

Antitrust Marathon IV: With Authority

27 October, 2009

The Writers' Museum,
18 Parnell Square, Dublin 1

Organised by the British Institute of International and Comparative Law and the Institute for Consumer Antitrust Studies, Loyola University Chicago School of Law with the assistance of the Irish Competition Authority

Agenda

10.00-10.30: Coffee and welcome by chairs Philip Marsden and Spencer Weber Waller

10.30-11.30

1. Competition law and consumer protection - the debate is no longer about whether these two should be integrated, the question now is how

Chair: Spencer Waller

Paper author: Max Huffman, Indiana University-Indianapolis School of Law

Discussants:

Cavendish Elithorn, Office of Fair Trading
Melanie Aitken, Canadian Competition Bureau
Paul Gorecki, ESRI

Issues:

- How do we ensure that consumer protection issues are adequately resourced and attended to by competition authorities?
- How do we ensure that competition policy and consumer protection issues and cases are resolved with as little conflict as possible with the other area?
- How can competition authorities help strengthen consumer NGOs, and consumer redress generally?

11.30-11.45 Coffee break

11.45-13.30

2. Conflicts of process vs. conflicts of values

Chair: Philip Marsden

a) **Competition agency interaction with concurrent regulators (ie. competition related); and all-in-one models: conflicts of process**

Paper author: Giorgio Monti, London School of Economics

Discussants:

Barry Rodger, University of Strathclyde
Isolde Goggin, Ofcom Advisory Committee Northern Ireland
Imelda Maher, UCD

Issues:

- Concurrency and conflicts of process: how best to manage jurisdiction, case resolution, among 'competing' agencies
- What is the rationale for concurrent jurisdiction be given to sectoral regulators and a competition agency? If a regulator is given competition enforcement powers, is this a recognition that the regulator is expected to balance regulatory goals and competition enforcement goals? If there is a difference of view between two agencies with concurrent jurisdiction on enforcement of competition laws, how should that be resolved?

b) **Competition agency interaction with Other Government Departments, other non-competition policy areas: conflicts of values**

Paper author: Edward J. Janger, Brooklyn Law School

Discussant: Philippa Watson, City Law School and Essex Court Chambers

Issues:

- Spotlight on financial services: when other policy areas override competition concerns, how best is this accomplished with a minimum of damage to the credibility of the competition regime?
- When OGD's request that businesses implement change (for environmental, social, stimulating 'innovation', procurement, other policy rationales), how best do competition authorities engage in this process to ensure that this doesn't induce anti-competitive conduct?
- When competition laws and policy clash with other public policy goals, how should they be resolved? If they can be reconciled, what mechanism should be place to do this? Who should do this? If other public policy goals should have primacy, should the competition policy issues still need to be articulated?

13.45-14.30 Lunch

14.30-16.00

3. Institutional design generally: administrative vs. judicial models, vs. mixed

Chair: Spencer Waller

Paper author: Vincent Power, A&L Goodbody

Discussants:

Stanley Wong, Irish Competition Authority
Bruno Lasserre, Autorité de la concurrence

Issues:

- What is the appropriate model for adjudication at first instance of competition law? Administrative or judicial or a mixed?
- Does the nature of remedies sought affect the choice, having regard to legal system?
- If a decision at first instance is appealed to a judicial body, what should be the standard of review?

16.00 Close and thanks

Participants include:

Philip Marsden, British Institute
Spencer Waller, Loyola University Chicago School of Law
Stanley Wong, Irish Competition Authority
Melanie Aitken, Canadian Competition Bureau
Bruno Lasserre, Autorité de la concurrence
Giorgio Monti, London School of Economics
Matthew Newman, Bloomberg News
Barry Rodger, Strathclyde University
Vincent Power, AL Goodbody
Edward Janger, Brooklyn Law School
Max Huffman, Indiana University-Indianapolis School of Law
Francisco Marcos, Instituto de Empresa Business School
Maurice Stucke, University of Tennessee College of Law
Cavendish Elithorn, Office of Fair Trading
Isolde Goggin, Ofcom's Advisory Committee for Northern Ireland
Imelda Maher, University College Dublin
Anna Louise Hinds, NUI Galway
Philippa Watson, Essex Court Chambers
Carlos Orci, Basham Ringe y Correa; Kings College London
Paul Gorecki, ESRI

Ann Fitzgerald, National Consumer Agency
Gerald FitzGerald, McCann Fitzgerald
Emily Gibson, Irish Society of European Law
Paolo Palmigiano, ComReg
Bill Prasifka, Irish Competition Authority
Declan Walsh, University College Cork
Moore McDowell, University College Dublin
Patrick Massey, Compecon
Gerald Fitzgerald, McCann Fitzgerald
Emily Gibson, Irish Society of European Law