



## News

### Thibaud Vergé joins CRA's French office



Dr. Thibaud Vergé has joined CRA's European Competition Practice in France as an academic associate. Dr. Vergé is a Research Fellow at CREST (Center for Research in Economics and Statistics), and a lecturer in Economics at ENSAE and Ecole Polytechnique. Dr. Vergé holds an MA in Engineering from Ecole Polytechnique and a Doctorate in Economics from the University of Toulouse. His research interests are in the field of Industrial Organisation, focusing in particular on competition issues related to vertical relationships.

Dr. Vergé adds depth to CRA's French practice, which was established by Laurent Flochel in autumn 2007. Professor Flochel is a full-time consultant at CRA while on leave from his post as Professor at the University of Lyon.

## CRA's European news

### TomTom/Tele Atlas vertical merger – May 2008

Tele Atlas is a provider of navigable digital maps and TomTom produces portable navigation devices (PND – often known as satellite navigation devices or SatNavs). TomTom is the market leader in the EEA in PNDs, while Tele Atlas is one of two providers of navigable digital maps offering complete coverage of Europe and North America. Navigable digital maps are essential inputs for PNDs. Following an in-depth Phase II investigation the European Commission has approved without remedies the proposed acquisition of Tele Atlas by TomTom, both of which are Dutch firms.

The Commission's investigation focused on the ability and incentives of the merged company to increase the costs of other PND manufacturers for navigable digital maps or to limit their access to these maps, and on the impact these strategies might have on PND consumers. The Commission found that the merged company would be unlikely to pursue these strategies because its ability to restrict access to digital maps for other PND manufacturers would be limited by the presence of an upstream competitor, Navteq. In addition, the merged company would have no incentive to restrict access to digital maps because the sales of digital maps lost by Tele Atlas would not be compensated by additional sales of PNDs. In concluding that the proposed concentration would not raise competition concerns, the Commission's analysis also took into account the efficiencies that are likely to be generated by the proposed transaction.

A team from CRA including **Paul Muysert**, **Tom Overstreet**, **Sharon Pang** and **Steven Salop** advised Tele Atlas throughout the proceedings.

### FSA/OFT recognition of ICE Clear – May 2008

**Kyla Malcolm** and **Geoff Edwards** of CRA's London office assisted ICE Clear Europe Ltd (ICE Clear) in its successful application to the Financial Services Authority (FSA) to become a Recognised Clearing House for the purposes of the Financial Services and Markets Act 2000 (FSMA). Under the FSMA the OFT is required to report to the FSA, the Competition Commission and the Treasury on whether one or more regulatory provisions of the clearing house would have a significantly adverse effect on competition. CRA assisted ICE Clear with economic arguments in the context of the OFT's investigation, which centred on the competitive effects of replacing the London Clearing House (LCH) with ICE Clear as the clearing house for the ICE Futures Exchange. The OFT concluded that recognition of ICE Clear would not lead

## Recent publications by CRA consultants

### Payment cards – review of the evidence on the impact of regulatory intervention in Australia

**Robert Stillman**, **William Bishop**, **Kyla Malcolm** and **Nicole Hildebrandt** have submitted a report to the Reserve Bank of Australia (RBA), reviewing the evidence on the impact of the RBA's payment system regulations. The report and covering letter are available from:

[http://www.rba.gov.au/PaymentsSystemReforms/RevCardPaySys/responses\\_prelim\\_conclusions\\_0708\\_review.html](http://www.rba.gov.au/PaymentsSystemReforms/RevCardPaySys/responses_prelim_conclusions_0708_review.html)

### Parallel Trade in Pharmaceuticals: more harm than good? CRA Competition Memo, March 2008

**Andrea Coscelli**, **Geoff Edwards** and **Alan Overd** argue that it is time for the European Commission to rethink whether the goal of seamless cross-border trade should take precedence over the arguments for restricting parallel trade in pharmaceuticals. The memo is available from:

[http://www.crai.com/ecp/assets/Parallel\\_Trade\\_in\\_Pharmaceuticals.pdf](http://www.crai.com/ecp/assets/Parallel_Trade_in_Pharmaceuticals.pdf)

