have led to a significant price increase for the following reasons: (i) the merger would have reduced the number of oligopolists from five to four, and this would have limited the possibilities of direct bilateral competitive relationships between pairs of majors from ten to six. Thus, the merger would have created a relatively more transparent and predictable market than is reflected in the simple reduction of majors from five to four; (ii) Time Warner has been the low price competitor among-





st the majors. Consequently, by eliminating this "maverick", the concentration would favour further co-ordination between the majors, since it would remove a disturbing factor from the market; (iii) the concentration would increase significantly both the ability and the risk of post-merger retaliation.

Particular market characteristics of the industry (the nature of the product,<sup>63</sup> the high degree of market transparency and of multi-market contacts, the existence of structural and other links as well as the symmetry in the majors' characteristics<sup>64</sup>) favour tacit co-ordination. The Commission considered that co-ordinated behaviour would be sustainable over time. In this regard, it may be stressed that the majors would have little incentive to deviate from the tacitly co-ordinated price in particular due to the credibility of the retaliation mechanisms and to the fact that market transparency would allow for rapid detection of any price deviation. The Commission, thus, considered that the majors have credible means to retaliate and to discipline each other. This would take place through in particular their compilation joint ventures be-

cause such joint ventures generate highly attractive returns. Finally, for a variety of reasons it was considered that the tacitly co-ordinated equilibrium would not be easily contested: 'fringe' competitors are not credible rivals; retailers do not have countervailing buyer power capable of eliminating a dominant position and entry barriers are relatively high<sup>65</sup>.

**Music publishing.** (i.e. the acquisition and exploiting of publishing rights to musical works): in this area as well the parties are two of the foremost players both on an EEA and world-wide level and the merger raised the issue of single dominance of the new entity in mechanical, performance and synchronisation rights in almost all EEA Member States with market shares of over 30% and in some cases as high as 75%. The figures also showed that in almost all member states the new entity would be some 2-5 times bigger than the next competitor (Universal, BMG or Sony). In addition, the Commission took account of the specifics of the music publishing market where a number of other factors play a role, in particular, the parties' pre-eminent position in international repertoire, the breadth and quality of the parties' back-catalogue and the financial strength of the parties.

### **Digital distribution of music through the Internet (via downloading and streaming).**

In addition, the horizontal overlap in music publishing raised a number of vertical issues which impinged on the AOL/Time Warner deal. This is because the combination of Time Warner and EMI taken together with AOL's pre-existing links with Bertelsmann would have given AOL control over about half of the EEA's music content available for on-line delivery. Indeed, the question was whether the new entity, due to its control over a very large music catalogue and technological advance, would be able to foreclose the downstream competitors. The Commission came to the conclusion that the notified concentration would create a dominant position in the markets for on-line music delivery and music software.

### ***Vivendi/Seagram***

Vivendi is a leading company in the telecommunications and the media sectors with related activities in telecommunications networks and related services, cinema and pay-TV through its 49% equity interest in Canal+, its 25% equity interest in BSkyB (a British pay-TV operator). Seagram is active in two core segments; beverages and entertainment (in the films and in the music businesses in particular through its subsidiary Universal).

<sup>63</sup> While it is too simplistic to say that every record is unique from an economic point of view, rather a high degree of standardisation does exist in the pricing, distribution and format of the product, which makes tacit co-ordination on prices easier.

<sup>64</sup> In particular in the majors' cost structures.

<sup>65</sup> The recorded music industry is a sunk costs industry.

In terms of content, by merging, the parties would have the world's second largest film library, the second largest library of TV programming in the EEA, and a substantial part of theme channels production in France, Germany, Italy, and Spain. Furthermore, Canal+ is the first acquirer of premium films<sup>66</sup> for pay-TV signed with the US majors studios<sup>67</sup> and in particular with Universal in France, Spain, Italy, Belgium and The Netherlands, and the Nordic countries. With regard to music content, the merged entity would be number one in recorded music combined with a non negligible position in publishing rights in the EEA. In terms of distribution, the parties are the leading pay-TV operator in Europe as Canal+ has a market share in terms of subscribers in excess of [60-85]%, [60-85]%, and [60-85]%, respectively in France,

Spain, and Italy. In Belgium and the Netherlands, Canal+ is the only pay-TV operator while in the Nordic countries Canal+ has a market share of [40-50]% and would likely to become a leading player on Internet distribution via the multi-access portal Vizavi.

Serious doubt arose in three markets which were vertically affected by the proposed transaction: the pay-TV market, the emerging market for portals and the emerging market for online music.<sup>68</sup>

**Pay-TV market.** Besides sport events, the attractiveness of pay-TV is largely dependent on the corresponding availability rights on premium films produced by the US majors and access to such rights appears, therefore, essential. Given Canal+'s likely exclusive access to the premium films produced and co-produced by Universal, one may expect that *post-merger*, because of its vertical integration, Canal+ will permanently secure the renewal of its contracts with Universal in France, Belgium, The Netherlands, Spain, and the Nordic countries and will obtain the right to Universal's films in Italy, preventing thus pay-TV rivals/new entrants from having access to these rights. This is

likely to strengthen its position as a pay-TV supplier.

Furthermore, the Commission's market investigation has shown that following the acquisition of Universal, Canal+ will be in a even better position than pre-merger both to renew its existing contracts with the majors and to enter into new deals with the other US studios. This will impact first on Canal+'s current dominant position in a number of Member States, in particular in terms of customer base<sup>69</sup>; second on the different structural links and arrangements such as film co-financing that the other major US studios have with Universal (i.e. in particular through Vivendi's share holding interest in BSkyB controlled by the Australian group NewCorps which in turns controls Fox and through Universal's participation in UIP, the theatrical joint venture distribution with Paramount and MGM<sup>70</sup>).

*Post-merger*, Canal+/Universal's bargaining power vis-à-vis the US studios would be increased. This would thus strengthen its

<sup>66</sup> Acquired through so called output deals. These output deals include long-term first-window agreements signed on an exclusive basis where the first-window is the first period of premium films availability on pay-TV. A pay-TV operator which does not have any first-window films can only offer an "old" premium film, so-called second-window film. A second-window film will be regarded as "second quality" by the pay-TV operator's subscribers and the pay-TV operator may be forced to reduce its subscription price to differentiate itself accordingly.

<sup>67</sup> Other Hollywood US majors are MGM, Paramount, Sony (Columbia), Disney (Buena Vista, Touchstone, Miramax), Twentieth Century Fox, and Warner.

<sup>68</sup> The transaction would also lead to overlaps in horizontally affected markets, in certain Member States, in film distribution to theatres and in the licensing of broadcasting rights, but these do not give rise to competitive concerns.

<sup>69</sup> The price of pay-TV rights is usually determined by reference to the total numbers of subscribers, subject to a stated minimum. Consequently, Canal+'s competitors face additional disadvantages because of their relatively limited customer base compared to that of Canal+.

<sup>70</sup> UIP is active among other in France, Italy, Spain, and in nearly all EEA countries. MGM has left the joint venture on November 2000.





## MERGERS

position on the first-window premium films segment and further foreclose the pay-TV market where Canal+ is active. Consequently, there exist serious doubts that Canal+'s dominant position on the pay-TV market in France, Spain, Italy, Belgium and the Netherlands would be strengthened and that due to the transaction Canal+ would become dominant on the same market in the Nordic countries.

The notifying party proposed a package of commitments consisting of the divestment of its stake in British pay-TV company BSkyB. Vivendi also offered

access to Universal's film production and co-production, by undertaking not to grant to Canal+ 'first-window' rights covering more than 50% of Universal production and co-production. This commitment covers France, Belgium, Italy, The Netherlands, Spain, and the Nordic countries and has a duration of five years.

The Commission believed that these undertakings would reduce significantly the ability of Canal+ to influence other major US studios and would eliminate the serious doubts as to the strengthening of a dominant position

of Canal+ following its vertical integration with Universal.

### **Emerging pan-European market for portals and for online music.**

By adding Universal's music content to Vivendi's multi-access portal, Vizzavi, the transaction also raised serious doubts as to the creation of a dominant position on the emerging pan-European market for portals and on the emerging market for online music. In order to remove these concerns, Vivendi offered to give rival portals access to Universal's online music content for five years.



## Main developments between 1<sup>st</sup> October and 31<sup>st</sup> December 2000

Madeleine TILMANS, DG COMP-G-01

### United Kingdom – An infrastructure development scheme for Wales does not constitute State aid

*On 6 December 2000 the Commission decided not to object to an infrastructure development scheme, under which the State, acting through the Welsh Development Agency, will buy land, develop it for commercial use and then sell or lease it at market price.*

According to the UK authorities the scheme would help to remedy the problem caused by low market prices for commercial property throughout Wales. By providing developed sites the authorities hope to increase interest in Wales, thereby raising market prices so that, eventually, private sector investors will be able to take over.

The Welsh Development Agency (WDA) will (i) acquire, develop and sell land, (ii) acquire or develop buildings for sale or lease and (iii) provide general infrastructure and services which enable land to be developed subsequently by another party. All acquisitions by the WDA will be made at or below market prices and all construction and related expenses will be procured in accordance with the EC rules for public procurement. When

construction works are finalised, the WDA will sell or lease property at market prices. Wherever possible, the price will be determined through an open bidding procedure, and otherwise through independent chartered surveyors.

The scheme does not have a fixed budget but the UK authorities estimate the annual expenditure for the first few years at about GBP 70/75 million.

The Commission has based its assessment on its Communication on State aid elements in sales of land and buildings by public authorities, which states that a sale of land and buildings following a sufficiently well-publicised, open and unconditional bidding procedure, comparable to an auction, accepting the best or only bid is by definition at market value and consequently does not contain State aid. Alternatively, an independent asset valuer may determine the market price. Since the UK authorities have undertaken to apply these principles not only to their sales, but also to their leases, the Commission finds that the scheme does not confer State aid to the owners or occupiers of the sites.

### United Kingdom – Commission approves State aid for Business property development schemes in Wales

On 4 October 2000 the Commission decided not to raise objections against two business property development schemes to be operated by the Welsh Development Agency. The rationale of the schemes is that market prices are too low to cover development costs. Under the *Property for Business* scheme identified occupiers of business premises are encouraged to develop their sites in that the State provides “gap funding”, i.e. a grant for the difference between the estimated development costs and the estimated value of the site after development. The beneficiary of the aid is the identified occupier of the premises. The *Partnership Development* scheme, on the other hand, supports speculative projects either by providing gap funding to developers or by entering partnerships with developers and investors. Beneficiaries of the scheme are property developers, investment companies and financial institutions who undertake an initial investment in property development.

The Commission decided that the schemes constitute State aid under Article 87(1) EC, since they are discretionary and public expenditures are not recovered as they would be under an entirely private scenario. As it is likely that the beneficiaries of the aid are active on markets on which there is trade between



Member States, the scheme threatens to distort competition.

The aid could be approved under Article 87(3)(c) EC, as the schemes will be applied in accordance with the Community guidelines on State aid for small and medium-sized enterprises, the Guidelines on national regional aid and the Multisectoral framework on regional aid for large investment projects.

**France – La Commission autorise des aides en faveur de trois régimes de l'Agence de l'Environnement et de la Maîtrise de l'Energie "ADEME".**

Le 13 décembre, la Commission a autorisé les aides notifiées par la France en faveur de trois régimes de l'ADEME (Agence De l'Environnement et de la Maîtrise de l'Energie).

Ces trois régimes concernent respectivement la gestion des énergies renouvelables, l'utilisation rationnelle de l'énergie et la gestion des déchets municipaux et des déchets banals d'entreprises.

Les aides de l'ADEME visent des *projets « de démonstration »*, mettant en œuvre pour la première fois en grandeur réelle des procédés prometteurs issus de la R&D, des *projets « exemplaires »* mettant en œuvre pour la première fois au niveau régional des procédés ayant fait leur preuve hors de la région mais souffrant d'un déficit d'information au niveau local, et des *projets « de*

*diffusion »* visant à favoriser la diffusion à grande échelle de procédés dont l'efficacité est établie, mais qui nécessitent encore des investissements initiaux importants du fait de leur faible diffusion.

Dans les trois régimes et pour chaque type de technologie, des intensités d'aides maximales sont fixées en ce qui concerne chacun de ces types de projet. Les intensités vont en décroissant des projets de démonstration aux projets de diffusion, car le risque technologique lié à ces différents projets et leur apport en matière environnementale va en diminuant.

Les intensités maximales afférentes à ces trois régimes sont de 30% (40% pour les PME), sauf en ce qui concerne le régime d'aide à la gestion des énergies renouvelables, qui prévoit des aides pouvant atteindre 40% (50% pour les PME) pour l'énergie d'origine photovoltaïque. Ce dernier régime contient également un volet dédié aux départements d'outre-mer, comprenant des aides pouvant atteindre une intensité de 60%.

La Commission a analysé les trois régimes conformément à l'encadrement communautaire des aides d'Etat pour la protection de l'environnement<sup>71</sup>.

Dans les trois domaines couverts par les régimes, la Commission a estimé qu'il n'existait pas de

norme contraignante communautaire ou nationale, et que les technologies bénéficiant des aides apportaient une contribution significative à l'amélioration de l'environnement, tout particulièrement au vu des engagements pris par l'Union dans le cadre du Protocole de Kyoto.

La Commission a ainsi pu autoriser les aides d'intensité maximale inférieure à 30% (plus un bonus éventuel de 10% pour les PME) en application du point 3.2.3.C de l'encadrement.

La Commission a également estimé, en application de sa pratique constante, que les mesures concernant l'énergie d'origine photovoltaïque pouvaient bénéficier d'une intensité maximale de 40% (50% pour les PME) en application du point 2.3 troisième phrase de l'encadrement.

Enfin, l'intensité de 60% applicable dans les départements d'outre-mer est inférieure au taux d'aide régionale applicable à ces régions autorisé par la Commission (65%).

**France - Suites d'un arrêt du TPI - La Commission ouvre la procédure à l'égard d'une exonération fiscale en faveur de certains biocarburants (ETBE).**

Suite à un arrêt du Tribunal de Première Instance (TPI), la Commission européenne a décidé d'ouvrir la procédure formelle d'examen en matière d'aides d'Etat à l'encontre d'une

<sup>71</sup> JO C 72 du 10.3.1994, p. 3.

partie du régime français établissant une exonération fiscale en faveur des biocarburants.

Par son arrêt du 27 septembre 2000, le TPI a annulé partiellement la décision de la Commission du 9 avril 1997 qui avait déclaré compatible avec le marché commun un régime d'aides aux biocarburants (esters d'huiles végétales et l'éthyl-tertio-buthyl-éther ou ETBE) notifié par la France par lettre du 29 novembre 1996. L'arrêt a laissé intacte la partie de la décision concernant la filière esters d'huiles végétales. Par conséquent, la nouvelle procédure ne concerne que la partie du régime qui porte sur les mesures concernant la filière ETBE.

Dans la décision partiellement annulée suite à un recours introduit par la société BP Chemicals Ltd, la Commission avait:

- d'une part, examiné et, ensuite, constaté la compatibilité du régime d'aides à la lumière des règles en matière d'aide d'Etat;
- d'autre part, déclaré que le régime notifié avait les caractéristiques d'un projet pilote visant au développement technologique de produits moins polluants, au sens de l'article 8(2)(d) de la directive 92/81 concernant l'harmonisation des structures des droits d'accises sur les huiles minérales ("directive 92/81"), ce qui lui permettait d'autoriser la France à mettre en œuvre la détaxation proposée.

Elle avait décidé, en conclusion, de ne pas soulever d'objections à l'égard du régime notifié.

Dans son arrêt, le TPI considère qu'en adoptant la décision en ce qu'elle concerne la partie du régime relative à la filière ETBE, la Commission a excédé les pouvoirs qui lui sont conférés par le Traité en matière d'examen des aides d'Etat, car ce régime d'aide ne répond pas aux exigences posées par l'article 8(2)(d) de la directive 92/81.

L'arrêt a été notifié à la Commission le 2 octobre 2000. Conformément à l'article 233 du Traité CE, la Commission est tenue de prendre les mesures que comporte l'exécution de l'arrêt du TPI.

Dès lors, *en ce qui concerne les mesures concernant la filière ETBE*, compte tenu de ce que l'annulation de la décision précitée a supprimé la couverture de l'autorisation du 9 avril 1997, la procédure administrative se trouve ramenée à la phase d'examen préliminaire. La Commission a décidé d'ouvrir à l'égard de ces mesures la procédure prévue à l'article 88 paragraphe 2 du traité CE afin, dans le cadre de celle-ci, de récolter toutes les informations nécessaires en vue de prendre une décision finale sur leur compatibilité avec le marché commun.

Le dispositif proposé par la France, dans sa rédaction actuelle, dépasse le cadre de projet pilote tel qu'interprété par le TPI et la détaxation proposée n'est donc pas conforme à l'article

8(2)(d) de la directive 92/81/CEE. La France vient de notifier - comme le permet l'article 8(4) de la même directive - une demande d'exemption qui doit être approuvée par le Conseil.

Par contre, *en ce qui concerne les mesures concernant la filière esters*, l'arrêt laisse intacte la partie de la décision s'y rapportant. En conséquence, l'annulation de la décision n'a pas des conséquences directes sur le plan de la procédure administrative. De ce fait, la partie du régime se rapportant à la filière esters doit être considérée comme une aide existante.

Dans ces circonstances, la Commission considère que la procédure la plus appropriée pour assurer la cohérence dans le traitement des deux filières du point de vue de la discipline des aides d'Etat ainsi que du respect des dispositions de la directive 92/81 est celle qui est prévue aux articles 17 à 19 (procédure relative aux régimes d'aides existants) du règlement de procédure en matière d'aides d'Etat (règlement 659/1999). Elle proposera donc éventuellement des mesures utiles à la France pour modifier le régime applicable aux esters.

#### **Italy - Commission investigates fiscal aid to Italian banks**

On 4 octobre 2000, the European Commission decided to open the Article 88 (2) procedure into Italian fiscal measures to banks and banking foundations over concerns that the measures, de-



signed to facilitate mergers in and the restructuring of the Italian banking sector, may constitute unlawful State aid.

The Commission investigation concerns a series of fiscal measures introduced by Law n° 461/98 and related decree n° 153/99, which may constitute State aid in favour of Italian banks and banking foundations. Such foundations were created in 1990 to transform savings banks into limited liability companies and ultimately privatise them.

Under the Italian law and decree, banks merging or undergoing a restructuring programme would benefit from a reduced income tax (IRPEG) of 12.5 percent, for five years, for income put into a special reserve, starting from the date of the merger or restructuring. Income to be put into this reserve would be limited to 1.2 pct of the total credits and liabilities of the smallest bank in a merger deal. Income benefiting from this reduced tax rate would also not be distributed to shareholders for a period of three years.

The Commission concluded after a preliminary examination that these measures may distort competition and affect intra-Community trade by lowering the banks' normal costs for meeting the competitive challenges of the European single market.

Under Law 461/98 fiscal incentives are introduced to push the banking foundations to relinquish control of the banks they

currently own and concentrate on general interest services.

Banking foundations modified in this way would particularly be granted the status of non-commercial entities and would be exempted from capital gains taxes on the sale of their banking holdings provided that they gave up control of their bank subsidiaries.

The Commission's preliminary view is that such measures may also constitute State aid to the extent that foundations might still be engaged in commercial activities and hold *de facto* controlling stakes in industrial and financial undertakings.

The Commission, therefore, believes that a careful investigation is necessary to assess the compatibility of the above measures with State aid rules.

(For more information, please refer to OJ C 44 of 10.2.2001, page 2.)

### **United Kingdom – Opening of the Article 88(2) EC procedure in respect of Regional Venture Capital Funds in England**

On 18 October 2000 the Commission decided to initiate the procedure laid down in Article 88(2) EC with regard to the Regional Venture Capital Funds proposed by the UK authorities. These funds are intended to fill a gap in the provision of risk capital to small and medium-sized enterprises (SMEs). The gap is

said to exist for investments in the range of GBP 100 000–500 000, since the return on such relatively small investments is insufficient compared to the high administrative costs.

