Opinion of the European Economic and Social Committee on the 'Commission Report XXXIInd Competition Policy Report 2002'

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On 25 April 2003 the Commission decided to consult the European Economic and Social Committee, under Article 262 of the Treaty establishing the European Community, on the: XXXIInd Competition Policy Report 2002.

The Section for the Single Market, Production and Consumption, which was responsible for preparing the Committee's work on the subject, adopted its opinion on 16 December 2003. The rapporteur was Mr Metzler.

At its 405th plenary session (meeting of 29 January 2004), the European Economic and Social Committee adopted the following opinion by 60 votes to 18, with three abstentions.

1. Introduction: General Background

1.1 As Commissioner Monti pointed out in his foreword to the XXXIInd Competition Policy Report 2002 (hereafter 'the report'), the keynote of Commission competition policy in 2002 was sweeping modernisation. In the field of antitrust, new procedural provisions were adopted doing away with the Commission's monopoly on exemptions and decentralising the application of antitrust measures. In order to improve the effectiveness of controls on business concentrations, especially in the context of EU enlargement, a proposal was submitted for amending the merger regulation. In addition, a series of measures were set in motion to enhance the procedural rights of the parties in the merger control procedure. In the area of state aid control, the Commission has continued to work on streamlining procedures and increasing the transparency of decision-making.

1.2 One of the main purposes of European competition policy is to promote and protect the interests of consumers, that is, to ensure that consumers benefit from the wealth generated by the European economy. The introduction to the report sets out the twofold broad objective of the Commission's competition policy: addressing market failures resulting from anticompetitive behaviour by market participants and from certain market structures, on the one hand, and contributing to an overall economic policy framework across economic sectors that is conducive to effective competition, on the other.

1.3 The report also provides a comprehensive survey of the activities of DG Competition in 2002, explains its policy, describes the various legal acts passed and provides details of numerous individual cases. The total number of new cases in 2002 was 1,019 (below the 2001 figure of 1,036). Of these new cases, 321 were antitrust cases (284 in 2001), the number of merger cases decreased further to 277 (335 in 2001) and the number of state aid cases remained more or less the same at 421 (417 in 2001). The number of cases closed once more showed a year on year increase, rising to 1,283 (1,204 in 2001), of which 263 were antitrust cases, 268 mergers and 652 state aid cases.

1.4 The report is divided into six sections, dealing with antitrust, merger control, state aids, services of general interest (SGIs), international activities and the outlook for 2003. The following is a summary of the key points of the first five sections referring to 2002, with the Committee's comments.

2. Antitrust – EC Treaty Articles 81 and 82; State monopolies and monopoly rights – EC Treaty Articles 31 and 86

2.1 The Treaty establishing the European Coal and Steel Community (ECSC) expired in 2002 after 50 years with the result that the sectors which came under the ECSC are now subject to the primary and derived legislation of the EC Treaty.

2.2 In December 2002 the Council adopted Regulation No. 1/2003 implementing the competition rules laid down in Articles 81 and 82 of the Treaty ([1]), which is intended to replace the old antitrust regulation No. 17 in force since 1962. The new rules, which are a radical reform of the old arrangements, are to come into force on 1 May 2004 to coincide with enlargement.

([1]) cf. ESC opinion on the White Paper on modernisation of the rules implementing Articles 81 and 82 of the EC Treaty, OJ C 51/55 of 23.2.2000, and the ESC opinion on the draft Regulation in OJ C 155/73 of 29.5.2001.

2.2.1 One salient feature of this reform is the shift from a system of notification and authorisation to one of legal exception, where companies must verify the conformity of their agreements with the EC Treaty themselves. Agreements falling within the scope of Article 81 of the EC Treaty are effective immediately even when no block exemption regulation applies – unlike under the notification and authorisation system – as long as the requirements of Article 81(3) are satisfied. This is a positive development, as a legal exception system provides greater protection for competition because the European Commission can in future concentrate on the cases with competition policy implications. The legal exception system relieves businesses of an unnecessary bureaucratic burden. However, the lack of legal clarity for companies which nevertheless goes along with this change could have been mitigated if the regulation had given businesses the right to apply for a reasoned opinion from the Commission in specific, difficult cases instead of leaving them to rely on informal advice which the Commission is not obliged to give out. The Commission must at all events be ready to give an opinion not only in the case of new factual and legal queries, but also in the event of major investments and major or irreversible structural changes ([2]).

