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COMPETITION

- o Dutch beer cartel dismantled

"The European Commission will not tolerate cartels. If you do take part in cartels you will face very substantial fines. So don't be tempted to start. And if you are already in a cartel, then blow the whistle to the Commission to gain immunity before someone else blows the whistle on you." This is the discourse Neelie Kroes, the Competition Commissioner, held following the recent discovery and destruction of a Dutch beer cartel which operated between 1996 and 1999. During that period, the top management of the four brewers used code names to arrange secret hotel and restaurant meetings to determine the price of beer in the Netherlands.

Heineken Brewers, Grolsh and Bavaria were fined a record EUR 273.8 million following the discovery by the Commission's anti-trust department of evidence of price-fixing. However, all three were granted a reduction of EUR 100 million because of extremely long delays since the inspections took place. The Belgian-Brazilian brewer InBev, also a member of the cartel, managed to escape fines by blowing the whistle on the other three. This decision follows the imposition of a EUR 42 million fine on Danone for similar price-fixing in the beer market in Belgium. The latter decision was upheld by the European Court of Justice in February.



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Attorneys at law

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ENVIRONMENT

o Parliament's two seats cost the environment

The enormous environmental costs which result from the fact that the European Parliament holds plenary sessions in both Brussels and Strasbourg was recently pointed out by Green MEPs, backed by UK Conservatives. A study from the Stockholm Environment Institute shows that MEPs' regular trips between Strasbourg Brussels, the so-called "traveling circus", is extremely polluting. What's more, it costs the European taxpayer over and above the already high costs of holding plenary four-day sessions once a month in Strasbourg. It goes without saying that, at critical times for the citizens' trust in the European Union, this could further negatively affect voters' trust.

Accordingly, the Green MEPs are calling upon the EU to "show environmental leadership" by closing the Strasbourg building. Back in 1992, a compromise agreement was reached between member states that resulted in the two-seat arrangement. Bearing in mind that the 'One Seat' campaign launched in 2006 was unsuccessful, this seems like a difficult situation to change. Ironically, these criticisms coincide with the Parliament's support of the proposal to set up a special committee on climate change.



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INFORMATION & COMMUNICATION TECHNOLOGIES

- o **The roaming charges saga continues**

The vote on the roaming regulation (see: Pappas & Associates Newsletter April 1/07 article *“The ‘watering down’ of the EU Roaming Regulation”, p.9*), scheduled for 9 May 2007, has been postponed but should be held around the 22 May. The Council and the Parliament disagree on (1) the level of cuts of roaming charges for international calls and (2) the speed of the new prices’ implementation. Therefore, the Commission’s original plan to reduce charges by the summer holidays may be defeated. The Council and the Parliament now have two weeks to find a compromise on the two problematic issues.

Concerning (1) the costs of making international calls, the Parliament proposes EUR 0.45 per minute for making and EUR 0.20 per minute for receiving a call whereas the Council suggests EUR 0.60 and EUR 0.30 respectively. Concerning (2) the implementation of the measures, the Parliament proposes a three-month period for consumers to opt-in, after which all mobile subscribers would benefit from new tariffs. Yet, governments support an opt-in system all the way. Meanwhile, industry groups and consumer associations continue fighting for their respective causes. There is still hope that the new regulation will take effect in July if the Parliament vote takes place at the end of May after all and EU-27 telecom ministers give their final approval at the beginning of June.



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o YouTube still denying Viacom's breach of copyright claims

Google has asked a US court to dismiss a copyright \$1 billion action brought by Viacom Media, the US media group and owner of MTV, on grounds of copyright infringement. It suggests that Viacom has become "a threat to the internet". According to Google "Viacom's complaint threatens the way hundreds of millions of people legitimately exchange information, news, entertainment, and political and artistic expression".

Concurrently, Viacom claims that Google's video-sharing website YouTube is illegally displaying its shows. In February, Viacom asked YouTube to remove 100,000 "unauthorised" clips off its site and in March, it instigated an action alleging that a large number of video clips of its programmes were illegally uploaded onto YouTube (See Pappas & Associates Newsletter March 1/07 article "*The copyright battle between Microsoft and Google*", p.9). Additionally, it accuses Google of not doing enough to curb the infringement on its site.

However, Google continues to deny it is committing "massive" copyright infringement. On the contrary, Google underlined its respect for intellectual property and the more than sufficient number of legal obligations it imposes on itself to that effect.



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Finally, Google says it will continue trying to get permission from media companies to broadcast information on YouTube in exchange for payment in order to do so legally and thereby steer clear of the threat of legal action. Will Google's promises be enough to curb traditional media's concerns that the displaying, without compensation, of their programmes will draw viewers and advertising revenue away? This remains to be seen.

INTELLECTUAL PROPERTY

- **Microsoft wins battle against AT&T in patent dispute**

The US Supreme Court recently settled a dispute in favour of Microsoft. It overturned a ruling ordering that Microsoft should pay damages to AT&T, a leading telecoms company, for infringing outside of the US a patent granted in the US. Indeed, the court held that the software giant cannot be held liable for patent infringement on copies of its Windows operating system that were sold outside the country since patent laws generally stop at the nation's borders.

AT&T's argument that the Microsoft software code that infringed its patents could be seen as a "component" of a computer was rejected by a 7-1 vote. It is worth noting that, if this were the case, US patent law would have treated any overseas sales of the Windows operating system as patent infringement.



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In conclusion, it seems fair that infringements that are caught by the law of the country in which they occur should be actionable in that same country. Meanwhile, AT&T denounces a so-called “software-specific loophole” in US law which will compel it to file for patents in all countries in which it wants to take action.

TRADE & INDUSTRY

- o **The EU plans to set up ‘trade-barrier watchdogs’**

The European Commission will soon adopt a tougher stance against countries that fail to remove trade barriers which are detrimental to European companies reaching out to emerging markets such as China, Brazil, India and Russia. The recent decision by the Commission to take India before the WTO for imposing excessive import duties on wines and spirits is a good example of the EU’s new plans (See Pappas & Associates Newsletter Apr 1/07 article “*The EU questions India’s alcohol taxation regime before the WTO*”). Indeed, Peter Mandelson, the EU trade commissioner, wishes to facilitate European companies’ access to emerging markets via bilateral free-trade agreements and the creation of local organisms in charge of enforcing WTO rules.

The EU’s stricter stance reflects Europe’s new trade strategy presented at the end of last year. Its object is to place Europe in a position where it is capable of competing fairly with low-cost manufacturing countries in Asia and Latin America.



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A very important element of this new strategy is the establishment of a “decentralized partnership” between the Commission, companies, EU delegations and embassies of the 27 member states. It creates so-called ‘market-access teams’ which can identify and tackle local trade barriers more easily. These should be set up in the next few months according to the Commission.

An example of the sort of work these teams will carry out will be to monitor the protection of intellectual property rights, which is increasingly problematic for European exporters, especially in countries like China. This is a particularly sensitive issue, even though Doha negotiations on a global trade pact seem to have come to a halt once again. Let us hope these initiatives will boost Europe’s economic future and competitiveness.