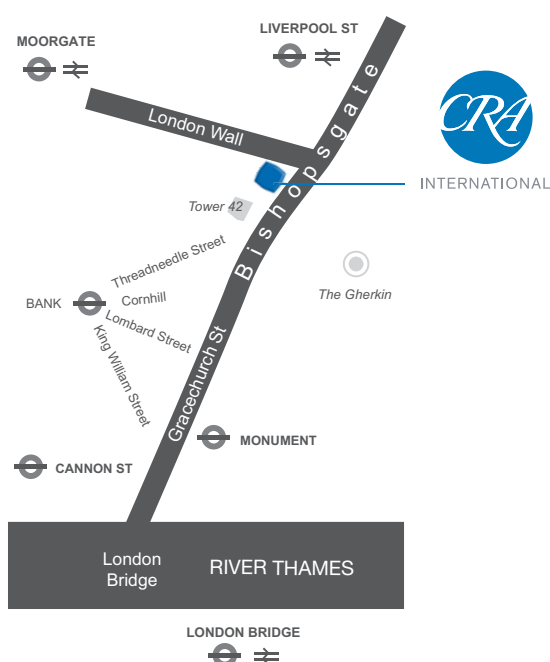


## CRA's announcements

**Office move:** CRA's European Competition Practice has moved to new offices in London at 99 Bishopsgate.



### Lorenzo Coppi returns to the London office:

Dr Lorenzo Coppi (Vice President) has returned to London after six years with CRA in Washington DC, where he has gained extensive experience of US antitrust to add to his European background. He has over a decade of experience in analysing mergers under the EC Merger Regulation and the FTC/DOJ Merger Guidelines; allegations of anticompetitive practices under Articles 81 and 82 of the EU Treaty and Sections 1 and 2 of the Sherman Act; and Chapter II provisions of the UK Competition Act. His sector expertise includes various high technology industries, telecommunications, media, the beverage and distilled spirits industries, retailing, and several consumer good industries. For the past few months, Lorenzo has been advising on the high-profile merger of XM and Sirius, the two US satellite radio services.



### Laurent Flochel joins CRA and establishes French office:

Professor Laurent Flochel has joined CRA's European Competition Practice as a full-time consultant, while on long-term leave from his post as Professor at the University of Lyon. Professor Flochel has acted as an economic expert in a number of recent high-profile cases before the French competition authorities.



## Upcoming events

**Annual Brussels conference on "Economic Developments in European Competition Policy"** will be on **Thursday 13 December 2007**.

## CRA's European news

### Europe: European Commission clears paper tissue merger at Phase I—September 2007

The European Commission has approved the acquisition of Procter & Gamble's European consumer tissue business by Svenska Cellulosa Aktiebolaget (SCA) at Phase I. While the merger appeared to create high combined shares in a range of relevant markets, the Commission concluded that for the most part the parties are significantly constrained by private label products and the resulting bargaining power of retailers. As a result, the Commission only required the divestment of one paper handkerchief brand in one geographic market. CRA's Mike Walker, Pablo Florian and Nicole Hildebrandt advised P&G in the merger proceedings.

### Europe: European Commission prohibits Ryanair's proposed acquisition of Aer Lingus—June 2007

The European Commission has prohibited Ryanair's takeover of Aer Lingus, which would have led to the creation of a dominant airline in Ireland with a monopoly position on 22 routes, and more than 80% of traffic on a total of 35 overlap routes. The parties would have also held in excess of 80% of total short-haul capacity at Dublin airport. The Commission investigation found that the merger would have resulted in a significant lessening of competition for passengers to and from Ireland, given that the airlines have a similar no-frills point-to-point business model and compete for a common set of consumers. The decision is to be challenged by Ryanair before the CFI.

A CRA team composed of Cristina Caffarra, Giulio Federico, Hugh Wills and Daniel Donath advised Aer Lingus during the Commission's investigation. The econometric evidence submitted by CRA on behalf of Aer Lingus was instrumental in the Commission's conclusions on unilateral effects.

CRA's Competition Memo "Ryanair/Aer Lingus: Flight Cancelled" provides further details on the unilateral effects analysis used in this case, and is available at [http://www.crai.com/ecp/assets/Ryanair\\_Aer\\_Lingus.pdf](http://www.crai.com/ecp/assets/Ryanair_Aer_Lingus.pdf).

### UK: Bank price controls lifted—August 2007

The UK Competition Commission (CC) has provisionally decided to release the UK's four largest clearing banks from the price controls imposed in 2002 in relation to banking services to small and medium-sized enterprises (SMEs). This follows a detailed examination by the Office of Fair Trading (OFT) of the impact of the price controls and other undertakings. Alan Overd and Rameet Sangha of CRA provided support to Lloyds TSB throughout the OFT investigation and also assisted Lloyds TSB during the original CC investigation of the SME market.