2.2.2 European antitrust law will in future be applied directly by national competition authorities and national courts on a decentralised basis, while competition authorities in the Member States will collaborate closely in a European competition network with the Commission and with each other. However, the Committee would like to see the one-stop-shop principle more firmly established to exclude the possibility of companies being the subject of antitrust proceedings in more than one Member State at once. Since the regulation does not itself contain any detailed criteria for case allocation, the Committee recommends that the Commission create the necessary legal certainty for companies by means of relevant guidelines ([3]).

2.2.3 In future it is to be permissible for national law to be applied alongside EC law, though the application of national competition rules may not produce an outcome which deviates from that resulting from the application of EC Treaty Article 81, as pointed out in the Commission report. In the interests of creating equal conditions and a level playing field in Europe, it would have been preferable if – contrary to Article 3(2) of Regulation 1/2003 - the Commission had also enforced uniform application of EC law in the case of unilateral conduct. For example, national law may result in prohibitions which deviate from EC law, thus hampering business activity in Europe.

2.2.4 In order to ensure that EC competition rules continue to be enforced effectively under the legal exception system, it is a logical step for the Commission to have extended its powers of investigation. However, the regulation only partially guarantees companies' rights of defence. Care should be taken to ensure that the general principles of legal process are respected in proceedings against companies if they are not explicitly mentioned in the regulation itself. It would be preferable if the Commission were to make this clear in the notices it announced ([4]).

2.2.5 In the Committee's view, it is also important to ensure the greatest possible transparency when the competition rules are applied decentrally by national authorities. The Commission should press for at least all final decisions by national authorities to be published.

2.3 In February 2002 the Commission adopted a revised leniency policy which is designed to be more predictable for companies than its predecessor was. The success noted by the Commission in the antitrust field – some ten different cartels were discovered in Europe in the first ten months after the entry into force of the new leniency policy – is evidence that the new regulations are well thought out. The Committee would recommend integrating the directly relevant guidelines on setting fines if the leniency policy is revised once again. It would also be preferable for the Commission to take greater account of the actual damage caused by the infringement of competition rules and its implications when calculating fines.

2.4 In 2002 the Commission made the fight against cartels and the handling of antitrust cases a top priority, even more so than in 2001, adopting a total of nine decisions and imposing fines amounting to some one billion euros. However, there were no decisions adopted on the basis of Treaty Article 82.

2.5 The report details developments in competition in particular industries.

2.5.1 In the energy sector, work is underway on the Acceleration Directive and the regulation on cross-border energy trade which will further liberalise the energy market and are intended to enhance competition in energy markets while maintaining the security of supply ([5]). However, the Commission was unable to impose an earlier date than 2007 for complete market opening for private consumers, which has once again delayed the creation of the common energy market.

([2]) cf. ESC opinion on the draft Regulation, OJ C 155/73, point 2.8.2.5
([3]) cf. ESC opinion, OJ C 155/73, point 2.10.1.
([4]) cf. ESC opinion, OJ C 155ç/73, point 2.12.
([5]) cf. ESC opinion the two drafts, OJ C 36/10 of 8.2.2002

2.5.2 In the postal sector, following a proposal from the Commission, the Council and the European Parliament adopted the new postal directive (2002/39/EC) ([6]), which provides for further opening of the market by progressively reducing the reserved area until 2006.

2.5.3 In the telecommunications sector, the Council adopted a new legal framework consisting of five directives for the ex-ante regulation of electronic communications networks and services, overhauling the legal framework for telecommunications and opening it up to greater competition ([7]). Particular attention should be paid to the new definition of the notion of 'significant market power' (SMP) in Article 14 of the framework directive 2002/21/EC in line with the definition of dominance under Article 82 of the EC Treaty. This deregulation will have implications for all market players.

2.5.4 In air transport, the block exemption regulation 1617/93 was extended in June 2002 and in maritime transport, the Court of Justice delivered three judgements on the block exemption regulation 4056/86, which the Commission would like to revise after 15 years in force in order to simplify it. For rail transport, the Commission submitted a number of proposals for legislation to integrate national rail networks into a single European railway area. The Commission is right when it points out that, even today, there is still no effective competition in the railway market.