### Market definition in cases involving branded and generic pharmaceuticals

**Bob Lamer** and **Caterina Nelson** from CRA's Boston office argue that defining the relevant market depends in part on the nature of the alleged or potential anticompetitive effects. They use evidence from a recent antitrust case in the pharmaceutical segment in which the second generic entrant alleged that its entry was delayed because of the first generic entrant's unlawful behaviour. The article was published in the ABA's Fall 2007 *Economics Committee Newsletter* and is available from:

[http://www.crai.com/uploadedFiles/RELATING\\_MATERIALS/Publications/Consultant\\_publications/Market%20Definition%20in%20Cases%20Involving%20Branded%20and%20Generic%20Pharmaceuticals.pdf](http://www.crai.com/uploadedFiles/RELATING_MATERIALS/Publications/Consultant_publications/Market%20Definition%20in%20Cases%20Involving%20Branded%20and%20Generic%20Pharmaceuticals.pdf)

to a significantly adverse effect on competition and that further investigation by the Competition Commission was not required.

### Berkshire newspaper merger – May 2008

The OFT has cleared the completed asset acquisition by Dunfermline Press Limited (DPL) of the Berkshire regional newspapers (BRN) business from Trinity Mirror plc subject to divestments. Pre-merger the parties overlapped in the publication of weekly local newspapers and the provision of advertising space in local newspapers in Slough, Windsor and some smaller nearby towns. The main overlap came from BRN's Express series (weekly free) and DPL's Observer (weekly paid for) and Midweek Observer (weekly free). The OFT was particularly concerned that the merged entity would have significant latitude to increase cover prices and/or advertising rates, and reduce circulation areas. In lieu of reference to the Competition Commission, the OFT has accepted a customised divestment package offered by DPL comprising a sale of all editions of the Express series to Baylis, the owner of Maidenhead Advertiser, apart from the Maidenhead edition, which DPL will retain. **Alan Overd** and **Vicki Mertzani** of CRA's London office advised DPL.

### UK Pay TV market review – April 2008

BSkyB's response to Ofcom's December 2007 Consultation Document on the UK pay TV market has been published by Ofcom. The response includes a submission prepared by CRA which reviews the analysis and arguments in Ofcom's document on the potential 'short-term' and 'long-term' consequences of vertical integration in pay TV. Ofcom is considering whether vertical integration between wholesalers and retailers of premium content operating at different levels of the pay TV supply chain may create the incentive and ability to foreclose pay TV competitors. A team from CRA London including **Cristina Caffarra**, **Andrea Coscelli** and **Adrien Cervera-Jackson**, as well as **Dr Pierre Régibeau** (University of Essex) and **Prof John**

**Van Reenen** (London School of Economics) have been supporting BSKyB through the investigation. The CRA report is available from: [http://www.ofcom.gov.uk/consult/condocs/market\\_invest\\_paytv/responses/sky\\_annex4.pdf](http://www.ofcom.gov.uk/consult/condocs/market_invest_paytv/responses/sky_annex4.pdf)

### Oracle/BEA Systems merger – April 2008

Oracle Corporation's acquisition of BEA Systems (a provider of middleware software) was approved by the European Commission in Phase I, without conditions. The Commission examined the potential effects of the merger on the overall middleware software segment and various sub-segments (namely application servers, portals, enterprise service bus software, and application integration software), and found that the horizontal overlap between the parties' activities would not give rise to competition concerns in the EEA because sufficient alternative suppliers remain on the market. A team from CRA's London office including **Matthias Pflanz**, **Hristina Dantcheva** and **Adrien Cervera-Jackson** advised Oracle.

### Local overlaps in Home Retail Group/Focus stores merger – April 2008

Home Retail Group owns the Homebase chain of DIY stores. The group's acquisition of 27 Focus stores has been cleared by the OFT, subject to the divestment of a store in one of 12 overlap areas identified. While accepting that the deal raised no antitrust concerns at the national level, the OFT was concerned that the acquisition might result in consumer detriment in the areas of local overlap. As a result of specific evidence on the local overlap areas, and a strong failing firm case in relation to certain stores, only one divestment was required (in Woking). The OFT has also used its published decision to set out its approach to local competition issues in retail mergers more generally. **Diana Jackson**, **Ian Small** and **Jack Fanning** of CRA's London office advised on the transaction.

