



**British Institute of
International and
Comparative Law**

GE/Honeywell Post-Mortem Practitioner Workshop

20 January 2006
12.30 – 2.30

Chair: **Simon Baxter**, Clifford Chance

Hendrik Bourgeois, GE
Matthias Pflanz, CRA International
Miguel de la Mano, European Commission, Chief Economist Office
Francisco Enrique González Díaz, Cleary Gottlieb Steen & Hamilton LLP
Carles Esteva-Mosso, European Commission

A. Horizontal effects and assessment of remedies

B. Dominance

- * Nature of analysis: structural
- * What can market structures tell us about dominance?
- * Assessment of market structures
- * In bidding markets
- * Analysis of market shares (including allocation of market shares of joint ventures)
- * Notion of independent behaviour and analysis of HLR
- * Financial strength and vertical integration
- * What is competition on the merits?
- * How does a dominant firm meet competition without falling foul of Art. 82?

C. Application of *Tetra Laval* test to non-horizontal mergers

- * To what extent did CFI apply *Tetra Laval* test?
- * Defining and assessing ability
- * Defining and assessing incentives/foreclosure of rivals
- * Assessment of competitive harm
- * Financial strength and vertical integration
- * Bundling
- * Deterrent effect of Art. 82
- * Standard of proof and evidence in merger case
- * What evidence is required?
- * CFI's examples: are these sufficient/realistic?
- * Future perspectives
- * What, if any, outstanding questions remain on non-horizontal mergers?
- * Key messages and focus of anticipated guidelines