2.5.5 In the media field, the Commission looked at the joint selling of TV rights to football events, objecting to the conferring of exclusive rights as this increases media concentration and threatens to stand in the way of competition between broadcasters.

2.5.6 In October 2002, the new motor vehicle block exemption regulation 1400/02 entered into force. This deals with the distribution and repair of motor vehicles and the selling of spare parts, as well as introducing new marketing methods, such as Internet sales and multi-branding ([8]). By tightening the regulations, the Commission hopes to create more intense competition between dealers, to make cross-border motor vehicle purchase easier and to enhance price competition. The combination of exclusive and selective distribution and the enactment of location clauses are no longer allowed under the new regulation. Whether the Commission's objectives are ultimately achieved depends on future market developments, as will be ascertained in further market monitoring exercises. Appropriate steps should then be taken.

([6]) cf. ESC opinion on the draft directive, OJ C 116/99 of 20.4.2001
([7]) cf. ESC opinion on the five draft directives, OJ C 123/50, C 123/53, C 123/55 and C 123/56 of 25.4.2001
([8]) cf. ESC opinion on the draft regulation, OJ C 221/10 of 17.9.2002

2.5.7 In the area of financial services, the Commission published a draft block exemption regulation in the insurance sector in July 2002, which was adopted with minor modifications on 27 February 2003. Instead of listing the provisions exempted from antitrust rules, the regulation now only lists those arrangements which may not be contained in exempted agreements. Furthermore, the exemption of co-insurance groups is linked to emerging market power. This is consistent with the business-oriented approach now also followed by the Commission in other block exemption regulations.

2.5.8 In order to promote the information society, the Commission continued with its efforts to create an open and competitive environment for the development of the Internet and e-commerce. In this context, it was particularly concerned with Internet access markets and complaints against registry operators of top-level domain names under Article 82.

2.5.9 A comparatively large amount of space in the report is taken up with a discussion of the liberal professions.

2.5.9.1 The Committee welcomes the Commission's efforts to make the liberal professions sector more transparent for consumers ([9]). The Commission reports that it has commissioned a comparative economic cost-benefit analysis of the regulation of liberal professions in the Member States. The Commission has also entered into discussions with national competition authorities on the regulation of the liberal professions. Consultation with national competition authorities, who are familiar with binding national rules on the liberal professions, is a welcome first step in this direction. To ensure that the process is transparent, representatives of the individual professions should be consulted for their expert input.

2.5.9.2 The Committee welcomes the application of competition rules in principle. Since the liberal professions fulfil social as well as economic functions and are thus subject to binding legal requirements, the Committee feels that the competition rules must respect the minimum level of regulation needed to comply with these binding legal requirements ('code of conduct'). This was confirmed by the judgement of the Court of Justice in the Wouters case cited in the report. In terms of integration, the Committee sees a further problem in that disregarding the code of conduct of the liberal professions could prompt those Member States which currently operate a self-governing model to resort to individual state regulation in conformity with antitrust law. The result would be greater individual state regulation of the liberal professions sector, which would be detrimental to consumers and the general interest.

([9]) This is also expressed in work on the mutual recognition of qualifications directive.

2.5.9.3 The Commission does not question the existence of self-regulating bodies, but, with a view to the primary objective of consumer protection, intends to review the grounds for rules in the areas of fee scales, multidisciplinary partnerships, advertising, soliciting clients and access to the profession. The Committee would point out that many regulations to do with the liberal professions may also exist specifically for the purpose of consumer protection.

3. **Merger control**

3.1 In 2002 the Commission did not make one prohibition decision under merger control law (cf. five in 2001). Seven mergers were approved in Phase II (cf. 20 in 2001). Of 275 final decisions, 252 were taken in Phase I, 111 of these in the simplified procedure.

3.2 There were three significant judgements by the Court of First Instance in which merger prohibition decisions were overturned, namely the Airtours/First Choice decision, the Schneider/Legrand decision and the Tetra Laval/Sidel decision. The Airtours judgement clarifies what evidence is needed to prove collective market dominance on the basis of tacit coordination by companies. The Schneider judgement revealed errors of analysis and assessment by the Commission, as well as infringement of the rights of the defence. In the Tetra-Laval judgement, which the Commission challenged in the Court of Justice because of its fundamental importance, it was the first time a European court has been involved in ruling on conglomerate mergers, that is, mergers of companies which operate in different markets.