The plan is to set up at least one Regional Venture Capital Fund in each of the English regions. The Government will provide a total of GBP 50 million over 3 years and private investors are expected to contribute up to five times that amount. A rough estimate is that about 300 SMEs will be able to benefit from investments in equity capital each year. Companies in a number of low-risk sectors will not be eligible for investments, but there is no specific focus on the high-technology sector. The fund managers will be selected through a Community-wide tender and are expected to invest on a commercial basis, reaching a rate of return of at least 12%. The Government will hold a minority stake in each fund, and its return may be subordinated to that of the private investors at the minimum level required in order to stimulate the creation of any fund. The extent of the subordination in each fund is determined through a public tender.

Each regional fund will contain state resources. The Commission finds that these state resources potentially benefit operators at two levels: at the level of the private investors in each regional fund through the higher return they are granted, and at the level of the small and medium-sized enterprises in which the regional

funds invest in that these companies would not have had access to capital without the scheme. As risk capital markets are international, and small and medium-sized enterprises may be active on international markets as well, the measure threatens to distort competition and affect trade between Member States. The scheme therefore constitutes State aid, cf. Article 87(1) EC.

The notification does not contain an explicit commitment to link the investments in SMEs and the aid to the private co-investors to investments that are eligible for aid under the current State aid rules. It cannot therefore be excluded that the aid granted to the private investors as well as to the SMEs constitutes operating aid. Such aid can only be allowed in regions qualifying for an exemption under Article 87(3)(a) EC and if the aid is progressively reduced and limited in time. As all of these conditions do not seem to be fulfilled, the Commission has doubts as to the compatibility of the scheme with the common market.

**Allemagne - La Commission clôt la procédure ouverte au titre de l'article 88 § 2 CE et autorise les aides s'élevant à 73,2 millions d'euros qui ont été octroyées à l'entreprise SKET Walzerwerkstechnik pour sa restructuration.**

La Commission européenne, le 13 décembre 2000, a décidé de clore par une décision finale po-

sitive la procédure formelle d'examen ouverte à l'égard des aides d'État de 143,5 millions de DEM accordées à SKET Walzerwerkstechnik GmbH ("SKET WT"), une société d'ingénierie, établie à Magdebourg (Land de Saxe-Anhalt), qui conçoit, produit et installe des laminaires au niveau mondial. Cet examen a montré que la mise en œuvre du plan de restructuration devrait permettre de rétablir la viabilité à long terme de l'entreprise. De plus, les distorsions de concurrence sont limitées, parce que le marché en cause ne semble pas se caractériser par une surcapacité et que le bénéficiaire réduit actuellement sa capacité. Enfin, l'investisseur privé concerné contribue dans une large mesure à la restructuration de SKET WT. Dès lors, les conditions imposées par les "Lignes directrices pour les aides d'État au sauvetage et à la restructuration des entreprises en difficulté" sont remplies.

SKET WT, qui emploie environ 160 personnes, dépend entièrement de fournisseurs extérieurs et ne possède aucune capacité physique de production. Elle a repris les activités de conception du conglomerat SKET SMM après sa faillite.

En juin 1997, l'Allemagne avait présenté le détail des aides à la restructuration en faveur de SKET WT, y compris un plan de restructuration. Faute d'informations complètes et d'investisseur privé, la Commission avait ouvert la procédure prévue à l'article 88, paragraphe 2, du

traité CE en novembre 1997. En outre, la Commission doutait de la viabilité à long terme de l'entreprise et avait donc également demandé au gouvernement allemand d'expliquer la manière dont SKET WT entendait honorer les anciens contrats de SKET SMM.

En avril 1998, SKET WT a été privatisée à la suite d'un appel d'offres ouvert et inconditionnel: Münchmeyer Petersen GmbH & Co. KG ("MPC") a pris son contrôle. La Bundesanstalt für vereinigungsbedingte Sonderaufgaben ("BvS") lui a versé, au total, 118,5 millions de DEM d'aides d'État aux fins de sa reconstruction de manière à ce qu'elle puisse être vendue. En outre, le Land de Saxe-Anhalt lui a versé 25 millions de DEM au titre de régimes d'aide qui avaient été précédemment approuvés. La contribution de MPC à la restructuration de l'entreprise s'élève à 36,2 millions de DEM. SKET WT compte parmi les "sociétés SKET" qui avaient été créées à la suite de la faillite (*Gesamtvollstreckung*, régime de faillite des entreprises situées dans les nouveaux Länder) du grand conglomerat industriel SKET Schermschneckenbau Magdeburg GmbH ("SKET SMM") en octobre 1996. La BvS, qui a succédé à la Treuhandanstalt, avait alors créé six nouvelles entreprises, dont SKET WT. Cinq d'entre elles sont actives dans des secteurs qui étaient auparavant couverts par SKET SMM, tandis que la sixième est chargée





de leur gestion et de leur privatisation au nom de la BvS.

Alors qu'elle avait arrêté, le 26 juin 1997, une décision finale négative à l'égard des aides en faveur de SKET SMM, la Commission a depuis autorisé des aides en faveur de quatre des nouvelles entreprises SKET, les "petites SKET". SKET WT constitue le cinquième et dernier cas d'aides à la restructuration dans ce contexte. La Commission a reconnu dans tous ces cas que les "petites SKET", qui ont succédé à SKET SMM, étaient de nouvelles entreprises parfaitement distinctes de cette dernière. Par conséquent, il n'y avait pas lieu de les rendre responsables des aides octroyées à SKET SMM, ce qui vaut également pour SKET WT.

**Allemagne - La Commission clôt la procédure ouverte au titre de l'article 88 § 2 du traité CE et autorise des aides à hauteur de 14,2 millions d'euros en faveur de la société Kranbau Köthen GmbH installée en Saxe-Anhalt**

Le 21 décembre 2000, la Commission européenne a autorisé le versement d'aides d'État d'un montant de 14,2 millions d'euros (27,8 millions de DEM) en faveur de la société Kranbau Köthen GmbH. Ces aides sont octroyées à l'entreprise par la Bundesanstalt für vereinigungsbedingte Sonderaufgaben (BvS) et le Land de Saxe-Anhalt. Elles devraient permettre de restructurer avec succès ce constructeur

de grues spéciales actuellement en difficulté et situé dans le nouveau Land de Saxe-Anhalt. En prenant cette décision, la Commission a tenu tout particulièrement compte de la situation économique difficile que connaissent les cinq nouveaux Länder. Ces aides permettront de conserver plus de 150 emplois dans cette région structurellement faible de l'est de l'Allemagne.

Cette décision a permis de clore, après un examen approfondi du cas en cause par la Commission, une procédure engagée il y a plus de deux ans. La longueur de la procédure est notamment due aux difficultés rencontrées par la Commission pour obtenir des informations exhaustives et fiables sur les mesures d'aides.

La société Kranbau Köthen a été créée en 1997. Elle opère dans le secteur des grues spéciales. Elle poursuit les activités d'une société créée à partir de l'un des combinats de l'ancienne RDA, Förderanlagen- und Kranbau Köthen GmbH, qui avait déposé son bilan.

Lors de la création de Kranbau Köthen GmbH, un plan de restructuration prévoyant un retour à la rentabilité de l'entreprise dans un proche avenir, avait été soumis. L'intégration de Kranbau Köthen GmbH au groupe Georgsmarienhütte permet notamment de penser que l'entreprise pourra s'implanter durablement sur le marché. Ce nouvel investisseur contribuera d'ailleurs au succès de la restructuration en apportant des fonds propres considérables.

Grâce aux aides qui viennent d'être autorisées, l'entreprise devrait être en mesure de mettre en œuvre avec succès les mesures de restructuration prévues.

Dans sa décision, la Commission constate la compatibilité des aides avec les lignes directrices communautaires pour les aides d'État au sauvetage et à la restructuration des entreprises en difficulté. Parallèlement, la Commission a conclu à la compatibilité d'aides accordées antérieurement aux deux entreprises.

**Allemagne - Décision négative de la Commission à l'encontre d'aides à hauteur de 1,74 millions d'euros en faveur de l'entreprise Zeuromöbelwerk GmbH installée en Thuringe.**

Par une décision du 21 décembre 2001, la Commission européenne a décidé que les aides d'État non notifiées d'un montant de 17,95 millions d'Euros et les aides notifiées d'un montant de 1,74 millions d'Euros en faveur de l'entreprise Zeuro Möbelwerk GmbH (Zeuro), étaient incompatibles avec le marché commun. L'Allemagne devra prendre toutes les mesures nécessaires pour récupérer les aides illégalement octroyées au bénéficiaire.

Zeuro, située dans le Land de Thuringe, exerce son activité dans le secteur de la fabrication de meubles. Elle est issue de l'ancien combinat d'État Möbelkombinat Zeulenroda. En 1991, la Treuhandanstalt a créé l'entre-

prise Zeuro à partir des actifs du combinat et l'a privatisée. Suite aux difficultés financières éprouvées par cette dernière, la Thüringerindustrialbeteiligung GmbH & Co. (la TIB) a racheté la totalité de ses parts pour un mark allemand. En 1996, le gérant de Zeuro a élaboré un plan de restructuration et a acquis 51% des parts sociales de l'entreprise. Cependant il n'a pas mis en œuvre le plan de restructuration et a détourné une partie des fonds de l'entreprise. Il a été démis de ses fonctions de gérant en juillet 1996, ses parts ont été saisies et la TIB est redevenue propriétaire à 100% de Zeuro. Un nouveau plan de restructuration a été élaboré.

L'Allemagne a informé la Commission de la restructuration de Zeuro en juillet 1996. Les aides à la restructuration octroyées par l'Allemagne s'élevaient à 26,3 millions d'Euros. Faute d'informations complètes et en l'absence d'investisseur privé, la Commission avait ouvert la procédure prévue à l'article 88, paragraphe 2 du traité CE en juillet 1997. En particulier, la Commission doutait de la viabilité à long terme de l'entreprise.

L'examen par la Commission des mesures d'aides en faveur de Zeuro a révélé que celles-ci n'étaient pas couvertes par des régimes d'aides autorisés par la Commission et qu'elles ne pouvaient pas être exemptées comme aides ad-hoc à la restructuration. En effet, les critères des lignes directrices sur les ai-

des d'Etat au sauvetage et à la restructuration des entreprises en difficulté n'étaient pas remplis. En particulier, l'élaboration du plan de restructuration n'avait pas été basée sur des hypothèses réalistes et aucun investisseur n'était désireux de reprendre l'entreprise dont la viabilité à long terme n'était pas assurée. L'entreprise ne doit sa survie qu'à l'engagement massif de l'Etat dans la restructuration.

La Commission a conclu à l'incompatibilité avec le marché commun d'aides à hauteur de 19,69 millions d'Euros dont 17,95 millions qui avaient déjà été octroyés devront être remboursés par l'entreprise.

#### **Sweden - Final negative decision of the Commission on the Reduced social contributions aid scheme.**

On 21 December 2000, the Commission took a negative final decision on the Swedish Reduced social contributions scheme. Under the aid scheme in question, the social security contributions payable for each person employed in an establishment in Swedish low population density regions are reduced by eight percentage points. Sweden justified the aid as transport aid. Under the Guidelines for national regional aid, transport aid can be granted only to compensate the additional cost of transporting goods incurred by companies located in low population density regions and outermost regions. In its final deci-

sion, the Commission concluded that the reduced social contributions scheme does not respect this condition. The amount of aid granted under the scheme to an eligible undertaking depends entirely on the size of its wage bill, which depends in turn on the number of persons employed and their average salary. There is therefore no direct link between the amount of aid granted to an individual company and the additional transport costs actually incurred by it.



# INFORMATION SECTION

## COMPETITION DG staff list

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## Documentation...

*This section contains details of recent speeches or articles given by Community Officials that may be of interest. Copies of these are available from Competition DG's home page on the World Wide Web. Future issues of the newsletter will contain details of conferences on competition policy which have been brought to our attention. Organisers of conferences that wish to make use of this facility should refer to page 1 for the address of Competition DG's Information Officer.*

### SPEECHES AND ARTICLES

**Wettbewerbliche Entwicklungsperspektiven für die Entsorgungswirtschaft** - Alexander SCHAUB - Eröffnung des BDE-Büros - Brüssel - 06.12.2000

**Competition Policy in the Communications Sector** - Mario MONTI - Conference "regulation and Liberalisation of European Telecoms" - Brussels - 30.11.2000

**The application of Community competition law by the national courts** - Mario MONTI - Europäische Rechtsakademie - "Towards the Application of Article 81(3) by National Courts" - Trier - 27.11.2000

**Ausgewählte Probleme des Internet-Rechts - Gesetzgebung und Wettbewerbsaufsicht** - Robert KLOTZ - Viertes St. Galler Internationales Immaterialgüterrechtsforum - St. Gallen - 23.11.2000

**Competition policy and liberalisation of energy markets** - Alexander SCHAUB - European Utilities Circle 2000 - Brussels - 23.11.2000

**Steel restructuring and state aid** - Humbert DRABBE - Second European Steel Forum - 10.11.2000

**Competition in a Social Market economy** - Mario MONTI - Confe-

rence of the European Parliament and the European Commission on 'Reform of European Competition law' - Freiburg - 09.11.2000

**European Competition Policy for the 21st Century** - Mario MONTI - The Fordham Corporate Law Institute - Twenty-eighth Annual Conference on International Antitrust Law and Policy - New-York - 20.10.2000

**Shipping: Market Developments and Government Action - The EU Perspective** - Jean-François PONS - 1st International Shipping Convention - London - 18.10.2000

**Discours d'ouverture** - Mario MONTI - *Deuxième journée européenne de la concurrence* - Paris - 17.10.2000

**Nouveaux enjeux pour la politique européenne de concurrence** - Mario MONTI - Commission des Affaires étrangères de l'Assemblée Nationale - Paris - 17.10.2000

**Competitività** - Mario MONTI - Convegno "Riformare le istituzioni per un Paese più competitivo" - Capri - 07.10.2000

**L'économie du livre dans l'espace européen** - Jean-François PONS - Colloque de la Présidence française du Conseil de l'Union européenne - Strasbourg - 30.09.2000

**Telecommunications between Regulation and Competition** - Mario MONTI - Universitat Internacional Menéndez Pelayo - Barcelona - 28.09.2000

### COMMUNITY PUBLICATIONS ON COMPETITION

Except if otherwise indicated, these publications are available through the Office for Official Publications of the European Communities or its sales offices (see last page). Use Catalogue number to order.

A lot of those publications are also available on DG Competition web site:  
[http://europa.eu.int/comm/competition/index\\_en.html](http://europa.eu.int/comm/competition/index_en.html)

### LEGISLATION

#### Competition law in the European Communities-Volume IA-Rules applicable to undertakings

Situation at 30 June 1994; this publication contains the text of all legislative acts relevant to Articles 85, 86 and 90.

Catalogue No: CM-29-93-A01-xx-C (xx=language code: ES, DA, DE, EL, EN, FR, IT, NL, PT).

#### Competition law in the European Communities-Addendum to Volume IA-Rules applicable to undertakings

Situation at 1 March 1995.

Catalogue No: CM-88-95-436-xx-C (xx=language code: ES, DA, DE, EL, EN, FR, IT, NL, PT).

#### Competition law in the European Communities-Volume IIA-Rules applicable to State aid

Situation at 30 June 1998; this publication contains the text of all legislative acts relevant to Articles 42, 77, 90, 92 to 94.



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Situation at December 1996

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and under the Merger Regulation  
as well as relevant Judgements of  
the Court of Justice.**

- Copies available through DG  
COMP-C-1 (tel. +322-2968623,  
2968622, fax +322-2969819).

**Brochure explicative sur les mo-  
dalités d'application du Règle-  
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**COMPETITION DECISIONS**

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**Buyer power and its impact on  
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Cat. No: CG-NA-15-920-EN-C

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Cat. No: CM-91-95-124-EN-C

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Cat. No: C 184 94 735 FR C

**Les investissements dans les industries du charbon et de l'acier de la Communauté: Rapport sur l'enquête 1993 (Ed. 1995)**

Cat. No: CM 83 94 2963 A C

**Study on the impact of liberalization of inward cross border mail on the provision of the universal postal service and the options for progressive liberalization (Ed. 1995) Final report,**

Cat. No: CV-89-95-018-EN-C

**Meeting universal service obligations in a competitive telecommunications sector (Ed. 1994)**

Cat. No: CV-83-94-757-EN-C

**Competition and integration: Community merger control policy (Ed. 1994)**

Cat. No: CM-AR-94-057-EN-C

**Growth, competitiveness, employment: The challenges and ways forward into the 21st century: White paper (Ed. 1994)**

Cat. No: CM 82 94 529 xx C  
(xx=ES, DA, DE, GR, EN, FR, IT, NL, PT)

**Growth, competitiveness, employment: The challenges and ways forward into the 21st century: White paper (Ed. 1993)-Volume 2 Part C**

Cat. No: CM-NF-93-0629 A C

**The geographical dimension of competition in the European single market (Ed. 1993)**

Cat. No: CV-78-93-136-EN-C

**International transport by air, 1993**

Cat. No: CA-28-96-001-xx-C  
xx=EN, FR, DE

**Les investissements dans les industries du charbon et de l'acier de la Communauté: Enquête 1992 (Ed. 1993) - 9 languages**

Cat. No: CM 76 93 6733 A C

**EG Wettbewerbsrecht und Zulieferbeziehungen der Automobilindustrie (Ed. 1992)**

Cat. No: CV-73-92-788-DE-C

**Green Paper on the development of the single market for postal services, 9 languages**

Cat. No: CD-NA-14- 858-EN-C

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**27.01.2001**

**C 28 2001/C 028-0009** Judgment of the Court (Fifth Chamber) of 16 November 2000 in Case C-248/98 P: NV Koninklijke KNP BT v Commission of the European Communities





(Appeal - Competition - Article 85(1) of the EC Treaty (now Article 81(1) EC) - Fines - Statement of reasons - Power of unlimited jurisdiction)

**C 28** 2001/C 028-0009 Judgment of the Court (Fifth Chamber) of 16 November 2000 in Case C-279/98 P: Cascades SA v Commission of the European Communities (Appeal - Competition - Article 85(1) of the EC Treaty (now Article 81(1) EC) - Liability for the infringement - Fines - Statement of reasons - Principle of non-discrimination)

**C 28** 2001/C 028-0010 Judgment of the Court (Fifth Chamber) of 16 November 2000 in Case C-280/98 P: Moritz J. Weig GmbH & Co. KG v Commission of the European Communities (Appeal - Competition - Article 85(1) of the EC Treaty (now Article 81(1) EC) - Fines - Determination of the amount - Statement of reasons - Mitigating circumstances)

#### 26.01.2001

**C 26** 2001/C 026E-0122 Written question E-0863/00 by Gianfranco Dell'Alba to the Commission

Subject: Compliance of the by-laws of Monte dei Paschi di Siena with the 1998 Law No 461 and with European legislation on the internal market and competition

#### 16.01.2001

**C 14** 2001/C 014-0016 Opinion of the Economic and Social Committee on "Competition rules relating to horizontal cooperation agreements - Communication pursuant to Article 5 of Council Regulation (EEC) No 2821/71 of 20 December 1971 on the application of Article 81(3) of the Treaty to categories of agreements, decisions

and concerted practices modified by Regulation (EEC) No 2743/72"

#### 12.01.2001

**C 9** 2001/C 009-0005 Notification of cooperation agreements (Case COMP/C1/37.995 - Intel-sat restructuring)

#### 06.01.2001

**C 3** 2001/C 003-0002 Commission Notice - Guidelines on the applicability of Article 81 of the EC Treaty to horizontal cooperation agreements

#### 28.12.2000

**C 374** 2000/C 374E-0033 P-0199/00 by Mogens Camre to the Commission  
Subject: Unfair competition in prices on Danish export markets due to EU subsidy for feta cheese products