### Vedior/Randstad merger – April 2008

Vedior and Randstad supply temporary employment services in many European countries. The European Commission's investigation ruled out competition concerns in all overlap countries with the exception of Portugal. Despite initial concerns about the merger in the Netherlands and Belgium, the Commission accepted the parties' arguments about low barriers to entry and expansion and low switching costs in the relevant market. The European Commission cleared Randstad's acquisition of Vedior in Phase I, subject to divestments in Portugal. **Mike Walker** of CRA's London office and **Edward Droste** of CRA's Amsterdam office assisted Randstad in this transaction.

### Seawell/Noble UK '4 to 3' contract platform drilling merger – March 2008

Seawell and Noble UK are both providers of contract platform drilling, engineering and well intervention services to the offshore oil and gas industry. The merger was examined by the OFT. The OFT was concerned about the impact of the transaction on the supply of skilled manpower deployed in contract drilling services on offshore platforms located in the North Sea section of the UK Continental Shelf. The acquisition led to high market shares and reduced the number of contract bidders from four to three. Despite this, the OFT concluded that the merged entity would continue to be constrained by the on-going buyer power of customers: oil and gas companies have the ability to control the procurement process (e.g. through 'multi-sourcing' awards) and to sponsor entry if the post-merger market fails to deliver on price and/or service. **Alan Overd** and **Vicki Mertzani** of CRA's London office advised Seawell.

## Work in progress

### Competition Commission issues PPI Provisional Findings

The UK CC has published Provisional Findings in its Payment Protection Insurance (PPI) market investigation. The CC has found a lack of effective competition in the distribution of PPI and has published a notice of possible remedies, requesting comments by the end of June. The CC's final report is due to be published at the end of this year. **Alan Overd** and **Rameet Sangha** are advising Lloyds TSB.

### Comair – impact of travel agent agreements in the South African domestic airline market

**Giulio Federico** and **Elina Koustoumpardi** have submitted a report to the South African Competition Tribunal assessing the impact of South African Airways' (SAA) travel agent agreements on competition in the South African domestic market for air travel. The first part of Competition Tribunal hearings on this matter took place during the second half of March 2008. **Giulio Federico** gave expert evidence to the Competition Tribunal on behalf of Comair, SAA's largest rival in the domestic air travel market. The Tribunal hearings are due to continue in 2009.

## CRA's international news

### SAB Miller/Molson Coors joint venture

On 5 June 2008 the US Department of Justice closed its investigation of the proposed joint venture between beer brewers SAB Miller and Molson Coors. The joint venture will combine the brewing and distribution assets of the two companies in the US and Puerto Rico, leading to a large reduction in production and distribution costs, thereby permitting the Miller and Coors brands to become stronger competitors against Anheuser Busch. CRA International was retained by Miller to assist its counsel in preparing to address any concerns raised by the Antitrust Division. CRA undertook a number of analyses of pricing, demand, competitive effects and efficiencies in support of that effort. CRA also assisted the parties in complying with the Department's request for additional information (the Second Request). In addition to **Professor Steven Salop**, CRA senior consultant and Professor of Economics and Law at the Georgetown University Law Center, other key CRA senior staff assisting in this effort included **Peter Boberg**, **Serge Moresi**, **Jeff Prisbrey**, **Craig Romaine** and **John Woodbury**.

### Antitrust clearance for International Paper acquisition

CRA was retained by International Paper, a major producer of paper and packaging products, to assist in securing antitrust clearance for International Paper's proposed acquisition of Weyerhaeuser's containerboard packaging and recycling business. **Andrew Dick**, **Ann McDermott** and other CRA staff assisted International Paper by developing economic arguments and preparing empirical analyses that demonstrated that the transaction would not affect competition in containerboard or corrugated box manufacturing. The US Department of Justice allowed the transaction to proceed with no divestitures and without the issuance of a Second Request.

## About CRA's European Competition Practice

CRA's European Competition Practice specialises in providing economic advice to businesses on matters of competition policy and regulatory affairs. Our reputation is for rigorous and innovative economic analysis, careful attention to detail, and the ability to work effectively as part of a wider team of advisors.

CRA's European Competition Practice has over forty staff in London, Brussels, Amsterdam, Paris, Munich and Barcelona. Our economists have extensive experience working before DG Competition and the national competition and regulatory authorities of the Member States. We also work closely with our network of internationally renowned academic associates, and CRA colleagues in North America and Australia. We have native speakers of all the major European languages.

## Contacts

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