### UK: OFT approves Macquarie's acquisition of Airwave Safety Communications Limited—August 2007

The OFT has unconditionally cleared the completed acquisition by Macquarie Infrastructure Fund II and Macquarie Communications Infrastructure Group of Airwave Safety Communications Limited. CRA's Andrea Coscelli provided economic advice to the Macquarie Funds throughout the OFT investigation.

### France: Conseil de la concurrence fines major cable suppliers for anticompetitive agreement—July 2007

The French Conseil de la concurrence has fined five high voltage electric cable suppliers €19.5 million for concluding an anticompetitive agreement during two successive takeover bids organised by EDF. The companies concerned did not challenge the alleged facts and in return received a 10% reduction in the penalty. Laurent Flochel and Pascale Dechamps of CRA advised Draka Paricable during the investigation. Their work included an econometric evaluation of damages arising from the alleged agreement.

## CRA's international news

### South Africa: Competition Tribunal approves Netcare's acquisition of Community Hospital Group

The South African Competition Tribunal approved the merger of Netcare and Community Hospital Group (CHG) in August 2007. Netcare is one of the three major private hospital groups in South Africa, while CHG is a small chain with hospitals in the Gauteng and Western Cape provinces. The South African Competition Commission had recommended prohibition of the proposed merger, primarily on the grounds that the merger would reduce competition among hospitals to become part of networks organised by healthcare funders. CRA's Bob Stillman testified for the merging parties, supported by Elina Koustoumpardi and Adrien Cervera-Jackson from our European Competition Practice.

### US: District Court clears way for Whole Foods-Wild Oats merger

On 16 August 2007, a US District Court denied the Federal Trade Commission's (FTC) request for a preliminary injunction against the acquisition of Wild Oats Markets, Inc. by Whole Foods Market, Inc. On 23 August 2007, the US Court of Appeals denied the FTC's appeal and allowed the merger to go through. A CRA team, co-led by Andrew Dick (DC) and Peter Boberg (Boston), assisted counsel by conducting and presenting economic and econometric analyses to the FTC. In a case that hinged on the definition of the relevant product market, CRA's analyses found that Whole Foods and Wild Oats are not each other's closest competitors and that competition with other stores, including conventional food stores, effectively constrains prices making the proposed merger unlikely to lessen competition in any relevant product or geographic market.

### US: Supreme Court ruling on price floors overturns a 96-year-old ban

CRA's Tom Overstreet played a central role in providing economic justification for the US Supreme Court decision of 28 June 2007 to overturn

a 96-year-old ban on price floors. Dr Overstreet addressed the question of whether the courts should continue to deem it per se illegal for a manufacturer to enter into vertical agreements with its retailers to set minimum resale prices. The brief reflected input from 23 noted economists, including CRA's founder Frank Fisher, and CRA's Senior Consultants Frank Mathewson and Carl Shapiro. In its 28 June decision, the Supreme Court made numerous references to the Economists' Brief and to a Staff Report to the Federal Trade Commission by Dr Overstreet titled "Resale Price Maintenance: Economic Theories and Empirical Evidence". The Court ruled that the per se rule is inappropriate and resale price agreements should be judged by the rule of reason on a case by case basis.

### US: FCC study to help guide decisions around media ownership rules

CRA's Tasneem Chipty has authored a major media ownership study commissioned by the Federal Communications Commission (FCC) as part of its periodic review of broadcast ownership rules. The study, released on 31 July 2007, evaluates the effects of consolidation and cross-media ownership in broadcast radio and provides a detailed empirical analysis of the effects of ownership structure on programme diversity, listenership, and advertising prices. Key findings are that consolidation of radio ownership does not diminish the diversity of local format offerings and is associated with more diversity in actual programmes aired. The study is available from the FCC at <http://www.fcc.gov/ownership/studies.html>.

### Australia: Successful outcome for defendants in Australia's largest ever antitrust litigation

CRA's Senior Consultants Frank Fisher and George Hay, supported by CRA staff, provided economic analysis and testimony on behalf of the winning defendants in a landmark antitrust ruling announced on 27 July 2007 in Federal Court in Sydney, Australia. The ruling dismissed claims by Seven Network, an Australian television network, of anticompetitive conduct and breaches of the Trade Practices Act of 1974 by its competitors. In dismissing Seven's claims, Justice Ronald Sackville cited the testimony of Professors Fisher and Hay concerning such matters as market definition, economic rates of return, competitive bidding, and pricing.

### Canada: Innovation and dynamic efficiencies in merger review

CRA economists Andrew Tepperman and Margaret Sanderson have completed a report for the Canadian Competition Bureau analysing issues associated with dynamic competition and efficiencies in mergers and proposing a framework for incorporating innovation issues into the merger review process.

The report is available on the Canadian Competition Bureau's website, at <http://www.competitionbureau.gc.ca/internet/index.cfm?itemID=2377&lg=e>.

For more information, please go to <http://www.crai.com/ecp/>

## 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

For additional information, please contact

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