**C 374** 2000/C 374E-0078 Written question P-0451/00 by Hanja Maij-Weggen to the Council  
Subject: Distortion of competition resulting from different tax arrangements within the EU

#### 19.12.2000

**C 365** 2000/C 365E-0284 Proposal for a Council Regulation on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty and amending Regulations (EEC) No 1017/68, (EEC) No 2988/74, (EEC) No 4056/86 and (EEC) No 3975/87 ("Regulation implementing Articles 81 and 82 of the Treaty") (COM(2000) 582 final - 2000/0243(CNS))

#### 05.12.2000

**L 304** 2000/L 304-0003 Commission Regulation (EC) No 2658/2000 of 29 November 2000 on the application of Article 81(3) of the Treaty to categories of specialisation agreements

**L 304** 2000/L 304-0007 Commission Regulation (EC) No

2659/2000 of 29 November 2000 on the application of Article 81(3) of the Treaty to categories of research and development agreements

#### 02.12.2000

**C 345** 2000/C 345-0008 Notice of a cooperation agreement in the TV information field (Case COMP/37.592 - EPS)

#### 28.11.2000

**C 337** 2000/C 337E-0220 Proposal for a European Parliament and Council Directive amending Directive 97/67/EC with regard to the further opening to competition of Community postal services (COM(2000) 319 final - 2000/0139(COD))

#### 23.11.2000

**L 296** 2000/L 296-0047 Decision of the EEA Joint Committee No 87/1999 of 25 June 1999 amending Annex XIV (Competition) to the EEA Agreement

#### 21.11.2000

**C 330** 2000/C 330E-0204 Written question E-0679/00 by Avril Doyle to the Commission  
Subject: Car prices in Ireland and the future legal framework of car distribution

#### 09.11.2000

**L 284** 2000/L 284-0038 Decision of the EEA Joint Committee No 60/1999 of 30 April 1999 amending Protocol 21 to the EEA Agreement, on the implementation of competition rules applicable to undertakings

#### 26.10.2000

**C 307** 2000/C 307-0006 EFTA Surveillance Authority notice on cooperation between national competition authorities and the EFTA Surveillance Authority in handling cases falling within the scope of Articles 53 or 54 of the EEA Agreement

#### 24.10.2000

**C 303** 2000/C 303E-0200 Written Question P-0499/00 by



Christopher Huhne to the Commission

Subject: Car price differentials

**20.10.2000**

**L 268** 2000/L 268-0001 Commission Decision of 16 May 2000 relating to a proceeding pursuant to Article 81 of the EC Treaty (IV/34.018 - Far East Trade Tariff Charges and Surcharges Agreement (FETT-CSA)) (*notified under document number C(2000) 1170*)

**14.10.2000**

**C 293** 2000/C 293-0018 Notice pursuant to Article 19(3) of Council Regulation No 17 - Case COMP/D1/29.373 - Visa International

**13.10.2000**

**C 291** 2000/C 291-0001 Commission notice - Guidelines on Vertical Restraints

**03.10.2000**

**C 280** 2000/C 280E-0201 Written question E-0228/00 by María Sornosa Martínez to the Commission

Subject: Breach of the rules of competition in the selling of pet food in Spain

# CONTROL OF CONCENTRATIONS / MERGER PROCEDURE

**31.01.2001**

**C 31** 2001/C 031-0008 Non-opposition to a notified concentration (Case COMP/M.2198 - EL.FI/Moulinex)

**C 31** 2001/C 031-0008 Non-opposition to a notified concentration (Case COMP/M.1900 - Solvay/Plastic Omnium/JV)

**C 31** 2001/C 031-0009 Non-opposition to a notified concentration (Case COMP/M.2241 - Peugeot/Sommer Allibert)

**C 31** 2001/C 031-0009 Non-opposition to a notified concentration (Case COMP/M.2200 - Deutsche Bank/DBG/Varta)

**30.01.2001**

**C 29** 2001/C 029-0011 Non-opposition to a notified concentration (Case COMP/M.2137 - SLDE/NTL/MSCP/Noos)

**C 29** 2001/C 029-0010 Non-opposition to a notified concentration (Case COMP/M.2096 - Bayer/Deutsche Telekom/Infraserv/JV)

**C 29** 2001/C 029-0010 Non-opposition to a notified concentration (Case COMP/M.2245 - Metsä-Serla/Zanders)

**C 29** 2001/C 029-0009 Non-opposition to a notified concentration (Case COMP/M.2156 - Rewe/Sair Group/LTU)

**C 29** 2001/C 029-0009 Non-opposition to a notified concentration (Case COMP/M.2131 - BCP/Interamericain/Novabank/JV)

**C 29** 2001/C 029-0008 Non-opposition to a notified concentration (Case COMP/M.2118 - Telenor/Procuritas/Isab/Newco)

**C 29** 2001/C 029-0008 Non-opposition to a notified concentration (Case COMP/M.1979 - CDC/Banco Urquijo/JV)

**C 29** 2001/C 029-0011 Non-opposition to a notified concentration (Case COMP/M.2114 - Sanpao-lo/Schroders/Omega/CEG/JV)

**C 29** 2001/C 029-0005 Prior notification of a concentration (Case COMP/M.2310 - Hutchison/Investor/HI3G) - Candidate case for simplified procedure

**C 29** 2001/C 029-0006 Prior notification of a concentration (Case COMP/M.2306 - Berkshire Hathaway/Johns Manville) - Candidate case for simplified procedure

**C 29** 2001/C 029-0007 Prior notification of a concentration (Case COMP/M.2143 - BT/Viag Interkom) - Candidate case for simplified procedure

**27.01.2001**

**C 27** 2001/C 027-0060 Non-opposition to a notified concentration (Case COMP/M.2254 - Aviapartner/Maersk/Novia)

**C 27** 2001/C 027-0060 Non-opposition to a notified concentration (Case COMP/M.2253 - Edizione Holding/NHS/Comune di Parma/AMPS)

**C 27** 2001/C 027-0061 Prior notification of a concentration (Case COMP/M.2271 - Car-gill/Agribrands)

**24.01.2001**

**C 21** 2001/C 021-0007 Prior notification of a concentration (Case COMP/M.2197 - Hilton/Accor/Forte/Travel Services JV)

**C 21** 2001/C 021-0008 Non-opposition to a notified concentration (Case COMP/M.2183 - Smith Industries/TI Group)

**19.01.2001**

**L 18** 2001/L 018-0001 Commission Decision of 29 September 1999 declaring a concentration to be compatible with the common market and the EEA Agreement (Case IV/M.1532 - BP Amoco/Arco) (*notified under document number C(1999) 3059*)

**C 17** 2001/C 017-0024 Opinion of the Advisory Committee on Concentrations given at the 66th meeting on 25 August 1999 concerning a preliminary



draft decision relating to Case IV/M.1532 - BP Amoco/Atlantic Richfield

#### 18.01.2001

**C 16** 2001/C 016-0005 Prior notification of a concentration (Case COMP/M.2219 - E.ON/Energie Oberösterreich/JCE + JME) - Candidate case for simplified procedure

**C 16** 2001/C 016-0006 Non-opposition to a notified concentration (Case COMP/M.2092 - Repsol Quimica/Borealis/JV)

**C 16** 2001/C 016-0006 Non-opposition to a notified concentration (Case COMP/M.1993 - Rhodia/Raisio/JV)

**C 16** 2001/C 016-0007 Non-opposition to a notified concentration (Case COMP/M.2193 - Alliance Unichem/Interpharm)

**C 16** 2001/C 016-0007 Non-opposition to a notified concentration (Case COMP/M.2147 - VNU/Hearst/Stratosfera)

**C 16** 2001/C 016-0008 Non-opposition to a notified concentration (Case COMP/M.2115 - Carrefour/GB)

**C 16** 2001/C 016-0004 Prior notification of a concentration (Case COMP/M.2291 - VNU/ACNielsen)

#### 17.01.2001

**C 15** 2001/C 015-0008 Prior notification of a concentration (Case COMP/M.2272 - Rewe/BML/Standa Commerciale) - Candidate case for simplified procedure

**C 15** 2001/C 015-0007 Prior notification of a concentration (Case COMP/M.2286 - Buhrmann/Samas Office Supplies)

**C 15** 2001/C 015-0009 Non-opposition to a notified concentration (Case

COMP/M.2235 - Corus Group/Cogifer/JV)

**C 15** 2001/C 015-0006 Prior notification of a concentration (Case COMP/M.2223 - Getronics/Hagemeyer/JV)

#### 16.01.2001

**C 13** 2001/C 013-0005 Prior notification of a concentration (Case COMP/M.2228 - C & N/Thomas Cook)

**C 13** 2001/C 013-0004 Prior notification of a concentration (Case COMP/M.2296 - ENI/Lasmo) - Candidate case for simplified procedure

**C 13** 2001/C 013-0003 Prior notification of a concentration (Case COMP/M.2284 - ABN Amro/Perkins Food) - Candidate case for simplified procedure

#### 13.01.2001

**C 11** 2001/C 011-0006 Prior notification of a concentration (Case COMP/M.2185 - Océ Technologies/Real Software/Océ-Real Business Solutions (JV)) - Candidate case for simplified procedure

#### 12.01.2001

**C 9** 2001/C 009-0006 Prior notification of a concentration (Case COMP/M.2256 - Philips/Agilent)

**C 9** 2001/C 009-0007 Prior notification of a concentration (Case COMP/M.2285 - Schroder Ventures Limited/Homebase) - Candidate case for simplified procedure

**C 9** 2001/C 009-0005 Withdrawal of notification of a concentration (Case COMP/M.2117 - Aker Maritime/Kvaerner)

#### 11.01.2001

**C 7** 2001/C 007-0003 Prior notification of a concentration (Case COMP/M.2256 - Philips/Agilent)

**C 7** 2001/C 007-0004 Prior notification of a concentration

(Case COMP/M.2269 - Sasol/Condea)

#### 10.01.2001

**C 6** 2001/C 006-0007 Prior notification of a concentration (Case COMP/M.2234 - Metsäliitto Osuuskunta/Vapo Oy)

**C 6** 2001/C 006-0008 Non-opposition to a notified concentration (Case COMP/M.1922 - Siemens/Bosch/Atecs)

**C 6** 2001/C 006-0005 Prior notification of a concentration (Case COMP/M.2201 - MAN/Auwärter)

**C 6** 2001/C 006-0006 Prior notification of a concentration (Case COMP/M.2262 - Flughafen Berlin (II))

#### 09.01.2001

**L 4** 2001/L 004-0031 Commission Decision of 12 July 2000 pursuant to Articles 14 and 15 of Council Regulation (EEC) No 4064/89 imposing fines on an undertaking for supplying incomplete information in merger control proceedings (Case COMP/M.1634 - Mitsubishi Heavy Industries) (*notified under document number C(2000) 1981*)

**C 5** 2001/C 005-0011 Advisory Committee on Concentrations - Case COMP/M.1634 - Mitsubishi

#### 06.01.2001

**C 3** 2001/C 003-0037 Prior notification of a concentration (Case COMP/ECSC.1345 - Salzgitter/Robert)

#### 05.01.2001

**C 2** 2001/C 002-0002 Non-opposition to a notified concentration (Case COMP/JV.40 - Canal+/Lagardere/Canalsatellite)

**C 2** 2001/C 002-0002 Non-opposition to a notified concentration (Case COMP/JV.47 - Ca-



nal+/Lagardere/Liberty Media/Multithematique)

#### 29.12.2000

**C 376** 2000/C 376-0009 Non-opposition to a notified concentration (Case COMP/M.1987 - BASF/Bayer/Hoechst/Dystar)

**C 376** 2000/C 376-0008 Prior notification of a concentration (Case COMP/M.2256 - Philips/Agilent)

**C 376** 2000/C 376-0009 Non-opposition to a notified concentration (Case COMP/M.2065 - Achmea/BCP/Eureko)

**C 376** 2000/C 376-0007 Prior notification of a concentration (Case COMP/M.2278 - Lafarge/Blue Circle/JV) - Candidate case for simplified procedure

#### 28.12.2000

**C 374** 2000/C 374-0010 Non-opposition to a notified concentration (Case COMP/M.1982 - Telia/Oracle/Druitt)

**C 374** 2000/C 374-0010 Non-opposition to a notified concentration (Case COMP/M.1964 - Planet Internet/Fortis Bank/Mine JV)

**C 374** 2000/C 374-0011 Non-opposition to a notified concentration (Case COMP/M.2179 - Compart/Falck (II))

**C 374** 2000/C 374-0011 Non-opposition to a notified concentration (Case COMP/M.2204 - Endesa/Telecom Italia/Union Fenosa/Auna)

**C 374** 2000/C 374-0009 Non-opposition to a notified concentration (Case COMP/M.1893 - Butler Capital/CDC/AXA/Finauto/Autodistribution/Finelist)

#### 23.12.2000

**C 371** 2000/C 371-0013 Prior notification of a concentration (Case COMP/M.2166 - CSC Ploenzke/Dachser/eChain Logistics) - Candidate case for simplified procedure

#### 22.12.2000

**C 369** 2000/C 369-0007 Non-opposition to a notified concentration (Case COMP/M.2144 - Telefonica/Sonera/German UMTS JV)

**C 369** 2000/C 369-0005 Non-opposition to a notified concentration (Case COMP/M.2059 - Siemens/Dematic/VDO/Sachs)

**C 369** 2000/C 369-0006 Non-opposition to a notified concentration (Case COMP/M.2052 - Industri Kapital/Alfa-Laval Holding)

**C 369** 2000/C 369-0007 Non-opposition to a notified concentration (Case COMP/M.2184 - Kohlberg Kravis Roberts/Laporte)

**C 369** 2000/C 369-0008 Non-opposition to a notified concentration (Case COMP/M.2203 - Minority Equity Investments/UBF)

**C 369** 2000/C 369-0006 Non-opposition to a notified concentration (Case COMP/M.2167 - Citigroup/Associates)

#### 21.12.2000

**C 368** 2000/C 368-0006 Non-opposition to a notified concentration (Case COMP/M.1883 - NEC/Mitsubishi)

**C 368** 2000/C 368-0005 Non-opposition to a notified concentration (Case COMP/M.2057 - Randstad/VNU/JV)

**C 368** 2000/C 368-0004 Prior notification of a concentration (Case COMP/M.2265 - Ricoh/Lanier Worldwide)

**C 368** 2000/C 368-0005 Non-opposition to a notified concentration (Case COMP/M.2236 - SHFCLP (La Poste)/Mayne Nickless Europe)

**C 368** 2000/C 368-0007 Non-opposition to a notified concentration (Case COMP/M.2127 - DaimlerChrysler/Detroit Diesel Corporation)

**C 368** 2000/C 368-0007 Non-opposition to a notified concentration (Case COMP/M.2151 - Atos/Origin)

**C 368** 2000/C 368-0006 Non-opposition to a notified concentration (Case COMP/M.2215 - Techint/Stella/James Jones/Sirti JV)

#### 20.12.2000

**C 366** 2000/C 366-0015 Prior notification of a concentration (Case COMP/M.2247 - CU Italia/Banca Popolare di Lodi/Finoa) - Candidate case for simplified procedure

**C 366** 2000/C 366-0014 Non-opposition to a notified concentration (Case COMP/M.2026 - Clear Channel Communications/SFX Entertainment)

#### 19.12.2000

**C 365** 2000/C 365-0047 Prior notification of a concentration (Case COMP/M.2270 - Babcock Borsig/mg technologies/SAPMarkets/Deutsche Bank/VA Tech/ec4ec) - Candidate case for simplified procedure

**C 365** 2000/C 365-0046 Prior notification of a concentration (Case COMP/M.2258 - Telecom Italia/Beni Stabili/Lehman Brothers) - Candidate case for simplified procedure

#### 16.12.2000

**C 362** 2000/C 362-0008 Prior notification of a concentration (Case COMP/M.2252 - Kuoni/TRX/e-TRX/TRX Central Europe JV) - Candidate case for simplified procedure

**C 362** 2000/C 362-0006 Non-opposition to a notified concentration (Case COMP/M.2181 - RWE/Thames Water)

**C 362** 2000/C 362-0006 Non-opposition to a notified concentration (Case COMP/M.1832 - Ahold/ICA Förbundet/Canica)



- C 362** 2000/C 362-0007 Non-opposition to a notified concentration (Case COMP/M.2140 - Bawag/PSK)
- C 362** 2000/C 362-0007 Non-opposition to a notified concentration (Case COMP/M.2125 - Hypo Vereinsbank/Bank Austria)
- 15.12.2000**
- C 361** 2000/C 361-0003 Prior notification of a concentration (Case COMP/M.2259 - Terra/Amadeus/1Travel.com) - Candidate case for simplified procedure
- C 361** 2000/C 361-0006 Non-opposition to a notified concentration (Case COMP/M.2109 - Reuters/Verlagsgruppe Handelsblatt/Meteor)
- C 361** 2000/C 361-0005 Non-opposition to a notified concentration (Case COMP/M.1994 - Andersen Consulting/BT/JV)
- C 361** 2000/C 361-0005 Initiation of proceedings (Case COMP/M.2117 - Aker Maritime/Kværner)
- C 361** 2000/C 361-0004 Prior notification of a concentration (Case COMP/M.2264 - Industri Kapital (Industri Kapital 2000 Fund)/Fives-Lille) - Candidate case for simplified procedure
- 14.12.2000**
- C 359** 2000/C 359-0020 Initiation of proceedings (Case COMP/M.2139 - Bombardier/Adtranz)
- 13.12.2000**
- C 357** 2000/C 357-0005 Non-opposition to a notified concentration (Case COMP/M.2061 - Airbus)
- C 357** 2000/C 357-0006 Prior notification of a concentration (Case COMP/JV.54)
- C 357** 2000/C 357-0005 Non-opposition to a notified concentration (Case COMP/M.2152 - Scottish & Newcastle/JV/Centralcer)
- 09.12.2000**
- C 354** 2000/C 354-0039 Non-opposition to a notified concentration (Case COMP/M.2134 - Avnet/VEBA Electronics)
- C 354** 2000/C 354-0036 Prior notification of a concentration (Case COMP/M.2246 - Sofinim/KBC Invest/Mercator & Noordstar/VIV/Tournesoleon/De Clerck/NIB/FOC) - Candidate case for simplified procedure
- C 354** 2000/C 354-0039 Non-opposition to a notified concentration (Case COMP/M.2116 - Flectronics/Italdata)
- C 354** 2000/C 354-0038 Non-opposition to a notified concentration (Case COMP/M.2004 - Investcorp/Chase Capital Investments/Gerresheimer Glas)
- C 354** 2000/C 354-0038 Non-opposition to a notified concentration (Case COMP/M.1932 - BASF/American Cyanamid (AHP))
- C 354** 2000/C 354-0037 Prior notification of a concentration (Case COMP/M.2244 - Royal Vopak/Ellis & Everard)
- 08.12.2000**
- C 352** 2000/C 352-0007 Non-opposition to a notified concentration (Case COMP/M.2077 - Clayton Dubilier & Rice/Italtel)
- C 352** 2000/C 352-0008 Prior notification of a concentration (Case COMP/M.2254 - Avia Partner/Maersk/Novia)
- 07.12.2000**
- C 351** 2000/C 351-0003 Non-opposition to a notified concentration (Case COMP/M.2072 - Phillip Morris/Nabisco)
- C 351** 2000/C 351-0002 Prior notification of a concentration (Case COMP/M.2243 - Stora Enso/AssiDomän/JV)
- 06.12.2000**
- C 349** 2000/C 349-0007 Prior notification of a concentration (Case COMP/M.2255 - Telefonica Intercontinental/Sonera 3G Holding/Consortium Ipse 2000) - Candidate case for simplified procedure
- C 349** 2000/C 349-0006 Prior notification of a concentration (Case COMP/M.2216 - Enel/FT/Wind/Infostrada)
- 05.12.2000**
- C 348** 2000/C 348-0015 Non-opposition to a notified concentration (Case COMP/M.2048 - Alcatel/Thomson Multimedia/JV)
- C 348** 2000/C 348-0014 Non-opposition to a notified concentration (Case COMP/M.1826 - KBC Bank/KBCPD/KBPDBV)
- C 348** 2000/C 348-0014 Non-opposition to a notified concentration (Case COMP/M.2111 - Alcoa/British Aluminium)
- C 348** 2000/C 348-0013 Non-opposition to a notified concentration (Case COMP/M.2158 - Credit Suisse Group/Donaldson, Lufkin & Jenrette)
- C 348** 2000/C 348-0013 Non-opposition to a notified concentration (Case COMP/M.2135 - NCR/4Front)
- 02.12.2000**
- C 345** 2000/C 345-0009 Prior notification of a concentration (Case COMP/M.2238 - Solecron/NatSteel Electronics) - Candidate case for simplified procedure
- C 345** 2000/C 345-0011 Initiation of proceedings (Case COMP/M.1915 - The Post Office/TPG/SPPL)

