

## **University of Amsterdam Organizes International Conference on Criminalization of Competition Policy**

Competition policy is a form of government monitoring to protect and maintain competitive processes in the market place. At the European level it is enforced by the European Commission. Neelie Kroes, the new Commissioner, is responsible for its decisions. In the various EU Member States, this supranational enforcement is supplemented by the work of national competition authorities, such as the Dutch NMa. In the United States, the competition rules as laid down in the Sherman and the Clayton Act are enforced by the Department of Justice and the Federal Trade Commission. Unlike in the EU, decisions are taken in court. Competition policy recently attracted a lot of attention at both sides of the Atlantic as a result of parallel actions by the US government and the European Commission against Microsoft Corporation, and diverging views in the GE/Honeywell merger case.

As part of the enforcement of European and national competition laws, competition authorities can remedy and sanction firms in breach of those laws. Whereas in Europe, sanctions are limited to corporate fines – with recent records being the almost euro 500 million levied on Microsoft – in the US they can – and often do – include personal penalties for responsible managers, both pecuniary and jail sentences. Since corporate fine levels are furthermore capped by set maximum values, and hurt the shareholders rather than those responsible for violating the law, it is increasingly recognized that the existing remedies and sanctions for anticompetitive behaviour in the EU may not be sufficient to deter parties from often lucrative restraints of trade or abuses of dominance. European competition law enforcement may not be as effective as it could be if National Competition Authorities (NCAs) would have a wider arsenal of potential sanctions, including criminal law based sanctions.

In many a Member State in the EU, a review of remedies and sanctions for those in breach of competition law is therefore under consideration. Apart from further increasing levels of corporate pecuniary penalties, it explores the introduction of criminal sanctions (such as fines, professional remedies, disqualification orders and jail sentences). Antitrust enforcement in the US is studied for comparison and possible guidance. However, installing similar penalties in Europe raises fundamental issues. It requires, for example, the application of elements of criminal law in addition to present administrative law enforcement. As a result, the legal status or tasks of the various NCAs would have to be formulated differently. Also, there are serious political concerns, as the trend to ‘criminalize’ has important economic and social implications.

The Competition & Regulation research group of the Amsterdam Center for Law and Economics (ACLE) at the University of Amsterdam (UvA) organizes its first and festive international conference on the presently observed tendency to criminalize antitrust enforcement in the EU Member States, in order to explore these topics, from both a legal and an economic viewpoint.

The conference consists of a workshop with contributed papers on Thursday afternoon, 17 February at the Faculty of Economics of the University of Amsterdam (Roetersstraat 11), and a full plenary conference day with outstanding invited speakers on Friday, 18 February at the KNAW building (Kloveniersburgwal 29) in

Amsterdam. The event assembles legal and economic scholars in competition law and economics, as well as practitioners from the various competition authorities, legal counsel and economic consultancy firms. The plenary program includes contributions by Prof. Dr. Claus-Dieter Ehlermann (Wilmer Cutler Pickering Hale and Dorr LLP), Prof. Dr. William Kovacic (George Washington University), Prof. Dr. Giancarlo Spagnolo (Stockholm School of Economics), Prof. Dr. Wouter Wils (European Commission), Prof. Dr. Dirk Schroeder (Cleary Gottlieb Steen & Hamilton), Prof. Dr. Bruce Lyons (University of East Anglia), Mr. Pat Massey (Director Compecon), Prof. Dr. Eleanor Fox (New York University), Mrs. Diana Guy (Deputy Chair UK Competition Commission), Mrs. Aini Proos (Deputy Director General Estonian Competition Authority), Dr. Christof Vollmer (Head of Unit BundesKartelAmt), Dr. Andreas Reindl (OECD) and Pieter Kalbfleisch LL.M. (Director General of the NMa, the Netherlands Competition Authority).

For further information, see [www.acle.nl](http://www.acle.nl). Under 'Events', or contact the ACLE Office at +31 (0)20 525 4162 or [acle@uva.nl](mailto:acle@uva.nl).

The ACLE gratefully acknowledges the financial support from the following organizations which enabled the organization of this ACLE event. Amsterdam Center for International Law (ACIL), Charles River Associates Ltd. (CRA), Cleary Gottlieb Steen & Hamilton and Stibbe.