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COMPETITION LAW IN THE EUROPEAN COMMUNITIES

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Fiscal aid regimes

From time to time European Community policy in the competition field changes direction; and governments and companies accustomed to seemingly well established rules have to change accordingly. This is particularly true in the case of fiscal aid regimes or corporate taxation schemes. In 1984, the Commission had approved the Belgian coordination centres scheme; and, probably on this account, in the case of the Dutch International Financing Activities scheme, the beneficiaries had legitimate reasons to believe that the scheme was not illegal. However, the Commission is now investigating the schemes in question and intends to conclude that they are, after all, incompatible with the European Community's state aid rules. It seems likely that the Commission will give the two countries a transitional period to phase out the schemes. With respect to the Irish Foreign Income scheme, after careful examination, the competition services have concluded that it no longer constitutes state aid to the companies which currently benefit from it.

According to the Commission, the decisions on the Belgian, Dutch and Irish tax schemes likely to be adopted by the Commission have to be seen in their proper context. These decisions are part of an ambitious strategy against harmful tax competition, which the Commission launched in 1997. This strategy comprises the tax package and vigorous state aid control over corporate taxation. The strategy has paid off: the Council is now close to a final agreement on the tax package; and the individual state aid proceedings opened by the Commission have been a great help in implementing the Code of Conduct on Corporate taxation.

Olympic Airways

Commissioner Mario Monti had some stern things to say about Olympic Airways when he addressed a meeting in Athens on 14th February. "Why," he asked, "should it not be acceptable to grant government support for a national airline?" The answer is that all airlines are struggling with financial difficulties and that it is intrinsically unfair that some benefit from a systematic state support while others have to survive on their own. "Under the European state aid rules, a company can be rescued once. These rules apply to all sectors, including air transport. This is all the more acceptable if the companies concerned were previously operating in a regulated market and have to adapt to a competitive marketplace. However, such restructuring aid must be part of a feasible and coherent plan to restore the firm's long-term viability. In the case of Olympic Airways, the Commission found that the restructuring plan had not been put in place, that none of the financial objectives had been attained and that, in particular, the viability of the company was not assured in the short or medium term. I do not believe that continued state support to an airline company is in the long-term interest of the consumer-taxpayer. Where airlines are subsidised, consumers rarely enjoy low prices." ■