**C 345** 2000/C 345-0010 Prior notification of a concentration (Case COMP/M.2250 - DuPont/Air Products Chemicals/JV) - Candidate case for simplified procedure

#### 01.12.2000

**C 341** 2000/C 341-0002 Non-opposition to a notified concentration (Case COMP/M.2094 - HT-Troplast/Kömmerring)

**C 341** 2000/C 341-0003 Non-opposition to a notified concentration (Case COMP/M.2082 - PSA/Vivendi/Wappi!)

**C 341** 2000/C 341-0004 Prior notification of a concentration (Case COMP/M.2213 - DuPont/Sabancı Holdings/JV) - Candidate case for simplified procedure

**C 341** 2000/C 341-0002 Non-opposition to a notified concentration (Case COMP/M.1841 - Celestica/IBM(EMS))

**C 341** 2000/C 341-0003 Non-opposition to a notified concentration (Case COMP/M.1838 - BT/ESAT)

**C 341** 2000/C 341-0005 Prior notification of a concentration (Case COMP/M.2248 - CVC/Advent/Carlyle/Lafarge Matériaux de spécialités) - Candidate case for simplified procedure

#### 30.11.2000

**C 340** 2000/C 340-0003 Non-opposition to a notified concentration (Case COMP/M.2161 - Ahold/Superdiplo)

**C 340** 2000/C 340-0002 Prior notification of a concentration (Case COMP/M.2224 - Siemens/Demag Krauss-Maffei)

#### 29.11.2000

**C 338** 2000/C 338-0012 Prior notification of a concentration (Case COMP/M.2241- Peugeot/Sommer Allibert)

**C 338** 2000/C 338-0006 Renovation of a previously notified

concentration (Case COMP/M.2041 - United Airlines/US Air)

**C 338** 2000/C 338-0007 Prior notification of a concentration (Case COMP/M.2211 - Universal Studio Networks/De Facto 829 (NTL)/Studio Channel Ltd)

**C 338** 2000/C 338-0008 Prior notification of a concentration (Case COMP/M.2230 - Sanmina/Siemens/Inboard Leiterplattentechnologie)

**C 338** 2000/C 338-0009 Prior notification of a concentration (Case COMP/ECSC.1344 - RAG/Sidarfin/BBCT)

**C 338** 2000/C 338-0011 Prior notification of a concentration (Case COMP/M.2156 - Rewe/SAirGroup/LTU)

**C 338** 2000/C 338-0010 Prior notification of a concentration (Case COMP/M.2232 - Marinopoulos Abette/Sephora Holdings/JV) - Candidate case for simplified procedure

#### 28.11.2000

**C 337** 2000/C 337-0007 Prior notification of a concentration (Case COMP/M.2251 - AOL/Banco de Santander/JV) - Candidate case for simplified procedure

**C 337** 2000/C 337-0006 Prior notification of a concentration (Case COMP/M.2235 - Corus Group/Cogifer/JV) - Candidate case for simplified procedure

**C 337** 2000/C 337-0005 Prior notification of a concentration (Case COMP/M.2092 - Repsol Química/Borealis/JV)

#### 25.11.2000

**C 334** 2000/C 334-0003 Prior notification of a concentration (Case COMP/M.2245 - Metsä-Serla/Zanders)

**C 334** 2000/C 334-0002 Prior notification of a concentration (Case COMP/M.2192 - Smith-Kline Beecham/Block Drug)

#### 24.11.2000

**C 333** 2000/C 333-0002 Prior notification of a concentration (Case COMP/M.2233 - AGF/Zwolsche Algemeene) - Candidate case for simplified procedure

**C 333** 2000/C 333-0003 Prior notification of a concentration (Case COMP/M.2253 - Edizione Holding/NHS/Comune di Parma/AMPS) - Candidate case for simplified procedure

#### 23.11.2000

**C 332** 2000/C 332-0006 Prior notification of a concentration (Case COMP/M.1863 - Vodafone/BT/Airtel JV)

**C 332** 2000/C 332-0005 Prior notification of a concentration (Case COMP/M.2210 - Georg Fischer/West LB/Krupp Werner & Pfleiderer)

#### 22.11.2000

**L 294** 2000/L 294-0001 Commission Decision of 1 December 1999 declaring a concentration to be compatible with the common market and the functioning of the EEA Agreement (Case No IV/M.1578 - Sanitec/Sphinx) (*notified under document number C(1999) 4005*)

**C 331** 2000/C 331-0006 Prior notification of a concentration (Case COMP/M.2217 - Celestica/NEC Technologies UK) - Candidate case for simplified procedure

**C 331** 2000/C 331-0005 Opinion of the Advisory Committee on concentrations given at the 71st meeting on 18 November 1999 concerning a preliminary draft decision relating to Case COMP/M.1578 - Sanitec/Sphinx

#### 21.11.2000

**C 330** 2000/C 330-0004 Prior notification of a concentration (Case COMP/M.2188 - NEC/Schott Glas/NEC Schott



JV) - Candidate case for simplified procedure

**C 330** 2000/C 330-0007 Non-opposition to a notified concentration (Case COMP/M.2039 - HVB/Commerzbank/DB/Dresdner/JV)

**C 330** 2000/C 330-0006 Non-opposition to a notified concentration (Case COMP/M.2011 - Delta Selections/Arla Foods Hellas)

**C 330** 2000/C 330-0006 Non-opposition to a notified concentration (Case COMP/M.2015 - TotalFina/Saarberg/MMH)

**C 330** 2000/C 330-0005 Prior notification of a concentration (Case COMP/M.2225 - Fortis/ASR)

#### 18.11.2000

**C 328** 2000/C 328-0036 Prior notification of a concentration (Case COMP/M.2199 - Quantum/Maxtor)

**C 328** 2000/C 328-0035 Prior notification of a concentration (Case COMP/M.2198 - EL.FI/Moulinex)

**C 328** 2000/C 328-0034 Prior notification of a concentration (Case COMP/M.2200 - Deutsche Bank Industrial/Varta)

#### 17.11.2000

**C 326** 2000/C 326-0002 Prior notification of a concentration (Case COMP/M.2236 - SHFCLP (La Poste)/Mayne Nickless Europe) - Candidate case for simplified procedure

#### 16.11.2000

**C 325** 2000/C 325-0004 Non-opposition to a notified concentration (Case COMP/M.2084 - CSM/European Bakery Supplies Business (Unilever))

**C 325** 2000/C 325-0004 Non-opposition to a notified concentration (Case COMP/M.2087 - Feu Vert/Carrefour/Autocenter Delauto)

**C 325** 2000/C 325-0003 Prior notification of a concentration

(Case COMP/M.2206 - Ratos/Quality-Laboratories) - Candidate case for simplified procedure

**C 325** 2000/C 325-0002 Prior notification of a concentration (Case COMP/M.2175 - Dow Chemical/Gurit-Essex)

**C 325** 2000/C 325-0002 Prior notification of a concentration (Case COMP/M.2090 - Liverpool Victoria Friendly Society/AC Ventures/JV) - Candidate case for simplified procedure

#### 15.11.2000

**C 324** 2000/C 324-0005 Non-opposition to a notified concentration (Case COMP/M.2093 - Airtours/Frosch Touristik (FTI))

**C 324** 2000/C 324-0008 Prior notification of a concentration (Case COMP/M.2196 - Enron/Bergmann/Hutzler)

**C 324** 2000/C 324-0007 Prior notification of a concentration (Case COMP/M.2180 (ECSC.1342) - Outokumpu/Avesta Sheffield)

**C 324** 2000/C 324-0006 Prior notification of a concentration (Case COMP/M.2159 - Creditanstalt/Lufthansa AirPlus Servicekarten/AUA Beteiligung/AirPlus)

**C 324** 2000/C 324-0005 Non-opposition to a notified concentration (Case COMP/M.2110 - Deutsche Bank/SEI/JV)

#### 14.11.2000

**C 323** 2000/C 323-0003 Prior notification of a concentration (Case COMP/M.2193 - Alliance UniChem/Interpharm)

**C 323** 2000/C 323-0002 Prior notification of a concentration (Case COMP/M.2204 - Endesa/Telecom Italia/Unión Fenosa/Auna) - Candidate case for simplified procedure

**C 323** 2000/C 323-0004 Non-opposition to a notified concen-

tration (Case COMP/JV.50 - Blackstone/CDPQ/Kabel Baden-Württemberg)

**C 323** 2000/C 323-0004 Non-opposition to a notified concentration (Case COMP/M.1617 - Royal & Sun Alliance/Trygg-Hansa)

**C 323** 2000/C 323-0005 Non-opposition to a notified concentration (Case COMP/M.2076 - Ifil/Alpitour)

#### 11.11.2000

**C 322** 2000/C 322-0013 Non-opposition to a notified concentration (Case COMP/M.2056 - Sonera Systems/ICL Invia/Data-Info/JV)

**C 322** 2000/C 322-0013 Non-opposition to a notified concentration (Case COMP/M.2003 - Carlyle/Gruppo Riello)

**C 322** 2000/C 322-0014 Non-opposition to a notified concentration (Case COMP/M.2136 - Schroder Ventures/Memec)

**C 322** 2000/C 322-0014 Non-opposition to a notified concentration (Case COMP/M.1810 - VW/Europcar)

**C 322** 2000/C 322-0012 Non-opposition to a notified concentration (Case COMP/M.2075 - Newhouse/Jupiter/Scudder/M & G/JV)

#### 10.11.2000

**C 321** 2000/C 321-0021 Non-opposition to a notified concentration (Case COMP/M.1884 - Mondi/Frantschach/Assidomän)

**C 321** 2000/C 321-0021 Non-opposition to a notified concentration (Case COMP/M.1792 - Ahlstrom/Capman/Folding Carton Partners)

**C 321** 2000/C 321-0020 Prior notification of a concentration (Case COMP/M.2209 - EDF Group/Cottam Power Station)

**C 321** 2000/C 321-0019 Prior notification of a concentration (Case COMP/M.2202 - Stinnes/HCI)



**09.11.2000**

**C 320** 2000/C 320-0006 Prior notification of a concentration (Case COMP/M.2105 - SJPC/SCP De Milo/De Milo) - Candidate case for simplified procedure

**C 320** 2000/C 320-0008 Non-opposition to a notified concentration (Case COMP/M.1877 - Boskalis/HBG)

**C 320** 2000/C 320-0007 Prior notification of a concentration (Case COMP/M.2124 - ISP/ESPN/Globosat-JV) - Candidate case for simplified procedure

**08.11.2000**

**C 319** 2000/C 319-0006 Non-opposition to a notified concentration (Case COMP/M.1974 - Compagnie de Saint-Gobain/RAAB Karcher)

**07.11.2000**

**C 318** 2000/C 318-0006 Non-opposition to a notified concentration (Case COMP/M.2074 - Tyco/Mallinckrodt)

**C 318** 2000/C 318-0005 Prior notification of a concentration (Case COMP/M.2195 - Cap Gemini/Vodafone/JV)

**01.11.2000**

**C 313** 2000/C 313-0008 Non-opposition to a notified concentration (Case COMP/M.1935 - Rabobank/Gilde/Norit)

**C 313** 2000/C 313-0008 Non-opposition to a notified concentration (Case COMP/M.2146 - SHV/NPM Capital)

**C 313** 2000/C 313-0007 Prior notification of a concentration (Case COMP/M.2215 - Techint/Stella/James Jones/Sirti JV) - Candidate case for simplified procedure

**31.10.2000**

**C 311** 2000/C 311-0007 Prior notification of a concentration (Case COMP/M.2117 - Aker Maritime/Kværner)

**C 311** 2000/C 311-0006 Non-opposition to a notified concentration (Case COMP/M.1990 - Unilever/Bestfoods)

**C 311** 2000/C 311-0003 Non-opposition to a notified concentration (Case COMP/M.2050 - Vivendi/Canal+/Seagram)

**28.10.2000**

**C 310** 2000/C 310-0021 Prior notification of a concentration (Case COMP/M.1896 - Fiat/UniCredito Banca Mobiliare/JV) - Candidate case for simplified procedure

**C 310** 2000/C 310-0020 Prior notification of a concentration (Case COMP/M.2139 - Bombardier/ADtranz)

**C 310** 2000/C 310-0022 Prior notification of a concentration (Case COMP/M.2183 - Smiths Industries/TI Group)

**C 310** 2000/C 310-0019 Prior notification of a concentration (Case COMP/M.2109 - Reuters/Verlagsgruppe Handelsblatt/Meteor) - Candidate case for simplified procedure

**26.10.2000**

**C 307** 2000/C 307-0005 Prior notification of a concentration (Case COMP/M.2194 - CCF-Loxxia/Crédit Lyonnais-Slibail/JV) - Candidate case for simplified procedure

**C 307** 2000/C 307-0004 Non-opposition to a notified concentration (Case COMP/M.1745 - EADS)

**25.10.2000**

**C 305** 2000/C 305-0008 Prior notification of a concentration (Case COMP/M.2144 - Telefonica/Sonera/German UMTS JV) - Candidate case for simplified procedure

**C 305** 2000/C 305-0007 Prior notification of a concentration (Case COMP/M.2065 - Achmea/BCP/Eureko) - Candidate case for simplified procedure

**C 305** 2000/C 305-0006 Prior notification of a concentration (Case COMP/M.2152 - Scottish & Newcastle/JV/Centralcer)

**C 305** 2000/C 305-0005 Withdrawal of notification of a concentration (Case COMP/M.1963 - Industri Kapital/Perstorp)

**C 305** 2000/C 305-0005 Prior notification of a concentration (Case COMP/M.1501 - GKN Westland/Agusta/JV)

**24.10.2000**

**C 303** 2000/C 303-0008 Non-opposition to a notified concentration (Case COMP/M.1909 - Alstom/ABB Alstom Power)

**C 303** 2000/C 303-0008 Non-opposition to a notified concentration (Case COMP/M.1856 - Citigroup/Schroders)

**C 303** 2000/C 303-0009 Non-opposition to a notified concentration (Case COMP/M.2063 - SEI/Mitsubishi Electric/JV)

**21.10.2000**

**C 301** 2000/C 301-0023 Non-opposition to a notified concentration (Case COMP/M.1891 - BP Amoco/Castrol)

**C 301** 2000/C 301-0022 Prior notification of a concentration (Case COMP/M.2203 - BA/EIB/Wiener Städtische/CAIB/Duke Street/UBF/JV) - Candidate case for simplified procedure

**C 301** 2000/C 301-0023 Non-opposition to a notified concentration (Case COMP/M.1980 - Volvo/Renault V.I.)

**20.10.2000**

**C 299** 2000/C 299-0002 Prior notification of a concentration (Case COMP/M.2167 - Citigroup/Associates) - Candidate case for simplified procedure

**18.10.2000**

**C 295** 2000/C 295-0008 Prior notification of a concentration (Case COMP/M.2125 - Hypo-Vereinsbank/Bank Austria)





**C 295** 2000/C 295-0011 Non-opposition to a notified concentration (Case COMP/M.2053 - Telenor/Bell South/Sonofon)

**C 295** 2000/C 295-0011 Non-opposition to a notified concentration (Case COMP/M.2113 - Cinven/McKechie)

**C 295** 2000/C 295-0010 Prior notification of a concentration (Case COMP/M.2186 - Preusag/Nouvelles Frontières)

**C 295** 2000/C 295-0009 Prior notification of a concentration (Case COMP/M.2168 - Snecma/Hurel-Dubois)

#### 14.10.2000

**C 293** 2000/C 293-0011 Non-opposition to a notified concentration (Case COMP/M.2044 - Interbrew/Bass)

**C 293** 2000/C 293-0012 Prior notification of a concentration (Case COMP/M.2148 - ABB/Avireal/JV) - Candidate case for simplified procedure

**C 293** 2000/C 293-0013 Prior notification of a concentration (Case COMP/M.2191 - BT/Amadeus/JV) - Candidate case for simplified procedure

**C 293** 2000/C 293-0015 Renotification of a previously notified concentration (Case COMP/M.1915 - The Post Office/TPG/SPPL)

**C 293** 2000/C 293-0014 Prior notification of a concentration (Case COMP/M.2184 - Kohlberg Kravis Roberts/Laporte) - Candidate case for simplified procedure

#### 13.10.2000

**C 290** 2000/C 290-0003 Non-opposition to a notified concentration (Case COMP/M.2095 - Sextant/Diehl)

**C 290** 2000/C 290-0003 Non-opposition to a notified concentration (Case COMP/JV.51 - Bertelsmann/ Mondadori/Bol Italia)

**C 290** 2000/C 290-0002 Prior notification of a concentration (Case COMP/M.2172 - Babcock Borsig/mg technologies/SAPMarkets/ec4ec)

#### 12.10.2000

**C 289** 2000/C 289-0006 Non-opposition to a notified concentration (Case COMP/M.1969 - UTC/Honeywell/i2/My Aircraft.Com)

**C 289** 2000/C 289-0004 Non-opposition to a notified concentration (Case COMP/M.2133 - Hicks/Bear Stearns/Johns Manville)

**C 289** 2000/C 289-0003 Non-opposition to a notified concentration (Case COMP/M.2036 - Valeo/Labinal)

**C 289** 2000/C 289-0003 Non-opposition to a notified concentration (Case COMP/M.2021 - Snecma/Labinal)

**C 289** 2000/C 289-0004 Non-opposition to a notified concentration (Case COMP/M.2091 - HSBC Private Equity Investments/BBA Friction Materials)

**C 289** 2000/C 289-0005 Prior notification of a concentration (Case COMP/ECSC.1341 - RAG/North Goonyella)

**C 289** 2000/C 289-0005 Non-opposition to a notified concentration (Case COMP/M.1948 - Techpack International/Valois)

**C 289** 2000/C 289-0007 Prior notification of a concentration (Case COMP/M.2140 - BAWAG/PSK)

**C 289** 2000/C 289-0007 Non-opposition to a notified concentration (Case COMP/M.1919 - Alcoa/Cordant)

**C 289** 2000/C 289-0006 Non-opposition to a notified concentration (Case COMP/M.2119 - E.ON/ACP/Schmalbach-Lubeca)

#### 10.10.2000

**C 286** 2000/C 286-0006 Non-opposition to a notified concen-

tration (Case COMP/M.2120 - Toyota Motor Corporation/Toyota GB)

**C 286** 2000/C 286-0005 Non-opposition to a notified concentration (Case COMP/M.2024 - Invensys/Baan)

**C 286** 2000/C 286-0006 Non-opposition to a notified concentration (Case COMP/M.1973 - Telecom Italia/Endesa/Union Fenosa)

**C 286** 2000/C 286-0007 Prior notification of a concentration (Case COMP/M.2066 - Dana/Getrag) - Candidate case for simplified procedure

#### 07.10.2000

**C 284** 2000/C 284-0014 Withdrawal of notification of a concentration (Case COMP/M.2132 - Compart/Falck)

**C 284** 2000/C 284-0014 Initiation of proceedings (Case COMP/M.1853 - EDF/ENBW)

**C 284** 2000/C 284-0013 Prior notification of a concentration (Case COMP/M.2179 - Compart/Falck (II))

**C 284** 2000/C 284-0012 Prior notification of a concentration (Case COMP/M.2165 - Gruner + Jahr/Publigroupe/G + J Medien) - Candidate case for simplified procedure

