Dear Reader,

While we always try to focus on matters of particular relevance at the time of publishing, our present issue of CLPD appears particularly timely. Our symposium deals with the Commission’s final report on the e-commerce sector inquiry and more generally with the law and economics of modern forms of distribution in the internet age. This is timely not only because the final report was published only on May 10, 2017, but also because very recently the Commission has launched several probes that appear to come out of the sector inquiry.

The final report first looks at the importance of e-commerce in the European Union – and the Union as the largest e-commerce market in the world. It finds that contractual restrictions seem to be prevalent when it comes to the online distribution and promotion of products as well as digital content. Issues such as these are at the heart of the investigations started at the beginning of this year.

In the area of consumer electronics the Commission is investigating whether certain manufacturers have tried to restrict the ability of online retailers to set their own prices for various consumer electronics products. The Commission also looks at the use of pricing software that automatically adapts retail prices to those of certain competitors. This topic is examined in detail in this issue by Ariel Ezrachi and Maurice Stucke.

When it comes to videogames the Commission suspects geo-blocking practices, which it observed already in its March 2016 report and would generally like to address in a Regulation. Finally with respect to tour operators and hotels the Commission believes that companies may discriminate against customers based on their nationality of country of origin. It will be interesting to follow up on these cases.

That said, many in the industry are still awaiting clearer guidance on matters such as marketplace bans (see Kristina Nordlander’s and Pola Karolczyk’s article as well as that by e-bay representatives Lindsay Lutz and Nikolaus Lindner) and on the reason for treating restrictions relating to price comparison tools differently from those on marketplaces (Hugh Mullan’s and Natalie Timan’s article). At least a partial answer may come from the eagerly expected judgment by the ECJ in the Coty case but the Commission may have to dig deeper on other matters. One of these is raised by Lars Wiethaus and Simon Chisholm who believe that the Commission has not yet sufficiently explored suppliers’ reasons for employing vertical restraints in an online context. Even more general questions are asked by Birgit Krueger and Jan Mühle from the Bundeskartellamt who ask whether existing regulations are sufficient to address all vertical restraints scenarios in the online world.

Exceptionally, this issue of CLPD does not contain a synopsis of legal developments in the State aid area. The authors expect certain developments that they would like to report on to occur over the next few months and so we decided to postpone their article and include two synopsis articles in the third 2017 issue of CLPD.

As usual, enjoy reading this issue of CLPD and send all comments or questions to Annette.Schild@alschild.com. Thank you!

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chief editor