3.3 The total number of referrals between the Commission and the Member States has increased. 11 cases were referred from the Commission to the Member States (cf. seven in 2001) and for the first time there were two referrals from several Member States to the Commission.

3.4 It should be noted in particular that the Commission intends to carry out a reform in the area of merger control. To this end it submitted the draft of a new merger control regulation in December 2002 ([10]). At almost the same time it also published a draft notice on the appraisal of horizontal mergers ([11]) and certain best practice recommendations and other administrative measures designed to enhance transparency as well as the current internal procedures and systems within Merger Control. The reason behind this is first and foremost, after over twelve years' of practical implementation, to prepare the Community's merger control legislation for the challenges of the coming years (EU enlargement to the east, the increase in mergers worldwide as a result of globalisation) and to simplify and speed up the merger control procedure as a whole.

3.4.1 The draft regulation contains some improvements, which the Committee welcomes, but on other points it falls short of expectations. The proposed simplifications of the investigation procedure are well conceived ([12]). For example, the removal of the one-week deadline (notification within a week of the contract being signed) allows better management of concentrations for which there also has to be notification outside Europe. It also allows scope for being able in future to give notification of a merger as soon as there is a firm intention to sign a contract. The Committee also supports the Commission in allowing concentrations to be effected immediately, where notification may be given through the simplified procedure, rather than only after completion of the investigation procedure. This is consistent with companies' practical needs. Another key element of the reform is the possibility of extending the investigation procedure in both phases if the circumstances warrant this. At the same time, care must be taken to ensure that the strict system of deadlines is in no way abandoned so as not to compromise the speed of concentrations.

3.4.2 The Committee is pleased to note that, for reasons of legal certainty, the Commission wishes to stick to the original market dominance test and not to switch to the substantial lessening of competition test ([13]). However, the Committee is concerned about the broad wording of Article 2(2) of the draft regulation. The proposed wording of this paragraph is based on the concrete intention of closing a glaring loophole in the market dominance test which has supposedly existed up till now in the case of concentrations in concentrated markets where market dominance does not arise. According to Article 2(2), one or more undertakings shall already be deemed to be in a dominant position 'if, with or without coordinating, they hold the economic power to influence appreciably and sustainably the parameters of competition, in particular, prices, production, quality of output, distribution or innovation, or appreciably to foreclose competition'. The Committee takes the view that the new Article 2(2) of the draft regulation does close up any loophole there might be, but, because of its broad wording, significantly lowers the intervention threshold, creating new uncertainties, which call into question the tried and tested decision-making practice of the European courts and the Commission. The Committee therefore urges the Commission to address only the special case of 'unilateral effects', but otherwise to keep to the old notions so as to prevent a loss of legal certainty for European businesses. ([14]) The original market dominance test should therefore be retained.

([10]) cf. ESC opinion on the draft regulation, CESE 1169/2003 of 24.9.2003

([11]) cf. ESC opinion on the draft communication, CESE 1170/2003 of 24.9.2003

([12]) cf. ESC opinion on the draft regulation, CESE 1169/2003 of 24.9.2003 , point 3.10, and on the Green Paper on the Review of the Merger Regulation, OJ C 241/130 of 7.10.2002, point 3.3.1

([13]) cf. ESC opinion on the draft regulation, CESE 1169/2003 of 24.9.2003 , point 3.10, and on the Green Paper on the Review of the Merger Regulation, OJ C 241/130 of 7.10.2002, point 3.2.13

([14]) cf. ESC opinion on the draft communication, CESE 1170/2003 of 24.9.2003, point 3.1.4.

3.4.3 The Committee also welcomes the Commission's intention in future to carefully examine arguments about efficiency in its overall appraisal of a concentration. This is the only way Merger Control can serve the interests of European consumers in the long term ([15]). With regard to the relevant discussions among interested circles, it would also be preferable for the Commission to take a clear position on the circumstances under which increased efficiency achieved through a merger may exceptionally be held against the companies concerned. With no such clarity on this point there is a risk that companies will continue not to cite efficiency as a motive, thereby rendering the Commission's new policy ineffectual. ([16])

