Merger "Remedies"

Just before Christmas, rather in line with the Commission's old tradition of offering "Christmas Gifts", the Commission published a Notice on Merger Remedies: that is, on remedies acceptable to solve competition problems raised by mergers and acquisitions. The Notice is designed to provide the business and legal communities with guidance and predictability on merger control policy in the European Union. It builds on the experience of ten years of application of the merger regulation. The Notice focuses on the following areas: the general principles on which remedies can be proposed and implemented in merger proceedings; an overview of the main types of remedies that have been accepted in merger cases to date (such as divestiture provisions, termination of exclusive agreements, and licensing arrangements to provide access to infrastructure and key technology); the specific requirements for submission of remedies in Phase I and Phase II proceedings, respectively; and the major elements for implementing divestiture commitments, including the provisions for the appointment of a trustee for oversight, preservation of the assets and/or activities to be divested, and Commission approval of the potential purchaser. This is a timely Notice by the Commission.

Block exemptions for state aids

On 6th December, the Commission adopted three block exemption regulations on State aid. The first concerns state aids to small and medium-sized enterprises (SME); the second concerns training aid and the third lays down *de minimis* rules. The regulations will exempt these categories of aid from the requirement of prior notification. In future, Member States can grant aid fulfilling all the conditions of the regulations without prior approval by the Commission. The Commission's regulations are based on an enabling regulation: namely Council Regulation EC/994/98, adopted on 7 May 1998. The *de minimis* regulation codifies the present rules, laid down in a Communication dating from 6 March 1996. According to these rules, aid measures to an enterprise below the ceiling of €100,000 within a period of three years are not considered to be State aid within the meaning of the Treaty, since they do not threaten to distort competition and do not affect trade between Member States. In one respect, this is also a timely move by the Commission. In another, it is a belated move, coming so long after the powers were provided in the Treaty to make regulations along these lines.

Note. The source of the information about mergers is Commission Statement IP/00/1525, dated 21 December 2000. The source of the information about state aids is Commission Statement IP/00/1415, dated 6 December 2000. The texts will shortly be available on the European Union's website. ■