Concentrations

By chance, rather than by intention, this issue is devoted exclusively to acquisitions and mergers. It just so happens that the incidence of Commission decisions, as well as the most recent Court case in the competition field, has been in the areas covered by the Mergers Regulation (except for the second BellSouth case, which was held to be outside the Regulation's scope). The number of decisions reflects the extent of activity among firms seeking to enlarge their operations; relatively few cases are about joint ventures.

Competition and Subsidiarity

In a recent speech to the European Parliament, the member of the Commission responsible for competition policy, Mr Monti, referred to a Commission White Paper on proposed changes in competition law and posed three questions for consideration:

> Why does the Commission propose in the White Paper to abandon its monopoly to apply Article 81(3)?
> Why would this reform not lead to a "re-nationalisation" of competition policy?
> Why would a system granting an explicit exemption power to national authorities be a dangerous alternative?

"In an enlarged Community," Mr Monti said, "it will not be possible to ensure an efficient protection of competition if only one body is enforcing the rules. It is absolutely necessary to involve to a much greater extent national Courts and national Authorities." Today, even if all national Courts and a majority of national Authorities can theoretically apply Article 81(1), the existence of the Commission's exclusive right to apply Article 81(3) in practice blocks the de-centralised application of the EC competition rules. To ensure an efficient protection of competition in the Community, it is necessary to abolish the Commission's monopoly, thereby stepping up enforcement by increasing the number of prosecutors and adding private enforcement to public enforcement.

Stop Press: Microsoft

Just as we are going to press, we learn that the Commission has decided to investigate aspects of Microsoft's activities affecting the European market. The following is an extract from a Commission Statement (IP/00/141, dated 10.2.00): "On the basis of information received from end-users, small and medium-sized firms active in the IT (information technology) sector and competitors of Microsoft, the Competition Directorate General of the Commission has formally requested Microsoft to provide information about the new technical features of Windows 2000 in the context of EC competition law." Further details will be given in our next issue. ■