**C 284** 2000/C 284-0015 Initiation of proceedings (Case COMP/M.2097 - SCA/Metsä Tissue)

#### 06.10.2000

**C 283** 2000/C 283-0003 Prior notification of a concentration (Case COMP/M.2102 - Magneti Marelli/Magneti Marelli Automotive Lighting Business JV)

**C 283** 2000/C 283-0002 Prior notification of a concentration (Case COMP/M.2181 - RWE/Thames Water) Candidate case for simplified procedure



**05.10.2000**

**C 282** 2000/C 282-0004 Prior notification of a concentration (Case COMP/M.2145 - Apollo Group/Shell Resin Business) Candidate case for simplified procedure

**04.10.2000**

**C 281** 2000/C 281-0027 Prior notification of a concentration (Case COMP/M.2048 - Alcatel/TMM/JV)

**03.10.2000**

**C 280** 2000/C 280-0005 Prior notification of a concentration (Case COMP/M.2157 - Skanska AB/Kvaerner Construction Group Ltd) Candidate case for simplified procedure

**C 280** 2000/C 280-0006 Prior notification of a concentration (Case COMP/M.2155 - France Télécom/Schmid/Mobilcom) Candidate case for simplified procedure

**STATE AID**

**31.01.2001**

**L 29** 2001/L 029-0049 Commission Decision of 4 October 2000 on the aid scheme implemented by Portugal in favour of the pigfarming sector (*notified under document number C(2000) 2755*)

**27.01.2001**

**C 28** 2001/C 028-0024 Case C-448/00 P: Appeal brought on 4 December 2000 by the Commission of the European Communities against that part of the judgment delivered on 27 September 2000 by the Second Chamber, Extended Composition, of the Court of First Instance of the European Communities in Case T-184/97 between BP Chemicals Ltd and the Commission of the European Communities, supported by the French Republic, which annuls Commission Decision SG (97)

D/3266 of 9 April 1997 concerning an aid scheme for biofuels in France in so far as that decision relates to measures applicable to the ethyl-tertiobutyl-ether ("ETBE") sector

**C 27** 2001/C 027-0044 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 35/2000 (ex NN 81/98) - Aid in favour of Saalfelder Hebezeugbau GmbH, Thuringia - Germany

**C 27** 2001/C 027-0002 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 27** 2001/C 027-0005 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 44/2000 (ex NN 56/98 and ex N 153/2000 - Germany, Sachsen-Anhalt - SKL-Motoren- und Systemtechnik GmbH, and asset deal between SKL-Motoren- und Systemtechnik GmbH, (SKL-M) and Motoren- und Turbinen-Union Friedrichshafen GmbH (MTU)

**C 27** 2001/C 027-0020 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 56/2000 (ex N 334/2000) - Regional Venture Capital Funds

**C 27** 2001/C 027-0025 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 41/2000 (ex N 670/99) - Aid to IVECO SpA

**C 27** 2001/C 027-0030 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 52/2000 (ex NN 80/99) - Metallverarbeitung Brotterode GmbH

**C 27** 2001/C 027-0036 Commission Decision of 4 October 2000 on State aid C 45/1999 for the steel company Fabrique de Fer de Maubeuge (now known as Myriad)

**C 27** 2001/C 027-0037 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 42/2000 (ex NN 1/2000) - State aid to cableway installations in the Province of Bolzano, Italy

**C 27** 2001/C 027-0043 State aid - C 59/98 (ex N 701/97) - The Netherlands

**C 27** 2001/C 027-0042 State aid (*Articles 87 to 89 of the Treaty establishing the European Community*) - Commission notice pursuant to Article 88(2) of the EC Treaty, addressed to the other Member States and other interested parties, concerning the regional aid map 2000-2006 Netherlands

**26.01.2001**

**C 26** 2001/C 026E-0021 Written question E-0221/00 by Ilda Figueiredo to the Commission Subject: State aid to the EPAC - Empresa para a Agro-Alimentação e Cereais, SA (Agro-foods and Cereals Company, Ltd)

**23.01.2001**

**L 21** 2001/L 021-0012 Commission Decision of 20 September 2000 authorising France to grant aid to the coal industry for 2000 (*notified under document number C(2000) 2923*)

**L 21** 2001/L 021-0011 Decision No 3/2000 of the EU-Estonia Association Council of 1 December 2000 extending by five years the period within which any public aid granted by Estonia will be assessed taking into account the fact that Estonia is to be regarded as an area identical to those areas of the



Community described in Article 87(3)(a) of the Treaty establishing the European Community

**20.01.2001**

**C 19** 2001/C 019-0002 State aid (Articles 87 to 89 of the Treaty establishing the European Community) Commission notice pursuant to Article 88(2) of the EC Treaty, addressed to the other Member States and interested parties, concerning aid C 79/1999 - Rover Longbridge, UK

**C 19** 2001/C 019-0003 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 19** 2001/C 019-0005 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 19** 2001/C 019-0007 Guidelines for the examination of State aid to fisheries and aquaculture

**19.01.2001**

**L 18** 2001/L 018-0018 Commission Decision of 26 July 2000 on the measure and State aid implemented by Germany for the SICAN group and its project partners (*notified under document number C(2000) 2466*)

**L 17** 2001/L 017-0030 Commission Decision of 20 September 2000 on the State aid implemented by France in the wine-growing sector (*notified under document number C(2000) 2754*)

**C 17** 2001/C 017-0004 Communication from the Commission - Services of general interest in Europe

**17.01.2001**

**L 13** 2001/L 013-0024 Commission Decision of 12 July 2000 on State aid which Italy plans to grant to Fiat Auto SpA for its Mirafiori Carrozzeria plant (*notified under document number C(2000) 2450*)

**16.01.2001**

**L 11** 2001/L 011-0046 Commission Decision of 20 September 2000 amending Commission Decision 1999/395/EC on State aid implemented by Spain in favour of Sniace SA, located in Torrelavega, Cantabria (*notified under document number C(2000) 2741*)

**13.01.2001**

**L 10** 2001/L 010-0033 Commission Regulation (EC) No 70/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to State aid to small and medium-sized enterprises

**L 10** 2001/L 010-0020 Commission Regulation (EC) No 68/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to training aid

**L 10** 2001/L 010-0030 Commission Regulation (EC) No 69/2001 of 12 January 2001 on the application of Articles 87 and 88 of the EC Treaty to *de minimis* aid

**C 11** 2001/C 011-0008 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 11** 2001/C 011-0007 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**06.01.2001**

**C 3** 2001/C 003-0036 Authorisation for State aid pursuant to

Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 3** 2001/C 003-0031 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty and Article 6(5) of Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry, in relation to aid C 43/2000 (ex NN 69/2000) - Georgsmarienhütte Holding GmbH

**04.01.2001**

**L 1** 2001/L 001-0010 Commission Decision of 15 February 2000 on the State aid implemented by the Federal Republic of Germany for Dessauer Geräteindustrie GmbH (*notified under document number C(2000) 515*)

**30.12.2000**

**C 380** 2000/C 380-0009 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 380** 2000/C 380-0010 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 380** 2000/C 380-0007 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 380** 2000/C 380-0002 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 50/2000 (ex N 50/2000) - Standards for the protection of bergamots and bergamot derivatives

**28.12.2000**

**C 374** 2000/C 374E-0030  
Written question E-0151/00 by  
Nicholas Clegg to the Commis-  
sion

Subject: State aid and the coal  
industry

**C 374** 2000/C 374E-0219 P-  
1415/00 by Marie-Noëlle Lie-  
nemann to the Commission  
Subject: Investigation regarding  
state aids to the "Crédit Mu-  
tuel"

**C 374** 2000/C 374E-0101  
Written question E-0543/00 by  
Hiltrud Breyer to the Council  
Subject: Draft new Community  
framework on State aid for en-  
vironmental protection

**C 374** 2000/C 374E-0160 E-  
0802/00 by Benedetto Della  
Vedova to the Commission  
Subject: Compatibility of Ita-  
lian Law No 454/97 (and the  
implementing decrees) with  
Community law on state aids

**23.12.2000**

**C 372** 2000/C 372-0001 Judg-  
ment of the Court (Sixth  
Chamber) of 19 October 2000  
in Joined Cases C-15/98 and C-  
105/99: Italian Republic and  
Sardegna Lines - Servizi Marit-  
timi della Sardegna SpA v  
Commission of the European  
Communities (State aid - Aid  
from the Region of Sardinia to  
shipping companies in Sardinia  
- Adverse effect on competition  
and trade between Member  
States - Statement of reasons)

**C 371** 2000/C 371-0012 Com-  
mission communication  
concerning the guidelines on  
State aid for employment

**C 371** 2000/C 371-0012 Autho-  
risation for State aid pursuant to  
Articles 87 and 88 of the EC  
Treaty - Cases where the  
Commission raises no objec-  
tions

**22.12.2000**

**L 326** 2000/L 326-0065 Com-  
mission Decision of 11 April  
2000 on State aid implemented  
by France for the pig-farming  
sector (*notified under document  
number C(2000) 1169*)

**21.12.2000**

**L 324** 2000/L 324-0035 Deci-  
sion of the EFTA Surveillance  
Authority No 142/00/COL of  
26 July 2000 on the closure of a  
case initiated on the basis of a  
complaint concerning alleged  
State aid to certain enterprises  
through the contract conditions  
for electricity ("Kraftkontrakter  
på myndighetsbestemte vilkår")  
(Aid No 020.500.032) (Nor-  
way)

**C 368** 2000/C 368-0015 Autho-  
risation of State aid pursuant to  
Articles 61 and 63 of the EEA  
Agreement and Article 1(3) of  
Protocol 3 to the Surveillance  
and Court Agreement (EFTA  
Surveillance Authority decision  
not to raise objections)

**C 368** 2000/C 368-0012 State  
aid (00-002 Iceland) - EFTA  
Surveillance Authority notice  
pursuant to Article 1(2) of  
Protocol 3 of the Surveillance  
and Court Agreement, to other  
EFTA States, EU Member Sta-  
tes and interested parties  
concerning State aid in the form  
of regional aid in Iceland (map  
of assisted areas) (Aid No 00-  
002)

**20.12.2000**

**L 323** 2000/L 323-0005 Com-  
mission Decision of 28 June  
2000 on State aid granted by  
the Federal Republic of Germa-  
ny to Salzgitter AG, Preussag  
Stahl AG and the group's steel-  
industry subsidiaries, now  
known as Salzgitter AG - Stahl  
und Technologie (SAG) (*noti-  
fied under document number  
C(2000) 1963*)

**19.12.2000**

**C 365** 2000/C 365E-0179 Pro-  
posal for a Regulation of the  
European Parliament and of the  
Council concerning the gran-  
ting of aid for the coordination  
of transport by rail, road and  
inland waterway  
(COM(2000) 5 final -  
2000/0023(COD))

**16.12.2000**

**L 318** 2000/L 318-0036 Com-  
mission Decision of 22 Decem-  
ber 1999 on the State aid im-  
plemented by Spain for Ra-  
mondín SA and Ramondín  
Cápsulas SA (*notified under  
document number C(1999)  
5203*)

**L 318** 2000/L 318-0062 Com-  
mission Decision of 21 June  
2000 on State aid granted by  
Germany to CDA Compact  
Disc Albrechts GmbH, Thuringia  
(*notified under document  
number C(2000) 1728*)

**C 362** 2000/C 362-0010 Autho-  
risation for State aid pursuant to  
Articles 87 and 88 of the EC  
Treaty - Cases where the  
Commission raises no objec-  
tions

**C 362** 2000/C 362-0009 Autho-  
risation for State aid pursuant to  
Articles 87 and 88 of the EC  
Treaty - Cases where the  
Commission raises no objec-  
tions

**09.12.2000**

**C 355** 2000/C 355-0022 Judg-  
ment of the Court of First In-  
stance of 29 September 2000 in  
Case T-55/99: Confederación  
Española de Transporte de  
Mercancías (CETM) v Com-  
mission of the European Com-  
munities (State aid - Aid within  
the meaning of Article 92(1) of  
the EC Treaty (now, after  
amendment, Article 87(1) EC) -  
Statement of reasons - Obliga-  
tion to recover aid - Legitimate



expectations of recipients - Principle of proportionality)

**C 355** 2000/C 355-0023 Order of the Court of First Instance of 25 July 2000 in Case T-110/98: RJB Mining plc v Commission of the European Communities (ECSC Treaty - State aid - Operating aid - Conditions for authorisation - Obligation to state reasons - Further steps in proceedings after interlocutory judgment - Application manifestly lacking any foundation in law)

**C 355** 2000/C 355-0004 Judgment of the Court (Sixth Chamber) of 12 October 2000 in Case C-480/98: Kingdom of Spain v Commission of the European Communities (State aid - Aid granted to undertakings in the Magefesa group)

**C 355** 2000/C 355-0020 Judgment of the Court of First Instance of 27 September 2000 in Case T-184/97: BP Chemicals Ltd v Commission of the European Communities (State aid - Action for annulment - Interest in bringing proceedings - Partial inadmissibility - Article 92(3) of the EC Treaty (now, after amendment, Article 87(3) EC) - Directive 92/81/EEC - Meaning of "pilot projects for the technological development of more environmentally-friendly products")

**C 354** 2000/C 354-0011 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 354** 2000/C 354-0014 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 354** 2000/C 354-0002 State aid - Invitation to submit com-

ments pursuant to Article 88(2) of the EC Treaty, concerning aid C 32/2000 (ex NN 132/99) - the Netherlands - VAMIL Regulation (N 268/91 and N 262/94)

#### 02.12.2000

**C 345** 2000/C 345-0002 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

#### 25.11.2000

**C 335** 2000/C 335-0002 Judgment of the Court (Sixth Chamber) of 13 July 2000 in Case C-36/99 (reference for a preliminary ruling from the Tribunal de Première Instance de Liège): Idéal Tourisme SA v Belgian State (VAT - Sixth Directive 77/388/EEC - Transitional provisions - Retention of the exemption for international passenger transport by air - No exemption for international passenger transport by coach - Discrimination - State aid)

**C 335** 2000/C 335-0004 Judgment of the Court (Fourth Chamber) of 14 September 2000 in Case C-369/98 (reference for a preliminary ruling from the High Court of Justice of England and Wales, Queen's Bench Division (Divisional Court)): The Queen v Minister of Agriculture, Fisheries and Food, ex parte Trevor Robert Fisher and Penny Fisher, trading as "TR & P Fisher" (Aid schemes - Computerised database - Disclosure of information)

**C 335** 2000/C 335-0020 Judgment of the Court (Fifth Chamber) of 5 October 2000 in Case C-288/96: Federal Republic of Germany v Commission of the European Communities (State aid - Operating aid - Guidelines in the fisheries sector - Article

92(1) and (3)(c) of the EC Treaty (now, after amendment, Article 87(1) and (3)(c) EC) - Rights of the defence - Statement of reasons)

**C 334** 2000/C 334-0004 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

#### 24.11.2000

**L 297** 2000/L 297-0022 Commission Decision of 28 June 2000 on the part of the Portuguese regional aid map for the period 2000 to 2006 which relates to the regions eligible for exemptions under Article 87(3)(c) of the Treaty (*notified under document number C(2000) 1964*)

#### 23.11.2000

**L 295** 2000/L 295-0021 Commission Decision of 23 February 2000 on the State aid implemented by Germany for Korn Fahrzeuge und Technik GmbH (Thuringia) (*notified under document number C(2000) 520*)

**L 295** 2000/L 295-0030 Commission Decision of 12 July 2000 on the State aid "Measures to improve the indoor environment" which Sweden is planning to implement (*notified under document number C(2000) 2239*)

#### 22.11.2000

**L 293** 2000/L 293-0013 Commission Decision of 21 June 2000 concerning State aid granted by France to Manufacture corrézienne de vêtements (MCV) and the plan to grant aid to the company that is to succeed it (*notified under document number C(2000) 1729*)

#### 21.11.2000

**C 330** 2000/C 330E-0096 Written question E-0165/00 by Rosa Díez González, Fernando Pérez Royo and Luis Berenguer



Fuster to the Commission  
Subject: Monitoring of state aid to the Spanish electricity sector  
**C 330** 2000/C 330E-0046  
Written question E-2761/99 by Mauro Nobilia to the Commission

Subject: Subsidies for ferry services to islands (Article 88(2) of the EC Treaty with regard to subsidy C/64/99 - formerly NN 68/99)

**C 330** 2000/C 330E-0174  
Written question E-0492/00 by Luis Berenguer Fuster and Fernando Pérez Royo to the Commission

Subject: Statements made by Commissioner Monti in Spain concerning state aid granted by the Spanish Government

#### 18.11.2000

**C 328** 2000/C 328-0019 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 49/2000 (ex NN 24/99) - Aid to Santana Motor

**C 328** 2000/C 328-0016 State aids - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 40/2000 (ex NN 61/2000) - Spain - Further restructuring of publicly owned shipyards

**C 328** 2000/C 328-0032 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 328** 2000/C 328-0029 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

#### 14.11.2000

**L 287** 2000/L 287-0051 Commission Decision of 13 June 2000 on the State aid implemented by Germany in favour

of Wildauer Kurbelwelle GmbH (*notified under document number C(2000) 1660*)

#### 11.11.2000

**C 322** 2000/C 322-0007 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 322** 2000/C 322-0012 Commission notice pursuant to Article 88(2) of the EC Treaty, addressed to the other Member States and other interested parties, concerning the regional aid map 2000-2006 - Belgium

**C 322** 2000/C 322-0009 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

#### 04.11.2000

**C 316** 2000/C 316-0012 Judgment of the Court of 19 September 2000 in Case C-156/98: Federal Republic of Germany v Commission of the European Communities (Aid granted to undertakings in the new German *Länder* - Tax provision favouring investment)

**C 315** 2000/C 315-0011 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning measure C 33/2000 (ex NN 143/99) - Restructuring aid in favour of the group Fesa-Enfersa (Spain)

**C 315** 2000/C 315-0021 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 315** 2000/C 315-0023 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 315** 2000/C 315-0007 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 47/2000 (ex N 125/98) - Italy - Ilva Lamiere e Tubi Srl

**C 315** 2000/C 315-0004 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 45/00 (ex N 106/99) - Italy - Ferriere Nord SpA - Aid towards investments in a new rolling line for welded steel mesh - EC Treaty

#### 01.11.2000

**L 279** 2000/L 279-0046 Commission Decision of 12 July 2000 on State aid granted by Italy to shipbuilders in the form of tax relief under Law No 549/95 (*notified under document number C(2000) 2448*)

#### 28.10.2000

**C 310** 2000/C 310-0015 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 310** 2000/C 310-0011 State aid - Invitation to submit comments pursuant to Article 6(5) of Commission Decision No 2496/96/ECSC of 18 December 1996 establishing Community rules for State aid to the steel industry, concerning Case C 34/2000 (ex N 41/2000) to the ECSC steel company Stahlwerke Bremen GmbH

**C 310** 2000/C 310-0006 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning Case C 51/2000 (ex N 491/2000) - Nissan/Micra

**C 310** 2000/C 310-0017 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections



**26.10.2000**

**L 274** 2000/L 274-0001 Decision of the EFTA Surveillance Authority No 329/99/COL of 16 December 1999 extending the period of validity of present rules and introducing new guidelines on State aid for rescuing and restructuring firms in difficulty and amending for the twenty-second time the Procedural and Substantive Rules in the field of State aid

**L 274** 2000/L 274-0001 Decision of the EFTA Surveillance Authority No 329/99/COL of 16 December 1999 extending the period of validity of present rules and introducing new guidelines on State aid for rescuing and restructuring firms in difficulty and amending for the twenty-second time the Procedural and Substantive Rules in the field of State aid

