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Ring out the old

In the early days of the European Communities' competition policy, the Commission used to make an impressive effort to wind up as many cases as possible and to complete as many legislative measures as possible before the end of each year; and, as the Commission does not normally work during the last week of the year, its Decisions and its Regulations used to be published just before Christmas, sometimes on Christmas Eve: these were known among anti-trust lawyers as the Commission's "Christmas gifts". More recently, the practice has tailed off; but, on 22nd December, 1999, the Commission offered a return to the old tradition by adopting the new block exemption Regulation on Vertical Restraints. This brings an end to the block exemption Regulations on exclusive dealing, exclusive supply and franchising, though not quite as neatly as might have been expected, since the new Regulation, though it "came into force" on 1st January, does not "apply" until 1st June, 2000; and the old Regulations, though no longer "applying" after 31st May, 2000, will have certain effects until 31st December, 2001.

Unlike the Commission, the Courts do not feel the same need to offer Christmas gifts; but there was a small flurry of judgments in competition cases during the month of December. The most interesting and important of these is the *Kesko* case, which will be reported in our next issue. Other cases may be reported in future issues; but the Court of Justice continues its tiresome and outdated practice of using French as its main language; and we shall have to decide whether to offer readers our own translation of those other cases.

WTO Setbacks

In its XXVIIIth Report on Competition Policy, the Commission refers to the case submitted to the WTO Dispute Settlement Body regarding access to the Japanese market for photographic films and paper. The panel dismissed the case (Kodak/Fuji) because there was no causal link between measures adopted by the Japanese government and an upsetting of the competitive relationship between domestic and imported products. Whether or not anti-competitive practices have a negative impact on trade falls outside the scope of current WTO rules; and, as the Commission points out, "in this case there were many competition issues which would have been addressed in a more satisfactory way within a competition law framework". The Commissioners concerned said, reasonably enough, that the case illustrated "the need to supplement the current framework of WTO rules with a WTO framework of competition rules". However, the extension of the WTO's powers may have suffered a setback following the disappointing meeting in Seattle. Interestingly, one of the objections raised by protesters in Seattle was that it was undemocratic to legislate by means of international treaties. Much the same could be said of the European Union itself. ■