3.4.4 The Commission's efforts to extend more or less the same powers of investigation and intervention contained in the new regulation No. 1/2003 on antitrust procedure to merger control are problematic. The prosecution of antitrust violations and the investigation of company concentrations are two different objectives requiring the use of different means. Antitrust violations are directly detrimental to third parties and consumers and are punishable by fines, or in some countries even with criminal sentences. Merger control is not a question of confirming an initial suspicion of unlawful conduct and then prosecuting by the usual methods. In the vast majority of cases, concentrations are lawful processes, as witnessed by the low number of prohibitions. The Committee therefore advises the Commission against making any changes in the area of merger control, recommending that explicit recognition of the ban on self-incrimination and other rights of defence enjoyed by businesses, such as legal privilege for external and internal lawyers, be written into the text of the regulation. Moreover, the existing system of fines and penalties should remain in place, as the fines imposed should be in reasonable proportion to the gravity of the infringement.

3.4.5 The Committee regrets that it has not been possible to extend the European Commission's competence so that there will be less multiple notifications in future ([17]). On the contrary, with EU enlargement, multiple notifications should be more frequent, involving a large bureaucratic burden, high costs and lost time for businesses. On a positive note, the Commission intends in future to decide within a short time in a preliminary procedure at the request of companies whether an intended concentration has Community-wide implications and whether the Commission is therefore responsible for investigating it. But since the decision is within the discretion of the Member States, this proposal is not expected to provide a substitute for a clear rule on competence.

3.4.6 The Committee wholeheartedly supports the proposed measures to improve economic decision-making processes in DG Competition by creating the position of Chief Competition Economist with his/her own staff. In this way the Commission is addressing the issue of insufficient economic analysis, which was the key factor in the three above-mentioned judgements overturned by the Court of First Instance. The success of this institutional renewal will depend on the Chief Competition Economist and his/her staff being involved in the assessment of individual cases at an early stage and on an ongoing basis.

3.5 The Commission is an active participant in all three subgroups of the merger control working group of the International Competition Network (ICN) set up in 2001. The Committee sees the Commission's commitment to this as extremely positive. Improving convergence and reducing the public and private burdens arising from the application of different merger control systems and multiple notifications by businesses are a major concern for European enterprises, who wish to hold their own in global competition. The Committee is very much in favour of the closest possible alignment of the various systems and the development of best practices.

4. **State aid**

4.1 In 2002, the Commission continued to push ahead with reform of both procedural and substantive rules in the area of state aid. One of the main purposes of the reform package is to streamline procedures and free the process of examining state aid from an unnecessary procedural burden, thereby facilitating speedy decisions in most cases and reserving major resources for the most contentious questions in the area of state aid. The Commission expects to be able to complete the reform before enlargement on 1 May 2004. The Committee welcomes the proposed streamlining of procedures, not least because main examination procedures have often taken longer than a year in the past, thus often exposing companies to prolonged legal uncertainty. However, the Committee feels that the measures taken to date are insufficient to actually achieve this end and calls on the Commission to lose no time in announcing the further measures it has planned so that these can indeed be implemented for 1 May 2004.

([15]) cf. ESC opinion on the Green Paper, OJ C 241/130 of 7.10.2002, point 3.2.12

([16]) cf. ESC opinion on the draft communication, CESE 1170/2003 of 24.9.2003, point 4.7.2.

([17]) cf. ESC opinion on the Green Paper, OJ C 241/130 of 7.10.2002, point 3.1.2

4.2 Already in 2001, the Commission created the state aid register and the state aid scoreboard as a basis for discussion among the Member States on how a reduction of the overall level of state aid and a redirection of aid towards horizontal objectives can be achieved. These tools were developed further in 2002. The Committee welcomes the Commission's efforts to achieve greater transparency in the area of state aid, which would seem to be especially important with regard to state aid in the accession countries. Given that there is provision, after review by the Commission, for current aid arrangements in the accession countries to benefit from inventory protection as 'existing aid' in the enlarged Community, there must be guarantees that the interest groups concerned are given the opportunity to put their views across beforehand. The Committee also recommends that the state aid register, which at present contains all decisions made after 1 January 2000, should gradually be extended back in time in order to draw on the Commission's wealth of experience for future cases.

4.3 In 2002 the Commission overhauled a series of frameworks and guidelines. The Committee welcomes the ongoing clarification and fine-tuning of the rules by the Commission. The block exemption regulation for employment aid ([18]) designed to facilitate Member States' job creation initiatives merits particular attention.