**L 274** 2000/L 274-0029 Decision of the EFTA Surveillance Authority No 78/00/COL of 12 April 2000 revising the guidelines on the application of the EEA State aid provisions to State guarantees and to guarantees given to public enterprises in the manufacturing sector, and amending for the twenty-seventh time the Procedural and Substantive Rules in the field of State aid

**L 274** 2000/L 274-0029 Decision of the EFTA Surveillance Authority No 78/00/COL of 12 April 2000 revising the guidelines on the application of the EEA State aid provisions to State guarantees and to guarantees given to public enterprises in the manufacturing sector, and amending for the twenty-seventh time the Procedural and Substantive Rules in the field of State aid

**L 274** 2000/L 274-0026 Decision of the EFTA Surveillance

Authority No 72/00/COL of 5 April 2000 amending for the twenty-sixth time the Procedural and Substantive Rules in the field of State aid, introducing new guidelines for the reference rate of interest

**L 274** 2000/L 274-0026 Decision of the EFTA Surveillance Authority No 72/00/COL of 5 April 2000 amending for the twenty-sixth time the Procedural and Substantive Rules in the field of State aid, introducing new guidelines for the reference rate of interest

**L 274** 2000/L 274-0019 Decision of the EFTA Surveillance Authority No 32/00/COL of 16 February 2000 introducing guidelines on cooperation between national courts and the EFTA Surveillance Authority in the State aid field and amending for the twenty-third time the Procedural and Substantive Rules in the field of State aid

**L 274** 2000/L 274-0019 Decision of the EFTA Surveillance Authority No 32/00/COL of 16 February 2000 introducing guidelines on cooperation between national courts and the EFTA Surveillance Authority in the State aid field and amending for the twenty-third time the Procedural and Substantive Rules in the field of State aid

**C 307** 2000/C 307-0016 Communication from the EFTA Surveillance Authority on the twenty-fourth amendment of the Procedural and Substantive Rules in the Field of State Aid (extension of the period of validity of the rules on aid for environmental protection)

**C 307** 2000/C 307-0016 Communication from the EFTA Surveillance Authority on the twenty-fifth amendment of the Procedural and Substantive Rules in the Field of State Aid

(extension of the period of validity of the rules on aid to the synthetic fibres industry)

**25.10.2000**

**L 272** 2000/L 272-0036 Commission Decision of 21 June 2000 on State aid which Italy is planning to implement for Siciliana Acque Minerali Srl (*notified under document number C(2000) 1730*)

**L 272** 2000/L 272-0029 Commission Decision of 3 May 2000 on aid granted by France to TASQ SA (*notified under document number C(2000) 1337*)

**24.10.2000**

**C 303** 2000/C 303E-0179 Written Question E-0348/00 by Rosa Díez González, Fernando Pérez Royo and Luis Berenguer Fuster to the Commission Subject: Commission expert responsible for assessing public aid granted to Spain in the electricity sector

**C 303** 2000/C 303E-0180 Written Question E-0351/00 by Rosa Díez González, Fernando Pérez Royo and Luis Berenguer Fuster to the Commission Subject: Consumer interests in connection with the Spanish electricity market - examination of the public aid granted by the government

**C 303** 2000/C 303E-0194 Written Question P-0441/00 by Hiltrud Breyer to the Commission

Subject: Draft version of a new Community framework for state aids for environmental protection

**21.10.2000**

**C 302** 2000/C 302-0003 Judgment of the Court of 27 June 2000 in Case C-404/97: Commission of the European Communities v Portuguese Republic (Failure to fulfil obligations - State aid incompatible with the



common market - Recovery - Absolute impossibility)

**C 301** 2000/C 301-0013 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 30/2000 (ex N 766/99) - Bova - Netherlands - Peru

**C 301** 2000/C 301-0016 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty, concerning aid C 31/2000 (ex NN 38/99) - aid in favour of Neue Harzer Werke GmbH Blankenburg, Germany

**C 301** 2000/C 301-0004 State aid - Invitation to submit comments pursuant to Article 88(2) of the EC Treaty concerning aid C 37/2000 (ex NN 60/2000, ex E 19/94, ex E 13/91 and N 204/86) - Financial and tax aid scheme for the free zone of Madeira (Portugal)

#### 20.10.2000

**L 267** 2000/L 267-0053 Commission Decision of 16 May 2000 on State aid granted by Spain to Asociación General Agraria Mallorquina SA (AGAMA) (*notified under document number C(2000) 1401*)

#### 19.10.2000

**L 265** 2000/L 265-0015 Commission Decision of 11 April 2000 on the aid granted by Italy to Centrale del Latte di Roma (*notified under document number C(2000) 1173*)

#### 18.10.2000

**L 263** 2000/L 263-0017 Commission Decision of 13 June 2000 on the aid scheme implemented by Ireland to promote the transport of Irish livestock by sea to continental Europe (*notified under document number C(2000) 1659*)

#### 14.10.2000

**L 260** 2000/L 260-0037 Commission Decision of 22 December 1999 on aid scheme C 1/99

(ex NN 133/98)/State aid to non-residential building tenants in the Customs House Docks Area in Dublin (*notified under document number C(1999) 5206*)

**C 293** 2000/C 293-0008 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 293** 2000/C 293-0006 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

#### 13.10.2000

**L 259** 2000/L 259-0062 Commission Decision of 28 June 2000 on the aid scheme provided in Region of Sicily Law No 23 of 28 March 1995 "Rules applicable to credit guarantee groups for small and medium-sized enterprises" - fishery sector (*notified under document number C(2000) 1962*)

#### 10.10.2000

**L 256** 2000/L 256-0021 Commission Decision of 10 November 1999 conditionally approving the aid granted by Italy to the public banks Banco di Sicilia and Sicilcassa (*notified under document number C(1999) 3865*)

#### 07.10.2000

**C 284** 2000/C 284-0010 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 284** 2000/C 284-0004 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 284** 2000/C 284-0003 Authorisation for State aid pursuant to

Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

**C 284** 2000/C 284-0002 Authorisation for State aid pursuant to Articles 87 and 88 of the EC Treaty - Cases where the Commission raises no objections

#### 03.10.2000

**C 280** 2000/C 280E-0191 Written question E-0166/00 by Rosa Díez González, Fernando Pérez Royo and Luis Berenguer Fuster to the Commission Subject: Effects of state aid on the Spanish electricity sector

**C 280** 2000/C 280E-0158 Written question E-0016/00 by Roberta Angelilli to the Commission

Subject: News concerning the rules on state aid to undertakings in deprived urban areas

**C 280** 2000/C 280E-0100 Written question E-2676/99 by Malcolm Harbour to the Commission

Subject: State aid to the car industry

**C 280** 2000/C 280E-0099 Written question E-2669/99 by Benedetto Della Vedova to the Commission

Subject: State aid to Philipp Holzmann AG

#### LIBERALISATION

#### 10.01.2001

**L 5** 2001/L 005-0012 Commission Decision of 22 December 2000 on amendment of Annex III to Directive 98/10/EC of the European Parliament and of the Council of 26 February 1998 on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment (*noti-*





*fied under document number C(2000) 4078)*

### 30.12.2000

**L 336** 2000/L 336-0004 Regulation (EC) No 2887/2000 of the European Parliament and of the Council of 18 December 2000 on unbundled access to the local loop

### 22.12.2000

**C 369** 2000/C 369-0003 Communication from the Commission - Status of voice on the Internet under Community law, and in particular, under Directive 90/388/EEC - Supplement to the Communication by the Commission to the European Parliament and the Council on the status and implementation of Directive 90/388/EEC on competition in the markets for telecommunications services

### 19.12.2000

**C 365** 2000/C 365E-0212 Proposal for a Regulation of the European Parliament and of the Council on unbundled access to the local loop (COM(2000) 394 final - 2000/0185(COD))

### 05.10.2000

**L 250** 2000/L 250-0050 Decision of the EEA Joint Committee No 67/2000 of 2 August 2000 amending Annex XI (telecommunication services) to the EEA Agreement

## PRESS RELEASES

1.6.2000 - 30.9.2000

All texts are available from the Commission's press release database **RAPID** at: <http://europa.eu.int/rapid/start>. Enter reference (e.g.: IP/00/544) in the "Reference" input box on the research form to retrieve text of a press release. Press releases on competition matters can be consulted daily from DG Compe-

tion's website at: <http://europa.eu.int/comm/dg04/pres sre.htm>

**Note: languages available vary for different press releases.**

## ANTITRUST

**IP/01/120 Date: 2001-01-26** Commission welcomes progress towards resolving the long-running FIA/Formula One Case

**IP/01/35 Date: 2001-01-12** Commission clears AviaPartner stake in Scandinavian airport groundhandler Novia

**IP/01/30 Date: 2001-01-11** Increased scope for electricity imports competition in Northern Europe - a step forward towards an internal market for electricity

**IP/01/4 Date: 2001-01-05** Commission publishes voice on Internet communication

**IP/01/1 Date: 2001-01-03** Commission releases Unisource from its reporting obligations under the competition rules

**IP/00/1546 Date: 2000-12-22** Commission clears RAG purchase of a stake in Belgium's Bunkering Consider Coal Trading

**IP/00/1526 Date: 2000-12-21** Commission fines JCB for unlawful distribution agreements and practices

**IP/00/1524 Date: 2000-12-21** Tariff rebalancing: Commission sends reasoned opinion to Spain

**IP/00/1523 Date: 2000-12-21** Tariff rebalancing: Commission suspends infringement proceedings against Italy

**IP/00/1468 Date: 2000-12-14** Hops: Commission proposes two-year prolongation of market regime

**IP/00/1449 Date: 2000-12-13** Commission readopts three decisions imposing fines on Solvay and ICI in the Soda ash case

**CES/00/116 Date: 2000-12-07** The European ESC calls for liberalisa-

tion of Community postal services to be compatible with the continued provision of a universal service

**CES/00/113 Date: 2000-12-07** European ESC critical of guiding principles of EU enterprise policy

**IP/00/1418 Date: 2000-12-06** Commission opens proceedings against the distribution practices of B&W Loudspeakers

**IP/00/1417 Date: 2000-12-06** Football transfers: Commission underlines the prospect of further progress

**IP/00/1414 Date: 2000-12-06** Commission clears joint venture between Framatome and Siemens, after modification of the operation

**IP/00/1376 Date: 2000-11-29** Commission reforms competition rules for CO-OPERATION between COMPANIES

**IP/00/1360 Date: 2000-11-27** Commission gives green light to Eutelsat restructuring

**IP/00/1358 Date: 2000-11-24** Commission suspects alleged Austrian 'Lombard Club' cartel also fixed euro-zone exchange charges

**IP/00/1352 Date: 2000-11-23** Commission withdraws threat of fines against Telefonica and Sogecable, but pursues examination of their joint football rights

**IP/00/1351 Date: 2000-11-23** Commission closes file on COBAT, an Italian consortium engaged in collecting, storing and selling used lead batteries

**IP/00/1347 Date: 2000-11-22** Commission confirms inspections at Italian steel producers

**IP/00/1306 Date: 2000-11-15** Commission adopts evaluation report on motor vehicle distribution and servicing under Regulation 1475/95

**IP/00/1259 Date: 2000-11-06** Commission clears Compart sole control of Falck and subsidiary Sondel

**IP/00/1230 Date: 2000-10-27** EU Competition Commissioner outlines



ideas for an international forum to discuss competition policy issues

**IP/00/1207 Date: 2000-10-24**

Commission initiates formal procedure against certain practices of Intercontinental Marketing Services

**IP/00/1195 Date: 2000-10-23**

Commission refers part of C3D bid for Go-Ahead to UK competition authorities, clears rest

**IP/00/1172 Date: 2000-10-17** European competition day in

**IP/00/1164 Date: 2000-10-16**

Commission plans to clear certain Visa provisions, challenge others

**IP/00/1135 Date: 2000-10-09**

Commission approves a patent licensing programme to implement the DVD standard

**IP/00/1108 Date: 2000-10-04**

Commission widens proceedings against Deutsche Post AG for abuse of a dominant position

**IP/00/1092 Date: 2000-10-02**

The Commission issues Statements of Objections relating to cartels in the brewing sector in Belgium and Luxembourg

**IP/00/1090 Date: 2000-10-02**

Commission and Member States discuss competition policy in the motor fuel sector

## MERGERS

**IP/01/147 Date: 2001-01-31** Commission blocks acquisition of Metsä Tissue by SCA Mölnlycke

**IP/01/139 Date: 2001-01-31** Commission clears the purchase by Salzgitter AG of a 50 % stake in French steel service firm Robert S.A.

**IP/01/138 Date: 2001-01-31** Commission clears the acquisition of Condea by Sasol

**IP/01/126 Date: 2001-01-31** Commission clears joint venture between Smith & Nephew and Beiersdorf subject to a package of divestments

**IP/01/109 Date: 2001-01-25** Commission clears Ricoh acquisition of Lanier Worldwide

**IP/01/103 Date: 2001-01-24** Commission clears the merger between Metso and Svedala subject to conditions

**IP/01/82 Date: 2001-01-22** Commission endorses settlement agreement between Ladbroke and France's PMU over the broadcasting of French horse races in Belgium

**IP/01/79 Date: 2001-01-19** Commission allows Italian competition authority to examine the impact of Enel's acquisition of Infostrada on Italy's electricity market

**IP/01/57 Date: 2001-01-16** Commission authorises Vopak purchase of Ellis & Everard

**IP/01/48 Date: 2001-01-15** Commission clears merger between United Airlines and US Airways subject to conditions.

**IP/01/34 Date: 2001-01-12** Commission clears SmithKline Beecham acquisition of Block Drug

**IP/00/1545 Date: 2000-12-22** Commission clears joint venture between Stora Enso and AssiDomän

**IP/00/1540 Date: 2000-12-22** Commission approves acquisition by Sanmina of joint control of In-board Leiterplattentechnologie

**IP/00/1525 Date: 2000-12-21** Notice on merger remedies: how and when to cure dominance problems

**IP/00/1506 Date: 2000-12-21** EU Commission gives go-ahead for Siemens takeover of Mannesmann subsidiary Demag Krauss-Maffei

**IP/00/1505 Date: 2000-12-21** Commission clears creation of Studio Channel joint venture between Universal and NTL

**IP/00/1504 Date: 2000-12-20** Commission approves Peugeot acquisition of Sommer Allibert

**IP/00/1503 Date: 2000-12-20** Commission approves joint control of LTU by SAirGroup, REWE and Oppenheim

**IP/00/1500 Date: 2000-12-20** Commission clears a joint venture between Repsol and Borealis

**IP/00/1499 Date: 2000-12-20**

Commission clears a joint venture between Corus and Cogifer

**IP/00/1486 Date: 2000-12-18**

Commission clears Vodafone and BT joint control of Spanish mobile phone operator Airtel

**IP/00/1480 Date: 2000-12-18**

Commission clears Metsä-Serla acquisition of Zanders.

**IP/00/1479 Date: 2000-12-18**

Commission approves planned takeover by Georg Fischer and Westdeutsche Landesbank of Krupp Werner & Pfleiderer GmbH

**IP/00/1462 Date: 2000-12-14**

Commission approves merger in the Dutch insurance sector

**IP/00/1457 Date: 2000-12-13**

Commission authorises acquisition of control of Rexroth by Robert Bosch GmbH subject to conditions

**IP/00/1445 Date: 2000-12-12**

Aker Maritime withdraws takeover of Kvaerner as the Commission opens proceedings

**IP/00/1435 Date: 2000-12-08**

Commission clears merger between American hard disk drive producers Quantum HDD and Maxtor

**IP/00/1434 Date: 2000-12-08**

Commission authorises takeover of Moulinex by ELFI group

**IP/00/1433 Date: 2000-12-08**

Commission approves purchase by Dow of sole control of Gurit-Essex and Gurit-Essex Trading

**IP/00/1432 Date: 2000-12-08**

Commission authorises Creditanstalt, LASG and Austrian Airlines to acquire control of AirPlus

**IP/00/1428 Date: 2000-12-08**

Commission approves acquisition of German metal traders Bergmann and Hutzler by Enron

**IP/00/1427 Date: 2000-12-08**

Commission clears acquisition by Deutsche Bank and DBG of battery maker Varta

**IP/00/1426 Date: 2000-12-08**

Commission clears acquisition of Interpharm by Alliance UniChem



**IP/00/1425 Date: 2000-12-08**  
Commission opens in-depth inquiry into Aker Maritime's take-over of Kvaerner

**IP/00/1420 Date: 2000-12-06**  
Commission opens detailed inquiry into merger between Bombardier and Adtranz

**IP/00/1414 Date: 2000-12-06**  
Commission clears joint venture between Framatome and Siemens, after modification of the operation

**IP/00/1407 Date: 2000-12-05**  
Commission clears purchase by Stinnes of Holland Chemical International

**IP/00/1406 Date: 2000-12-05**  
Commission clears the merger of Outokumpu Steel and Avesta Sheffield

**IP/00/1384 Date: 2000-11-30**  
Commission authorises EdFs' acquisition of Cottam Power Station

**IP/00/1383 Date: 2000-11-30**  
Commission clears mobile B2B solutions joint venture between Cap Gemini and Vodafone

**IP/00/1373 Date: 2000-11-29**  
Commission clears merger between Smiths Industries and TI Group.

**IP/00/1350 Date: 2000-11-23**  
Commission clears Scottish & Newcastle buy of a stake in Portuguese brewer Centralcer

**IP/00/1349 Date: 2000-11-23**  
Commission clears helicopter joint venture between Agusta and Westland

**IP/00/1338 Date: 2000-11-22**  
Commission rules against Portuguese measures in a takeover bid for cement company Cimpor

**IP/00/1317 Date: 2000-11-16**  
Commission opens in-depth probe into two ventures between UK, Dutch and Singapore post offices

**IP/00/1309 Date: 2000-11-15**  
Commission authorises acquisition of Hurel-Dubois by SNECMA

**IP/00/1308 Date: 2000-11-15**  
Commission clears Preussag stake in Nouvelles Frontières

**IP/00/1307 Date: 2000-11-15**  
Commission clears acquisition of Bank Austria by HypoVereinsbank

**IP/00/1277 Date: 2000-11-09**  
The Commission authorises RAG's acquisition of North Goonyella Property Ltd

**IP/00/1267 Date: 2000-11-08**  
Commission clears acquisition of Postsparkasse by BAWAG

**IP/00/1266 Date: 2000-11-08**  
Commission approves joint venture between Babcock Borsig, mg technologies and SAP

**IP/00/1265 Date: 2000-11-08**  
Commission approves participation of Dana Corp in Getrag Getriebe- und Zahnradfabrik

**IP/00/1260 Date: 2000-11-08**  
Commission approves buyers for 70 motorway service stations belonging to TotalFina Elf

**IP/00/1231 Date: 2000-10-27**  
Commission clears Alcoa purchase of British Aluminium

**IP/00/1223 Date: 2000-10-27**  
Commission clears Magneti Marelli acquisition of sole control over its joint venture with Bosch.

