

**COMPETITION LAW
IN THE EUROPEAN
COMMUNITIES**

September, 2000

Volume 23, Issue 9

FRANKLIN PIERCE
LAW CENTER LIBRARY
CONCORD, N. H.
OCT 13 2000

FAIRFORD PRESS

Publisher and Editor: Bryan Harris

**Fairford Review : EU Reports :
EU Services : Competition Law
in the European Communities**

58 Ashcroft Road, Cirencester GL7 1QX, UK
P O Box 323, Eliot ME 03903-0323, USA

www.fairfordpress.com

Tel & Fax (44) (0) 1451 861 464
Tel & Fax (1) (207) 439 5932

Email: anharr@cybertours.com

September, 2000

Volume 23 Issue 9

COMPETITION LAW IN THE EUROPEAN COMMUNITIES

Copyright © 2000 Bryan Harris
ISSN 0141-769X

CONTENTS

201 COMMENT

Competition and the Internet

202 PRICING POLICY (MOTOR FUEL)

Commission Memorandum

207 COOPERATION AGREEMENTS (MOTOR VEHICLES)

The GM / FIAT Case

209 PRICING POLICY (LEASED LINES)

Commission Inquiry

213 DOMINANT POSITION (PENSION SCHEMES)

The Pavlov Case

MISCELLANEOUS REPORTS

Three State Aid Cases

208

Competition and the Internet

For most commentators, it is almost self-evident that the Internet has salutary effects on commercial competition. It is a low-cost "production factor", freely available to all industries and so expansive as to prevent anyone from exploiting its scarcity value. It facilitates the development of trade on a playing-field as level as everyone could wish. It is associated with unprecedented successes among new entrants. The provision of Internet access and services may be subject to restrictions of competition, of which the Microsoft and other cases are actual or potential examples; but the Internet itself appears to be either beneficial from a competitive point of view or, at the least, a neutral factor.

It is therefore refreshing to find an economist, who works with the Commission in Brussels (but speaks for himself and not for the Commission in this respect) raising some legitimate queries about the effects of the Internet on competition. Bernardo Urrutia presented a paper at UIMP, Barcelona, on 10 July, 2000, in which he offered "some cautious reflections about possible threats to competition" in the light of developments in the use of the Internet. Mr Urrutia states fairly enough its positive aspects. "For many companies, the Internet represents a business opportunity, the possibility of carrying out investment projects with high expected return rates, improving the competitive edge or for the purposes

of corporate diversification strategies. For many other companies – for some economic sectors as a whole in some cases – the Internet may represent a serious threat, as the functions they perform will disappear with the development of e-commerce. This would be the case of many intermediary functions (wholesalers, retailers) for which direct Internet competition is possible. The Internet does not only threaten intermediary functions. It is also a challenge for territorial protection agreements, that is, for the reseller who obtains full exclusivity for commercialising some goods in a given territory. The Internet makes it very easy to know at what prices these goods are offered in contiguous or far away territories and provides the means to obtain them from different resellers."

However, in at least two respects, these very advantages may have their drawbacks, leading "to many traditional retailers and businesses categories opposing the new forms of competition over the Internet"; and, "for the purposes of full exploitation of Internet business possibilities, we are witnessing a concentration of economic power ... that could well be necessary for the foundation of the so-called new economy but that could also mean that the market structures in that new economy will be controlled by a limited number of players at world-wide level". The author cites the intended mergers between America on Line and Time Warner and between Vivendi/Canal Plus and Seagram. ■