

CARS Activity Report 2009

I. General information

In the third year of its activities CARS primarily pursued the goals prescribed in its founding documents. The Centre was particularly active in the publishing department; it cooperated on a major research project, held an open PhD seminar and organized a training course – all activities that proved successful in previous years.

Without a doubt, the Centre's greatest achievement of 2009 was the publication of the first volume of its *Yearbook of Antitrust and Regulatory Studies (YARS)* – CARS's first English-language publication meant to introduce foreign readers to the law, enforcement practice, and jurisprudence of antitrust and sector specific regulation in Poland. At the same time, the fourth book was published by the Centre within the framework of its publication series *Studies and Monographs on Antitrust and Regulation*. The year 2009 also saw the conclusion of an extensive publishing project in which many members of CARS participated very actively over the last year: C.H. Beck's publication of the *Commentary on Competition and Consumer Protection Act* edited by the Centre's Director, Professor Tadeusz Skoczny.

Considering its outside relations, CARS initiated in 2009 the signing of a co-operation agreement between the Faculty of Management of the University of Warsaw and the State Enterprise 'Polish Airports'. This agreement became the basis for the implementation, by experts of both institutions, of a research project entitled 'Airport services in the European Union and in Poland – competition law and regulations'. Furthermore, an interesting PhD seminar was held at the Centre on procedural fairness in antitrust proceedings, among others, which has gathered many distinguished Polish judges and scholars. CARS was also contracted to organize a training program on the application of competition rules for a major Polish oil company.

From an organizational point of view, a library catalogue has been created to accompany CARS's continuing efforts to enlarge its library collection. The number of on competition and regulation volumes, both Polish and foreign, has reached around 200 items in the course of 2009.

II. PhD seminars

CARS's PhD seminars are organized in the form of a discussion forum concerning a relevant antitrust or regulatory thesis presented by a chosen speaker. They are

open to the wider public and the speaker does not necessarily have to be a CARS member. Outside guests are always invited to participate in the seminars originating from relevant public authorities or the judiciary as well as from the private sphere. CARS's PhD seminars are centered around a debate on substantive research problems or methodological issues connected to the draft PhD dissertation of the speakers.

The 2009 PhD seminar was held on 14 May. It focused on the draft dissertation prepared by Maciej Bernatt with Professor Andrzej Wróbel, a distinguished judge of the Polish Supreme Court, acting as co-speaker and moderator. The seminar focused on the theoretical and constitutional standard of a 'procedural fairness pattern' that should be used by legislators when formulating procedural rules to be applied in the proceedings before every public body including, among others, the antitrust authority and sector specific regulators. The debate considered the entire catalogue of fundamental values that define the pattern of procedural fairness covering: the right to be heard, due process and equal access to process, protection of ownership rights, judicial control of administrative decisions, and impartiality and independence of the ruling body. The seminar gathered several judges of the Polish Supreme Court, Supreme Administrative Court, Constitutional Tribunal and academics specializing in administrative procedures.

Aside from the aforementioned open PhD seminar, Prof. Tadeusz Skoczny has also been consulted by a number of PhD candidates on the progress of their research projects prepared under CARS's overview.

III. Publications

1. Yearbook of Antitrust and Regulatory Studies (YARS)

The first volume of YARS was published in January 2009. This fully English-language periodical includes: academic articles (among them a guest paper prepared by a distinguished representative of the international antitrust or regulatory doctrine), reviews of Polish antitrust and regulatory legislation, a review of EU case law concerning Poland in the antitrust and regulatory field as well as case-comments on key Polish judgments in this areas, book reviews, reports on Polish events dedicated to competition or regulation, and a list of Polish writings on competition and regulation from the preceding year.

The yearbook was distributed among both Polish and foreign institutions specializing in the research on competition protection and regulation from both the economic as well as legal perspective. The first volume of YARS has generated a great degree of interest from its readers, illustrated by a growing number of proposals for future articles as well as the fact that a number of polemics were sent to the editorial board of YARS concerning its previous articles. One of the submitted polemics can be found in YARS vol. 2(2).

Much of the year 2009 was dedicated to a wide-spread promotion of YARS and to the further development of the basic concepts for its following volumes. In particular,

it has become the priority of the editorial board to increase the number of economic articles in the total number of papers published in YARS.

2. Corporate Social Responsibility. Constitutional and International Perspective

This book (ISBN: 978-83-61276-27-2) by Maciej Bernatt represents the fourth publication issued in the framework of CARS's publishing series *Studies and Monographs on Antitrust and Regulation*. It is the first comprehensive Polish study on the concept of corporate social responsibility considered from the perspective of legal science, focusing in particular on the constitutional and international standpoint. The norms of corporate social responsibility are analysed in the light of the Constitution of the Republic of Poland as well as with reference to international legislation. The author also refers to Corporate Social Responsibility in the context of competition and consumer protection. The book is intended for academics, students, politicians, entrepreneurs, managers and representatives of NGOs and other leaders of civil society.

IV. Research

In co-operation with the State Enterprise 'Polish Airports' (PPL), CARS conducted in 2009 a research project on competition law and regulation in airport services. Many academics from the Faculty of Management of the University of Warsaw as well as specialists from PPL participated in this project. Antitrust rules concerning the provision of airport services were identified, presented and analyzed in light of the latest European case-law. Regulatory rules and their evolution between 1992/1993 and 2009 were identified which stem from legal acts that have already been in force for a long time and those that have only recently been drafted. Special attention was paid to the legal acts and draft legislation (as well as other documents, among them studies carried out on request of the Commission) which are part of the so-called 'airport package' adopted by the European Commission in January 2007. The research project covered the following aspects of airport functioning:

- (1) the rules on relevant market definition in airport services;
- (2) the antitrust context including: (a) the application of competition law to entities managing airports in the light of European and Polish case-law, (b) preventive merger control on the airport services market, (c) state aid issues;
- (3) the regulatory context including: (a) the distribution of traffic between airports, (b) airport charges, (c) ground-handling services, (d) environment protection/noise;
- (4) the relationships between the ownership and management of airports covering the four biggest airports markets in the EU: Great Britain, Germany, Spain & Portugal (cumulatively) and France.

The detailed research findings concerning all of the aforementioned problems can be applied by all those engaged in the management of airports and/or the provision

of airport services. The full research report is scheduled to be published in 2010 in the form of a book entitled *Airport Services in the European Union and Poland – competition law and airport regulations (Usługi portów lotniczych w Unii Europejskiej i w Polsce a prawo konkurencji i regulacje lotniskowe)* edited by Filip Czernicki and Tadeusz Skoczny. It will constitute the fifth publication of CARS’s “Studies and Monographs on Antitrust and Regulatory” series.

V. Training

CARS also conducted in December 2009 a training course for the employees of a major oil industry company. Its program included competition rules in the context of parallel imports, distribution agreements and potential antitrust effects of information exchange.

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