Introduction

Philip LOWE, Director-General, Directorate-General Competition

This is the first edition of the Competition Policy Newsletter to appear since I took up office on 1 September as Director General of DG Competition. Much has changed since I left the DG and my post as Director of the Merger Task Force in 1995, not least the name of the department itself. Under the firm guidance of my predecessor, Alex Schaub, and the able leadership of Mr Monti, DG COMP has achieved impressive results. However, the importance of the tasks entrusted to us remains constant, as does the challenge of adapting our competition policy to the changing economic and political environment of the times.

The Autumn ahead is bound to be a busy one for each of the three strands of EU competition policy — anti-trust, state aids and mergers — as the Commission has set itself ambitious aims.

In November, we hope that the Council will adopt the Modernization Regulation which will launch a revolution in the application of anti-trust law. This will be a tremendous achievement for DG Competition. It will demonstrate the commitment which we have to ensure a really effective enforcement of EU competition law in the framework in which the EU institutions, national competition authorities and national courts all play legitimate and crucial roles. But already, work is starting to move on to preparing for how the new régime will work in practice. On the one hand, the Commission will need to adopt ground rules clarifying its practice for the business and legal communities. We need to make clear what the rules should be on allocation of cases within the network of EU competition authorities. We also need to make clear where the Commission will place its enforcement priorities. Pragmatism and flexibility are essential. But we also need to guarantee a minimum of predictability and certainty in the procedures. On the other hand, we will have to decide on, and put in place an organizational structure within DG Competition which best meets enforcement needs post-modernization. Among the key requirements here will be to ensure an effective and on-going dialogue on cases and sectoral issues with corresponding departments in national authorities, to deepen our knowledge of developments in priority sectors, but at the same time maintain the visibility and integrity of our across-the-board action in areas such as merger control and the attack on cartels.

During the last two years, work on streamlining procedures in the state aids area has been intensified. This should culminate next year in Commission decisions on a wide range of improvements. Faced with some legitimate criticism, the Commission will have to redouble its efforts to further simplify, modernise and clarify State aid rules and procedures. It will also need to articulate and communicate state aid policies to a wider public in a more comprehensible and transparent way. A more effective enforcement of State aid policy in a significantly enlarged Union will also require new forms of collaboration with the Member States. A communication on substantive issues of state aid policy is therefore also on the agenda for the coming months.

A year ago we launched a review of EU merger control. We have had an encouraging response from governments, from the legal and business communities and from civil society. The comments we received remain overwhelmingly positive. We have the most transparent and expeditious merger control procedure in the world. But there is as always continuing room for improvement, whether in terms of substantive law, or due process or in terms of our internal organization. By the end of the year at the latest, we will submit detailed proposals for changes in the Merger Regulation and implementing regulations and rules. This will meet the deadline which the Commission set itself.

By the end of the year we will also know for certain which new candidate countries will join the EU in 2004. Impressive progress has been achieved in the legislative approximation and in the setting up of a competition discipline in all the candidate countries. The negotiations have been provisionally closed with Estonia, Latvia, Lithuania, Slovenia and Cyprus and they are continuing at an accelerated rhythm with the others countries. Further progresses need to be done in the enforcement record especially in the area of State aid. The Commission will have to pay close attention to the progress of negotiations on these issues and no doubt mobilize all efforts to provide the necessary technical assistance to the new partner countries.

Thanks in particular to Alex Schaub's personal commitment, the EU is now fully engaged in
efforts to promote international convergence of competition policies, within the OECD, the post-Doha negotiation, and most immediately in the framework of meetings of the International Competition Network, that will have its first gathering at the end of September in Naples (Italy). Given the scope and importance of EU jurisdiction, we are bound to play an important role in this international context. In increasingly globalized markets, the investment we are making in international cooperation can only serve to make our own enforcement efforts more effective in the longer term.

These wider policy challenges of course represent only a small proportion of DG Competition’s tasks in the coming months as our enforcement work on individual cases continues. And that work I am sure will provide food for thought in up-coming editions of this Newsletter as part of the on-going dialogue between DG Competition and its many external observers.