**IP/00/1222 Date: 2000-10-27**  
Commission gives go-ahead for joint venture between Alcatel and Thomson Multimédia

**IP/00/1199 Date: 2000-10-26**  
Commission prepares to take action against Hutchison and the Port of Rotterdam for failure to notify the acquisition of ECT as a merger

**IP/00/1206 Date: 2000-10-24**  
Commission clears acquisition of Superdiplo by Ahold

**IP/00/1188 Date: 2000-10-19**  
Commission clears Avnet buy of Veba's European electronics distribution business

**IP/00/1186 Date: 2000-10-18**  
Commission clears the creation of the Airbus Integrated Company

**IP/00/1170 Date: 2000-10-17**  
Commission clears French cable TV venture between Suez-Lyonnaise, NTL and Morgan Stanley Dean Witter

**IP/00/1169 Date: 2000-10-17**  
Commission clears acquisition of Nabisco by Philip Morris.

**IP/00/1163 Date: 2000-10-16**  
Commission clears purchase by General Mills of Pillsbury from Diageo

**IP/00/1162 Date: 2000-10-16**  
Commission clears merger between Vivendi, Canal+ and Seagram subject to conditions

**IP/00/1159 Date: 2000-10-13**  
Commission raises concerns regarding partnership between Austrian Airlines and Lufthansa / SAS

**IP/00/1145 Date: 2000-10-11**  
Commission gives conditional approval to AOL/Time Warner merger

**IP/00/1139 Date: 2000-10-10**  
Commission authorises Daimler-Chrysler's acquisition of Detroit Diesel

**IP/00/1136 Date: 2000-10-09**  
Commission clears acquisition of Donaldson, Lufkin & Jenrette (DLJ) by Credit Suisse.

**IP/00/1131 Date: 2000-10-09**  
Commission authorises joint venture in e-commerce between Bayer, Deutsche Telekom and Infraser Höchst

**IP/00/1122 Date: 2000-10-05**  
EMI and Time Warner withdraw their notification to the Commission

**IP/00/1102 Date: 2000-10-03**  
Commission approves SAP and Siemens e-commerce joint venture

**IP/00/1100 Date: 2000-10-03**  
Commission clears joint control by Corus and Wuppermann over a new Dutch steel plant

**IP/00/1099 Date: 2000-10-03**  
Commission opens in-depth investigation into the joint control of EnBW by EDF and OEW

**IP/00/1091 Date: 2000-10-02**  
Commission authorises acquisition of Stadtwerke Kiel by TXU Germany.

## STATE AID

**IP/01/146 Date: 2001-01-31** Fisheries: Commission opens investigation into French and Spanish state aid schemes

**IP/01/145 Date: 2001-01-31** Commission moves over state aid to German vegetable processing company

**IP/01/141 Date: 2001-01-31** Commission authorises 151 million in State aid in favour of a Spanish fertiliser manufacturer

**IP/01/140 Date: 2001-01-31** Commission authorises aid for vocational training in Catalonia (Spain)

**IP/01/119 Date: 2001-01-26** Commission informs Germany of its position regarding guarantees to public banks

**IP/01/84 Date: 2001-01-23** Dutch fishermen allowed to land and auction catches in foreign ports following Commission action

**IP/01/63 Date: 2001-01-17** Commission authorises aid to Nissan in Sunderland (UK)

**IP/01/62 Date: 2001-01-17** Commission approves two state aid packages for the agricultural sector in Sardinia

**IP/01/61 Date: 2001-01-17** Fisheries : Commission opens investigation into proposed Belgian state aid scheme

**IP/01/9 Date: 2001-01-11** Commission approves EUR 1,138.7 million in assistance for the Picardy Region (France)

**IP/01/8 Date: 2001-01-11** Commission approves EUR 1,493.2 million in assistance for the Auvergne Region of France

**IP/01/33 Date: 2001-01-11** Commission approves a 7 billion development programme for Brandenburg

**IP/01/32 Date: 2001-01-11** Commission approves EUR 687 million package for east Berlin

**IP/01/29 Date: 2001-01-11** Commission approves programme worth

EUR 34.7 million to support France's national computer programme

**IP/01/28 Date: 2001-01-11** Commission approves EUR 1 906 million in assistance for the Aquitaine Region (France)

**IP/01/27 Date: 2001-01-11** Commission approves EUR 339.6 million assistance package for Alsace (France)

**IP/01/26 Date: 2001-01-11** Commission approves EUR 786 million in assistance for the Lower Normandy Region (France)

**IP/01/25 Date: 2001-01-11** Commission approves EUR 1 411.3 million in assistance for Brittany (France)

**IP/01/24 Date: 2001-01-11** Commission approves EUR 675.9 million programme for Upper Normandy (France)

**IP/01/23 Date: 2001-01-11** Commission adopts decision of principle on a 732.6 million euro aid programme for the Centre region

**IP/01/22 Date: 2001-01-11** Commission approves EUR 457 million in assistance for the Champagne-Ardenne Region

**IP/01/21 Date: 2001-01-11** Commission approves EUR 433 million in assistance for the Franche-Comté Region (France)

**IP/01/20 Date: 2001-01-11** Commission approves EUR 1,117.2 million aid programme for Languedoc-Roussillon (France)

**IP/01/19 Date: 2001-01-11** Commission approves EUR 1,338.1 million programme of assistance for Provence-Alpes-Côte d'Azur (France)

**IP/01/18 Date: 2001-01-11** Commission approves EUR 273 million in assistance for the Ile-de-France Region

**IP/01/17 Date: 2001-01-11** Commission approves EUR 575.3 million in assistance for the Limousin Region

**IP/01/16 Date: 2001-01-11** Commission approves EUR 1,870.9 mil-

lion assistance package for the Loire Region (France)

**IP/01/15 Date: 2001-01-11** Commission approves EUR 507 million in assistance for Lorraine

**IP/00/1531 Date: 2000-12-21** The Commission authorises German State aid to the coal-mining industry for the years 2000 and 2001

**IP/00/1522 Date: 2000-12-21** Commission adopts decision based on Article 86(3) on the provision of new postal services in Italy

**IP/00/1521 Date: 2000-12-21** Commission approves aid package for large and medium-sized firms in the assisted regions of Flanders

**IP/00/1520 Date: 2000-12-21** Commission adopts report on application of guidelines concerning state aid for employment

**IP/00/1519 Date: 2000-12-21** Commission adopts new Community guidelines on state aid for environmental protection

**IP/00/1518 Date: 2000-12-21** Commission approves Irish aid scheme "Research, Technology and Innovation Initiative"

**IP/00/1517 Date: 2000-12-21** Commission raises no objections to an aid scheme in favour of pre-competitive R&D in Italy

**IP/00/1515 Date: 2000-12-21** Commission investigates restructuring aid to German machine factory ZEMAG

**IP/00/1514 Date: 2000-12-21** Commission approves German development aid for a shipbuilding contract for Vietnam

**IP/00/1513 Date: 2000-12-21** Commission approves shipbuilding aid in Italy

**IP/00/1512 Date: 2000-12-21** Commission approves aid for Kranbau Köthen GmbH, Saxony-Anhalt

**IP/00/1511 Date: 2000-12-21** Commission decides aid for Zeuro Möbelwerk GmbH is incompatible with EC Treaty

**IP/00/1510 Date: 2000-12-21** Commission takes a negative final



decision on the reduced social contributions aid scheme in Sweden

**IP/00/1509 Date: 2000-12-21** On application by Germany, Commission decides that municipal aid for public swimming pool is not state aid

**IP/00/1483 Date: 2000-12-18** Commission approves 2.7 billion aid for Northern Ireland

**IP/00/1460 Date: 2000-12-13** Commission approves State aid to SKET Walzwerkstechnik, (Germany)

**IP/00/1452 Date: 2000-12-13** Commission approves Dutch development aid for two shipbuilding contracts for Indonesia

**IP/00/1450 Date: 2000-12-13** Commission decides that State aid in favour of Dutch manure processing companies is not compatible with the EC Treaty

**IP/00/1448 Date: 2000-12-13** Commission authorises an aid scheme for waste management in France

**IP/00/1447 Date: 2000-12-13** Commission authorises an aid scheme for renewable energy in France

**IP/00/1416 Date: 2000-12-06** Commission approves business infrastructure development scheme for Wales

**IP/00/1415 Date: 2000-12-06** Commission adopts group exemptions for State aid

**IP/00/1379 Date: 2000-11-29** Commission takes clear position on aid to shipbuilding and reinforces its position against South Korean unfair price practices

**IP/00/1378 Date: 2000-11-29** Commission closes case concerning aid to Italian steel companies with a negative decision

**IP/00/1377 Date: 2000-11-29** Incompatible employment aid in Italy: Commission refers case to the Court

**IP/00/1375 Date: 2000-11-29** Commission takes another look at French tax exemptions for biofuels

**IP/00/1374 Date: 2000-11-29** Commission approves aid to industrial development on Canaries

**IP/00/1370 Date: 2000-11-29** Farm aid : Go-ahead for 520 million agreements with candidate countries

**IP/00/1354 Date: 2000-11-23** Commission recalls its position concerning State aid to the Mezzogiorno

**IP/00/1337 Date: 2000-11-22** Commission approves five-year exemption from mineral oil tax for high-efficiency combined cycle power plants in Germany

**IP/00/1305 Date: 2000-11-15** Commission investigates aid to porcelain manufacturer Kahla in Thüringen

**IP/00/1304 Date: 2000-11-15** Commission decides that Italy may not grant aid in full to Solar Tech

**IP/00/1303 Date: 2000-11-15** Commission decides that employment aid granted by Belgium to Cockerill Sambre S.A. is illegal and orders its recovery

**IP/00/1302 Date: 2000-11-15** The Commission approves the plan to modernise, rationalise and restructure the United Kingdom coal industry

**IP/00/1300 Date: 2000-11-15** Green light for the prolongation of a Danish maritime training aid scheme

**IP/00/1247 Date: 2000-10-31** Commission revokes previous decision ordering recovery of aid from Tubacex (Spain)

**IP/00/1246 Date: 2000-10-31** State aid: Commission takes negative decision on Spanish tax credits for foreign investments, initiates procedure against similar French law

**IP/00/1245 Date: 2000-10-31** Commission closes investigation of aid to Ford Genk (Belgium)

**IP/00/1244 Date: 2000-10-31** Commission initiates investigation of three tax aid schemes in the Basque provinces

**IP/00/1243 Date: 2000-10-31** Commission approves aid to Schiffsanlagenbau Barth GmbH (Germany)

**IP/00/1242 Date: 2000-10-31** Commission adopts 14th Monitoring Report on steel aid cases

**IP/00/1181 Date: 2000-10-18** Aid for fishermen affected by non-renewal of Fisheries Agreement with Morocco extended to December 2000

**IP/00/1178 Date: 2000-10-18** Commission approves continuation of British R&D support scheme

**IP/00/1177 Date: 2000-10-18** Commission opens State aid proceedings on Regional Venture Capital Funds in England

**IP/00/1176 Date: 2000-10-18** Commission approves aid to R&D-project of Océ NV

**IP/00/1113 Date: 2000-10-04** The Commission amends Decision 1999/332 on state aid to Olympic Airways

**IP/00/1112 Date: 2000-10-04** European Commission approves Dutch subsidy for intermodal rail terminals in Rotterdam

**IP/00/1111 Date: 2000-10-04** Measures in favour of the pig sector in Portugal

**IP/00/1107 Date: 2000-10-04** Commission considers aid to Verlipack, Wallonia, incompatible with the common market

**IP/00/1106 Date: 2000-10-04** Commission authorises Italian aid scheme for regularising position of illegal workers

**IP/00/1105 Date: 2000-10-04** Commission approves French aid to victims of the 1999 storms and the Erika oil spill

**IP/00/1104 Date: 2000-10-04** Commission investigates fiscal aid to Italian banks

**COURT OF JUSTICE / COURT OF FIRST INSTANCE**

*DEVANT LE TRIBUNAL*

**Aff. T-175/00**

**Anthony Goldstein / Commission**

Recours en carence visant à faire constater que la Commission s'est illégalement abstenue de prendre une décision dans le cadre d'une procédure concernant la prétendue infraction des articles 81 et 82 du traité CE par le «General Medical Council»

**Aff. T-180/00**

**Aff. T-185/00**

**Métropole Télévision - M6 / Commission**

Annulation de la décision 2000/400/CE de la Commission, du 10 mai 2000, relative à une procédure d'application de l'article 81 du traité CE (Affaire n. IV/32.150 Eurovision) déclarant inapplicables les dispositions de l'article 81, paragraphe 1, du traité CE et celles de l'article 53, paragraphe 1, de l'accord EEE à certaines règles internes de l'Union européenne de radio-télévision (UER) régissant l'acquisition en commun des droits de télévision pour les manifestations sportives et le partage de ces droits, l'échange du signal pour les manifestations sportives et le régime d'accès des tiers aux droits sportifs Eurovision

**Aff. T-188/00**

**Comité international de la Rayonne et des Fibres synthétiques (CIRFS) / Commission**

Annulation de la décision de la Commission SG(2000)D/102503, du 20 mars 2000, autorisant l'aide accordée par les autorités allemandes à la Delon Filament GmbH, sous forme de contributions finan-

cières aux investissements envisagés dans l'usine de production de fibre de polyamide à Rudolstadt, dans le cadre de la privatisation de celle-ci

**Aff. T-190/00**

**Regione Siciliana / Commission**

Annulation de la décision de la Commission du 22 décembre 1999 (2000/319/CE) relative au régime d'aides d'Etat institué par l'Italie en faveur de la production, de la transformation et de la commercialisation de produits visés à l'annexe I du traité CE (loi n. 68 du 27 septembre 1995 de la région de Sicile), dans la mesure où elle déclare aides d'Etat incompatibles avec le marché commun les aides instituées par l'article 6 de la loi régionale en cause en faveur d'entreprises du secteur de l'agriculture ou de la pêche

**Aff. T-212/00**

**Nuove Industrie Molisane Srl / Commission**

Annulation partielle de la décision de la Commission SG(2000)D/103923, du 30 mai 2000, concernant l'aide accordée à la requérante par les autorités italiennes sur la base de l'«encadrement multisectoriel des aides à finalité régionale en faveur de grands projets d'investissement» dans la mesure où elle fixe à 0,75 le facteur «état de la concurrence» dans le calcul de l'intensité maximale de l'aide admissible

**Aff. T-213/00**

**CMA CGM e.a. / Commission**

Annulation de la décision de la Commission, du 16 mai 2000, relative à une procédure d'application de l'article 81 du traité CE (affaire n. IV/34.018 - Far East Trade Tariff Charges and Surcharges Agreement (FETTCSA)) ou, à titre subsidiaire, la réduction des amendes imposées aux requérantes

**Aff. T-216/00**

**Antena 3 de Televisión SA / Commission**

Annulation de la décision 2000/400/CE de la Commission, du 10 mai 2000, relative à une procédure d'application de l'article 81 du traité CE (Affaire n. IV/32.150 - Eurovision) déclarant inapplicables les dispositions de l'article 81, paragraphe 1, du traité CE et celles de l'article 53, paragraphe 1, de l'accord EEE à certaines règles internes de L'Union européenne de radio-télévision (UER) régissant l'acquisition en commun des droits de télévision pour les manifestations sportives et le partage de ces droits, l'échange du signal pour les manifestations sportives et le régime d'accès des tiers aux droits sportifs Eurovision

**Aff. T-218/00**

**Cooperativa Mare Azzurro Soc. coop. rl e.a. / Commission**

Annulation de la décision 2000/394/CE de la Commission, du 25 novembre 1999, concernant les mesures d'aides en faveur des entreprises implantées sur le territoire de Venise et de Chioggia, prévues par les lois n. 30/1997 et n. 206/1995 instituant des réductions de charges sociales (notifiée sous le numéro C(1999)4268)

**Aff. T-220/00**

**Cheil Jedang Corporation / Commission**

Annulation ou, à titre subsidiaire, la réduction de l'amende imposée par la décision de la Commission, du 7 juin 2000, relative à une procédure d'application de l'article 81 du traité CE (Case COMP/36.545/F3 - Amino Acids)

**Aff. T-221/00**

**Casinò municipale di Venezia Spa / Commission**

Annulation de la décision 2000/394/CE de la Commission, du



25 novembre 1999, concernant les mesures d'aides en faveur des entreprises implantées sur le territoire de Venise et de Chioggia, prévues par les lois n. 30/1997 et n. 206/1995 instituant des réductions de charges sociales (notifiée sous le numéro C(1999)4268)

**Aff. T-222/00**

**Otto Wöhr GmbH / Commission**  
Annulation de la décision de la Commission, du 26 juin 2000, de ne pas engager la procédure prévue à l'article 88, paragraphe 2, du traité CE, suite à la plainte de la requérante concernant les aides prétendument accordées par les autorités allemandes à Hydraulik Markkrantsädt (NN 48/98) et à Hydraulik Seehausen (NN 49/98)

**Aff. T-223/00**

**Kyowa Hakko Kogyo Co. Ltd / Commission**  
Annulation ou, à titre subsidiaire, la réduction de l'amende imposée à la requérante par la décision de la Commission, du 7 juin 2000, relative à une procédure d'application de l'article 81 du traité CE (Case COMP/36.545/F3 - Amino Acids)

**Aff. T-224/00**

**Archer Daniels Midland Company et Archer Daniels Midland Ingredients Ltd / Commission**  
Voir l'affaire T-223/00

**Aff. T-228/00**

**Gruppo Ormeggiatori del Porto di Venezia Soc. coop. rl / Commission**  
Voir l'affaire T-221/00

**Aff. T-229/00**

**Gruppo Ormeggiatori del Porto di Chioggia Piccola Soc. coop. rl / Commission**  
Voir l'affaire T-221/00

**Aff. T-230/00**

**Daesang Corporation et Sewon Europe GmbH / Commission**  
La réduction de l'amende imposée aux requérants par la décision de la Commission, du 7 juin 2000, relative à une procédure d'application de l'article 81 du traité CE (affaire COMP/36.545/F.3 - Amino Acids)

**Aff. T-231/00**

**Adriatica di Navigazione SpA et Comitato «Venezia Vuole Vivere» / Commission**  
Voir l'affaire T-221/00

**Aff. T-234/00**

**Fondazione Opera S. Maria della Carità / Commission**  
Voir l'affaire T-221/00

**Aff. T-235/00**

**Codess Sociale Cooperativa sociale Soc. coop. rl e.a. / Commission**  
Voir l'affaire T-221/00

**Aff. T-241/00**

**Azienda Agricola «Le Canne» Srl / Commission**  
Annulation de la décision de la Commission C(2000)1754, du 11 juillet 2000, portant réduction de l'aide accordée à la requérante pour la modernisation et l'aménagement d'une unité de production d'aquaculture à Rosalina (Veneto) dans le cadre du règlement (CEE) n. 4028/86 du Conseil, du 18 décembre 1986, relatif à des actions communautaires pour l'amélioration et l'adaptation des structures du secteur de la pêche et de l'aquaculture

**Aff. T-242/00, T-243/00, T-257/00, T-258/00, T-259/00, T-264/00, T-265/00, T-267/00**

**Compagnia Lavoratori Portuali Soc. coop. rl et Società Cooperativa Lavoratori Portuali San Marco Venezia Soc. coop. rl / Commission**

**Portabagagli del Porto di Venezia Soc. coop. rl / Commission**  
**Fondamente Nuove Servizio Taxi e Noleggio Soc. coop. rl et Bucintoro**  
**Motoscavi Servizio Taxi e Noleggio Soc. coop. rl / Commission**  
**Multiservice Srl / Commission**  
**Veneziana di Navigazione SpA / Commission**

**Compagnia Generale delle Acque SpA / Commission**  
**Cooperativa Traghetto Santa Lucia Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**  
**Cooperativa Daniele Manin fra Gondolieri di Venezia Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**  
Voir l'affaire T-221/00

**Aff. T-245/00, T-246/00, T-248/00**  
**Abibes SpA / Commission**  
**Fluvio Padana Srl / Commission**  
**Integrated Shipping Company SpA (ISCO) / Commission**  
Voir l'affaire T-221/00

**Aff. T-247/00, T-250/00**  
**Serenissima Motoscavi Srl / Commission**  
**Società Cooperativa Veneziana Motoscavi Soc. coop. rl e.a. / Commission**  
Voir l'affaire T-221/00

**Aff. T-251/00**  
**Lagardère SCA e.a. / Commission**  
Annulation de la décision de la Commission, du 10 juillet 2000, prise dans le cadre d'une procédure d'application du règlement (CEE) n. 4064/89 du Conseil (affaire n. COMP/JV 40 Canal+/Lagardère et COMP/JV 47 Canal+/Lagardère/Liberty Media) et portant modification de la décision de la Commission, du 22 juin 2000, ayant déclaré compatible avec le marché commun et avec l'accord EEE l'opération de concentration visant à la création d'une série d'entreprises communes entre des sociétés du groupe Lagardère

dère, des sociétés du groupe Canal+ et Liberty dans le domaine de l'édition de chaînes thématiques et des services interactifs de télévision et dans la distribution de bouquets multichaines, dans la mesure où la modification consiste à qualifier de non accessoires certaines des clauses restrictives déclarées accessoires par la première décision