4.4 Given that the rules on state aid are applied to regional aid or other assistance in conjunction with the Structural Funds, it would be helpful if future reports contained an outline of Commission practice in this particular area.

5. **Services of general interest**

5.1 In its report to the Laeken European Council the Commission had announced a Community legal framework for aid to companies responsible for providing services of general economic interest. However, the Court of Justice, contrary to the case law of the Court of First Instance, has subsequently decided in the Ferring case that public service compensation does not constitute state aid when it merely compensates the companies concerned for services rendered. At the end of 2002, it remained to be seen whether or not the Court of Justice would stand by this change in case law. In its judgement of the Altmark case of 24 July 2003, the Court of Justice maintained the exclusion from the category of state aid recognised in the Ferring case, but made such exclusion subject to four far-reaching conditions. Firstly, the company concerned must indeed be responsible for performing SGEIs, and these obligations must be clearly defined. Secondly, compensation must be calculable on the basis of objective and transparent parameters to be established beforehand. Thirdly, compensation is only allowed to cover the cost of performing the obligations, taking into account the revenue earned and a reasonable profit. Fourthly, the level of compensation should be limited if the contracts have not been awarded through a competitive award procedure. The yardstick would be the costs incurred by an average, well-run company in fulfilling the obligations. Since compensation which does not fulfil the conditions imposed by the Court of Justice constitutes state aid, there is still a need for the proposed clarificatory Community legal framework. The Committee notes the debate with Member States' experts ushered in by the Non-Paper of 12 November 2002 and recommends concluding this debate rapidly, taking account of the Altmark judgement, in order to establish legal certainty for European businesses as soon as possible by adopting the necessary clarifications.

5.2 The Committee approves the fact that the Commission's Green Paper on Services of General Interest, announced in the report and published on 21 May 2003, begins the review called for by the Barcelona European Council (2002) into whether the principles governing services of general interest should be further consolidated and specified in a general Community framework ([19]).

6. **International cooperation**

6.1 In 2002 the Commission continued with preparations for the new accessions and enlargement negotiations, verifying to what extent the accession countries already have functional competition rules. The only field in which it found there still to be a certain number of shortcomings was that of state aid control. In 2002 the Commission included data from the accession countries in the state aid scoreboard for the first time, making it accessible to all.

6.2 In the context of bilateral cooperation, it should be noted that the Commission and the US antitrust authorities jointly adopted best practices for cooperation in merger control. The Committee considers close cooperation between merger control authorities in the world's two biggest economic blocs to be particularly important and positive, as it will lessen the risk of divergent decisions and reduce the administrative burden for the companies concerned.

([18]) cf. ESC opinion on the draft regulation, OJ C 241/143 of 7.10.2002

([19]) cf. ESC opinion on services of general interest, OJ C 241/119 of 7.10.2002

7. **Conclusions**

7.1 The report contains a great wealth of information and a series of important policy adjustments for European competition law, affecting both consumers and companies in equal measure.

7.2 The Committee's conclusions may be summarised as follows:

— The Committee is in favour of the new antitrust arrangements and the concomitant change to the legal exception system. However, the Commission should make some further improvements to the reforms contained in the modernisation package, providing greater legal certainty for companies and more firmly enshrining the one-stop-shop principle and companies' rights of defence (points 2.2.1, 2.2.2, 2.2.4).

— Greater account should be taken of the actual damage caused when calculating fines (point 23).

— Competition rules should allow the degree of regulation of the liberal professions needed to ensure that their particular remits and legal obligations are fulfilled (point 2.5.9.2).

— In reforming merger control, the Commission should only address the special case of 'unilateral effects' with the new version of the market dominance test so as to continue to ensure maximum legal certainty for companies. The Commission could increase still further the incentive to cite arguments about efficiency and should bear in mind with regard to investigative powers and the level of penalties that merger control and antitrust procedure call for different means (points 3.4.2, 3.4.3, 3.4.4).

— The Commission should publish the announced measures for reforming the area of state aid as soon as possible, allowing the parties concerned the opportunity to give their views on the future handling of 'existing aid' in the accession countries. Future competition reports could also explain Commission practice on state aid law as it relates to the Structural Funds (points 4.1, 4.2, 4.4).

Brussels, 29 January 2004.

The President

of the European Economic and Social Committee

Roger BRIESCH