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CONTENTS

126 COMMENT

Music and Competition

127 PRICING POLICY (MOTOR VEHICLES)

The VW Case

130 REBATES (POSTAL SERVICES)

The Belgian Post Office Case

132 PROCEDURE (ALL INDUSTRIES)

The Hearing Officer

134 STATE AIDS (BANKS)

Commission Communication

136 STATE AIDS (BROADCASTING)

The SIC Case

140 STATE AIDS (AGRICULTURE)

The Agrana Case

143 COMPLAINTS (POSTAL SERVICES)

The IEEC Case

MISCELLANEOUS

The Intel Case *133*
The Plasterboard Cartel Case *139*
The TGI Case *142*

Music and Competition

One of the themes of the solemnly named "European Competition Day", held on 11th June in Stockholm, was the potential impact of the Competition Rules on the provision of music, whether in discs or on the Internet. (The occasion, whose aim was to emphasise the effect of competition policy on wider choice, better prices and service levels for the benefit of consumers, was arranged jointly by the Swedish Government, which at present holds the presidency of the European Union, and the Commission of the European Communities.)

Speaking for the Commission, Mr Mario Monti drew attention to the investigation into prices for Compact Discs, with the aim of verifying whether manufacturers were trying to impose retail price maintenance upon shops. Although the case had not yet been concluded, Mr Monti indicated that a few suspect practices had already ceased. Another area in which the Commission was giving particular attention to the concerns of individual consumers was that of Digital Video Disc pricing. As a result of complaints received about the effects of the regional coding system for DVDs, the Commission had initiated contacts with the major film production companies. It was important in the Commission's view that, if the complaints were confirmed on the facts, a system should not be permitted which provided greater protection than the actual intellectual property rights themselves.

As for online services, the Commission services are looking into Duet and MusicNet online music joint ventures involving, respectively, two and three of the five major music companies worldwide. According to Mr Monti, these are important cases for the development of music services offered online to consumers. He stressed the importance of allowing consumers to choose between competing service providers and gave as an example the undertakings imposed by the Commission in the AOL / Time Warner case last year. In that case, the undertakings were aimed at separating Bertelsmann from the merged company, ensuring that Bertelsmann's content could not be combined with that of Time Warner to give AOL a dominant position.

In three respects, the Commission is undoubtedly right to pursue these investigations. First, there is on the face of it plenty of evidence that European consumers in particular are being overcharged for music on disc. Second, unless consumers see a more realistic pricing policy adopted by the providers of music, there will be a backlash against the providers' excessive reliance on intellectual property rights. Third, the combination of music providers and large internet service providers, though not fully covered by existing competition rules, presents considerable dangers to consumers.