**Aff. T-252/00**

**Cooperativa Ducale Fra Gondolieri di Venezia Soc. coop. rl et Gondolieri Bauer Soc. coop. rl / Commission**

Voir l'affaire T-221/00

**Aff. T-253/00, T-255/00, T-256/00**

**Bauer SpA / Commission**  
**Ciga Hôtels Italia Srl e.a. / Commission**

**SACRA Srl / Commission**

Voir l'affaire T-221/00

**Aff. T-254/00**

**Hôtel Cipriani SpA / Commission**

Voir l'affaire T-221/00

**Aff. T-260/00, T-261/00, T-262/00, T-263/00**

**Cooperativa San Marco fra Lavoratori della Piccola Pesca - Burano Soc. coop. rl e.a. / Commission**  
**Sacaim SpA e.a. / Commission**  
**La Vigile San Marco SpA / Commission**

**La Navale Soc. coop. rl / Commission**

Voir l'affaire T-221/00

**Aff. T-266/00**

**Transport Lines Snc e.a. / Commission**

Voir l'affaire T-221/00

**Aff. T-268/00**

**Conepo Servizi Soc. coop. rl / Commission**

Voir l'affaire T-221/00

**Aff. T-269/00, T-271/00, T-272/00, T-273/00**

**Baglioni Hôtels SpA et Sagar Srl / Commission**

**Ligabue Catering SpA / Commission**

**Alfredo Barbini Srl e.a. / Commission**

**Unione degli industriali della provincia di Venezia (Unindustria) e.a. / Commission**

Voir l'affaire T-221/00

**Aff. T-270/00**

**Società Italiana per il gas SpA (Italgas) / Commission**

Voir l'affaire T-221/00

**Aff. T-274/00, T-275/00, T-276/00, T-277/00, T-278/00, T-279/00, T-280/00, T-281/00, T-282/00, T-283/00, T-284/00, T-285/00, T-286/00, T-287/00, T-288/00, T-289/00, T-290/00, T-291/00, T-292/00, T-293/00, T-294/00, T-295/00, T-296/00**

**Verde Sport SpA et comitato «Venezia Vuole Vivere» / Commission**

**Cooperativa carico scarico e trasporti scalo fluviale Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**

**Cipriani SpA et Comitato «Venezia Vuole Vivere» / Commission**

**Coopservice - Servizi di fiducia Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**

**Albergo Quattro Fontane Snc et Comitato «Venezia Vuole Vivere» / Commission**

**Hôtel Gabrielli Sandwirth SpA et Comitato «Venezia Vuole Vivere» / Commission**

**Astrocoop - Universale Pulizie, manutenzioni e trasporti Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**

**Cooperativa Trasbagagli Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**

**GE-AL.VE. Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Metropolitan Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Hôtel Concordia Snc et Comitato «Venezia Vuole Vivere» / Commission**

**Manutencoop Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**

**Società per l'Industria Alberghiera (SPLIA) et Comitato «Venezia Vuole Vivere» / Commission**

**Cooperativa fra Portabagagli della stazione di Venezia Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Gardena Hôtels Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Albergo ristorante «All'Angelo» Snc et Comitato «Venezia Vuole Vivere» / Commission**

**Albergo Saturnia Internazionale Spa et Comitato «Venezia Vuole Vivere» / Commission**

**Savoia e Jolanda Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Hôtels Biasutti Snc et Comitato «Venezia Vuole Vivere» / Commission**

**Ge.A.P. Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Rialto Inn Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Bonvecchiati Srl et Comitato «Venezia Vuole Vivere» / Commission**

**Cooperativa Braccianti Mercato Ittico «Tronchetto» Soc. coop. rl et Comitato «Venezia Vuole Vivere» / Commission**

Voir l'affaire T-221/00

**Aff. T-299/00**

**Gestevisión Telecinco SA / Commission**

Annulation de la décision 2000/400/CE de la Commission, du 10 mai 2000, relative à une procédure d'application de l'article 81 du traité CE (Affaire n. IV/32.150 Eurovision) déclarant inapplicables les





dispositions de l'article 81, paragraphe 1, du traité CE et celles de l'article 53, paragraphe 1, de l'accord EEE à certaines règles internes de l'Union européenne de radio-télévision (UER) régissant l'acquisition en commun des droits de télévision pour les manifestations sportives et le partage de ces droits, l'échange du signal pour les manifestations sportives et le régime d'accès des tiers aux droits sportifs Eurovision

**Aff. T-300/00**

**Sociedade Independente de Comunicação SA (SIC) / Commission**

Voir l'affaire T-299/00

**Aff. T-302/00**

**Anthony Goldstein / Commission**

Annulation de la décision de la Commission, du 7 juillet 2000, portant rejet de la plainte introduite par le requérant à l'encontre du «General Medical Council», sur base d'une prétendue violation des articles 81 et 82 du traité CE

**Aff. T-308/00**

**Salzgitter AG / Commission**

Annulation de la décision de la Commission K(2000)1963 def, du 28 juin 2000, relative aux aides accordées par les autorités allemandes à Salzgitter en application de la loi allemande visant à contribuer au développement de la zone le long de la frontière avec l'ancienne RDA

**Aff. T-310/00**

**Worldcom Inc. / Commission**

Annulation de la décision de la Commission, du 28 juin 2000, déclarant une opération de concentration incompatible avec le marché commun et avec le fonctionnement de l'accord sur l'Espace économique européen (affaire COMP/M. 1741 - MCI WorldCom/Sprint) [notifiée sous le numéro C(2000) 1693] - Marché de la fourniture de connec-

tivité Internet de niveau 1 ou universelle

**Aff. T-317/00**

**AgipPetroli SpA / Commission**

Annulation de la décision SG(2000)D/106729 de la Commission, du 13 septembre 2000, rejetant la demande d'agrément des candidats repreneurs des stations-services sur des autoroutes françaises en exécution des engagements de désinvestissement (cessions d'actifs) pris par la société TotalFina Elf dans le cadre de l'opération de concentration entre TotalFina et Elf Aquitaine (Affaire n. COMP/M.1628 - TotalFina/Elf)

**Aff. T-318/00**

**Freistaat Thüringen / Commission**

Annulation de la décision K(2000)1728 déf. de la Commission, du 21 juin 2000, concernant les aides accordées par les autorités allemandes à CDA Compact Disc Albrechts GmbH, Thüringen

**Aff. T-324/00**

**CDA Datenträger Albrechts GmbH / Commission**

Voir l'affaire T-318/00

**Aff. T-326/00**

**Anthony Goldstein / Commission**

Annulation de la décision de la Commission, du 10 août 2000, portant rejet de la plainte introduite par le requérant à l'encontre du «General Medical Council», sur base d'une prétendue violation des articles 81 et 82 du traité CE

**DEVANT LA COUR**

**Aff. C-226/00 P**

**Anthony Goldstein / Commission**

: Pourvoi formé contre l'ordonnance du Tribunal de première instance (quatrième chambre) du 16 mars

2000, Goldstein / Commission (T-262/99) rejetant la demande en indemnité visant à obtenir réparation du préjudice prétendument subi par le requérant suite au défaut de la part de la Commission d'avoir fourni, en application de l'article 5 du traité CE (devenu article 10 CE) et conformément à la Communication relative à la coopération entre la Commission et les juridictions nationales pour l'application des articles 85 et 86 du traité CE, certains renseignements demandés par la juridiction nationale saisie par le requérant

**Aff. C-241/00 P**

**Kish Glass Co. Ltd / Commission Pilkington United Kingdom Ltd :**

Pourvoi contre l'arrêt du Tribunal de première instance (quatrième chambre) du 30 mars 2000, Kish Glass Company / Commission (T-65/96) - Refus d'annuler la décision de la Commission, du 21 février 1996, rejetant la plainte de la requérante relative à une procédure d'application de l'art. 86 du traité CE (devenu art. 82 CE) (affaire IV/34.193 - Kish Glass)

**Aff. C-242/00**

**Allemagne / Commission :** Annulation de la décision K (2000)809 de la Commission en ce qu'elle ne déclare compatible avec le Marché commun qu'une partie seulement des aides régionales (Bund-Länder-Gemeinschafts-aufgabe «Verbesserung der regionalen Wirtschaftsstruktur» - tâches communes pour l'amélioration des structures économiques régionales) notifiées au titre de l'art. 92, par. 3, sous c), du traité CE (devenu, après modification, art. 87 CE) pour les années 2000 à 2003

**Aff. C-252/00**

**Jean-Michel Vandeweerd :** Préjudicielle - Conseil mixte d'appel d'expression française de l'Ordre des médecins vétérinaires - Interpréta-



tion de l'art. 85 du traité CE (devenu art. 81 CE) - Interdiction de publicité décidée par une organisation professionnelle à titre de règle déontologique

**Aff. C-280/00**

**Altmark Trans GmbH Regierungspräsidiums Magdeburg et Nahverkehrsgesellschaft Altmark GmbH** : Préjudicielle - Bundesverwaltungsgericht - Interprétation de l'art. 92 du traité CE (devenu, après modification, art. 87 CE) - Champ d'application comprenant, ou non, les aides destinées à compenser le déficit d'un transport public de personnes urbain, suburbain ou régional - Interprétation de l'art. 77 du traité CE (devenu art. 73 CE) et du règlement (CEE) n. 1191/69 du Conseil, du 26 juin 1969, relatif à l'action des Etats membres en matière d'obligations inhérentes à la notion de service public dans le domaine des transports par chemin de fer, par route et par voie navigable - Portée de l'art. 1, par. 1, alinéa 2, du règlement (CEE) n. 1191/69 tel que rédigé par le règlement (CEE) n. 1893/91 du Conseil, autorisant les Etats membres à exclure du champ d'application du règlement les entreprises dont l'activité est limitée exclusivement à l'exploitation de services urbains, suburbains ou régionaux

**Aff. C-286/00**

**Italie / Commission** : Annulation de la lettre de mise en demeure n. SG (2000), D/103687, du 16 mai 2000, par laquelle la Commission maintient que la République italienne, en étendant le monopole postal afin de couvrir les services de distribution à valeur ajoutée du courrier électronique hybride, de la correspondance administrative par express et de la correspondance des entreprises locales, a violé les art. 90, par 1, et 86 du traité CE (devenus art. 86 et 82 CE) et communi-

que son intention d'adopter certaines mesures par une décision au sens de l'art. 90, par. 3, du traité CE (devenu art. 86 CE)

**Aff. C-293/00**

**Pays-Bas / Commission** : Annulation de la décision 2000/362/CE de la Commission, du 25 mai 2000, relative au montant total de l'aide financière de la Communauté dans le cadre de l'éradication de la peste porcine classique aux Pays-Bas en 1997 - Réduction de 25 % du montant déclaré par les Pays-Bas

**Aff. C-314/00**

**Kraft Jacobs Suchard Österreich GmbH et Eduard Mitsche et Maria Mitsche Peter Roman** : Préjudicielle - Oberster Gerichtshof - Interprétation de l'art. 85 du traité CE (devenu art. 81 CE) et du règlement (CEE) n. 1984/83 de la Commission, du 22 juin 1983, concernant l'application de l'art. 85, par. 3, du traité à des catégories d'accords d'achat exclusif - Contrat d'achat exclusif de café conclu par un restaurateur pour une durée d'au moins 3 ans - Etendue d'une éventuelle nullité, notamment en ce qui concerne l'obligation de rembourser (pro rata) l'avance sur le rabais escompté pour la durée du contrat

**Aff. C-323/00 P**

**DSG - Dradenauer Stahlgesellschaft mbH / Commission** : Pourvoi formé contre l'arrêt du Tribunal (cinquième chambre élargie) du 29 juin 2000, Dradenauer Stahlgesellschaft / Commission (T-234/95) par lequel le Tribunal a rejeté un recours visant à l'annulation de la décision 96/236/EGKS de la Commission concernant une aide d'Etat - Notion d'«ensemble économique» - Notion d'«investisseur privé»

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**Republik Österreich et Martin Huber** : Préjudicielle - Oberster

Gerichtshof - Validité et interprétation du règlement (CEE) n. 2078/92 du Conseil, du 30 juin 1992, concernant des méthodes de production agricole compatibles avec les exigences de la protection de l'environnement ainsi que l'entretien de l'espace naturel - Base juridique - Art. 42 du traité CE (devenu art. 36 CE) et art. 43 du traité CE (devenu, après modification, art. 37 CE) ou art. 130 S du traité CE (devenu, après modification, art. 175 CE) - Etendue et contenu de l'approbation de la Commission pour le programme d'aides présenté par l'Autriche - Aide octroyée illégalement à la suite d'une erreur administrative - Récupération

**Aff. C-338/00 P Volkswagen AG /**

**Commission** : Pourvoi formé contre l'arrêt du Tribunal de première instance (quatrième chambre) du 6 juillet 2000, Volkswagen / Commission (T-62/98) - Rejet d'un recours en annulation contre la décision 98/273/CE de la Commission, du 28 janvier 1998, relative à une procédure d'application de l'art. 85 du traité CE (devenu article 81 CE) - Distribution de véhicules automobiles en Italie

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**Conseil national des professions de l'automobile (CNPA) e.a. /**

**Commission** : Pourvoi formé contre l'ordonnance du Tribunal de première instance (troisième chambre) du 12 juillet 2000, Conseil national des professions de l'automobile e.a. / Commission (T-45/00) - Rejet comme irrecevable du recours en annulation du règlement (CE) n. 2790/1999 de la Commission, du 22 décembre 1999, concernant l'application de l'art. 81, par. 3, du traité à des catégories d'accords verticaux et de pratiques concertées, présenté par un nombre de petites et moyennes entreprises et des associations représentant de telles entreprises



**Aff. C-398/00**

**Espagne / Commission :** Annulation d'une décision de la Commission, du 22 août 2000, par laquelle la Commission entame une procédure d'investigation formelle relative à l'apport de capital et d'aides régionales à la société Santana Motor SA

**Aff. C-399/00**

**SIM 2 Multimedia SpA / Commission :** Renvoi du Tribunal de

première instance - Aide accordée par la région Friuli-Venezia et le gouvernement italien à Seleco SpA

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Competition Policy Newsletter 2001  
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## ➤ INFORMATION SECTION



## Formule 1, transferts de footballeurs : deux nouvelles illustrations de l'application de la politique européenne de la concurrence au secteur du sport

*Jean-François PONS, Directeur Général Adjoint*

Formule 1, transferts de footballeurs : deux nouvelles illustrations de l'application de la politique européenne de la concurrence au secteur du sport

Depuis plusieurs années (et notamment depuis l'arrêt Bosman de 1995), les services de la Commission européenne ont eu à traiter de nombreux dossiers de concurrence liés au domaine du sport (le plus souvent sur plainte). Les développements récents dans deux affaires largement commentées dans la presse (Fédération Internationale de l'Automobile - Formula One (FIA/FOA), règles de la FIFA relative aux transferts internationaux des footballeurs) illustrent l'application des règles de concurrence au secteur sportif. Ces développements, qui se situent dans la ligne de plusieurs arrêts importants de la Cour de Justice dans ce domaine (Delière, Lehtonen), confirment les orientations fondamentales que la Commission européenne avait définies dans son rapport au Conseil européen d'Helsinki en 1999, ainsi que d'autres décisions récentes (Mouscron, agents de joueurs). Elles sont aussi conformes à la déclaration du Conseil européen de Nice sur le sport.

### Formule 1

La Commission européenne avait fait part de ses griefs en juillet 1999 sur plusieurs dispositions des accords existants, en particulier sur le conflit entre le rôle légitime de la FIA comme régulateur du sport automobile et ses intérêts dans le domaine commercial. Pour la Commission, les accords entre la FIA et FOA, l'entreprise en charge de la vente des droits des courses de Formule 1, aboutissaient à imposer des contrats restrictifs de concurrence aux parties tierces.

A la suite de longues discussions, les règles de la FIA et les arrangements commerciaux ont été substantiellement modifiés. En particulier, le rôle de la FIA sera limité à celui d'un régulateur impartial (en charge notamment d'assurer la sécurité des courses) et FOA a accepté des modifications permettant que d'autres compétitions mondiales que la Formule 1 puissent concurrencer celle-ci. Ces nouvelles dispositions devraient satisfaire les différents acteurs du sport automobile, ainsi que les spectateurs et les téléspectateurs.

Dans ces conditions, le Commissaire Monti a estimé que des réponses satisfaisantes ont été ap-

portées aux griefs, sous réserve des commentaires des tiers qui seront sollicités par une communication 19-3.

Règles FIFA des transferts internationaux de footballeurs

A la suite également de longues discussions entre la Commission européenne, la FIFA et l'UEFA, ainsi que d'autres membres de "la famille du football", la FIFA s'est engagée à modifier profondément les règles des transferts internationaux de footballeurs, afin de les rendre compatibles avec l'article 81, ainsi qu'avec l'article 39 (libre circulation des travailleurs).

Les nouvelles règles ne prévoient des indemnités de transfert en fin de contrat que pour la formation des jeunes joueurs. Ces indemnités seront fonction des coûts réels de formation et aboutiront notamment à encourager et récompenser les efforts de formation des petits clubs professionnels et amateurs. Ceux-ci bénéficieront d'un mécanisme de redistribution justifié par leur rôle sportif et social.

Par ailleurs, les transferts ne devront plus prendre place en cours de saison afin de ne pas fausser les résultats des compétitions.

La durée des contrats sera limitée à 5 ans et les conditions de rupture unilatérale difficiles au cours d'une période de 2 ou 3 ans sauf juste cause ou juste cause sportive, afin de favoriser une certaine stabilité de la composition des équipes, seront assou-

plies après cette période protégée.

Les litiges relatifs aux ruptures de contrat pourront être portés devant les tribunaux nationaux ou devant un tribunal composé à parité de représentants des joueurs et des clubs et avec un président indépendant.

Compte tenu de ces engagements de la FIFA, détaillés dans une lettre adressée par le Président Blatter au Commissaire Monti, la Commission estime qu'elle peut envisager une solution positive à la procédure ouverte sur la base de l'article 81 à l'égard de la FIFA.

Les développements de ces deux affaires confirment que les règles de concurrence s'appliquent au domaine du sport, mais en tenant compte de ses spécificités

Il est d'abord réconfortant de constater que d'importantes fédérations internationales sportives, qui s'étaient longtemps cru au-dessus des règles du Traité de l'Union européenne (et en parti-

culier de ses règles concurrence), acceptent aujourd'hui de modifier leurs règlements et leurs accords pour les rendre compatibles avec le Traité.

Cependant, l'application de ces règles doit tenir compte de la spécificité du sport (même du sport professionnel générant des revenus élevés) par rapport aux autres secteurs économiques. Cette spécificité résulte de trois éléments principaux:

- L'existence de règles purement sportives liées au bon fonctionnement des compétitions (par exemple, les règles de sécurité dans le cas de la FIA);
- L'existence de règles visant plus particulièrement un certain équilibre entre les compétitions et à ce que cet équilibre ne soit pas faussé au cours de la compétition (ce dernier point pouvant justifier la limitation des transferts);
- Enfin, des impératifs de solidarité et donc des règles de

distribution peuvent être justifiés entre le sport professionnel de haut niveau et les niveaux inférieurs (y compris le sport amateur). Ainsi, des règles de transferts aboutissant à une redistribution en faveur des petits clubs de football (professionnels et amateurs) sont justifiées parce que ces clubs contribuent à la formation de joueurs professionnels de tout niveau et aussi parce qu'ils jouent souvent aussi un rôle important d'intégration sociale.

## Conclusion

Le monde du sport, qui connaît une importance économique grandissante, a besoin d'un cadre juridique clair et sûr. Les efforts récents de la Commission et des acteurs éminents que sont la FIFA et l'UEFA pour le football ou la FIA et la FOA pour la Formule 1 ont permis des progrès substantiels dans cette voie.