

Editorial foreword

The editorial board is pleased to present the third volume of the **Yearbook of Antitrust and Regulatory Studies** (YARS 2010, 3(3)). We hope that it will remain of interest to our foreign readers primarily because the majority of its research papers deal with the most important current problems of competition law enforcement. These include the impact of European substantive and procedural competition rules on the national antitrust enforcement systems, especially considering Poland's position as a "new" EU Member State as well as the challenges posed by the co-existence of antitrust enforcement and sector-specific regulation on infrastructure markets. We believe that this alone places our publication in line with the mainstream discussion of both European academics and professionals in the competition law field.

The main part of YARS 2010, 3(3) opens with a paper by D. Miąsik that presents a detailed assessment of the influence exercised over the last 20 years by European competition law on the application of Polish antitrust rules by national courts. In the next paper, M. Kolasiński emphasizes the meaning of 'general principles of Community law' for the de-centralized system of European competition rules enforcement under Regulation 1/2003 as well as for the Polish enforcement system including the standards applicable to the right of defence. The related paper by M. Bernatt is dedicated to the possible conflict between the various guarantees of procedural fairness that find their expression in the right to be heard and in the protection of confidential information. The aim of the paper by T. Kozieł is to analyze the Polish commitments procedure from its legal as well as economic perspective. The paper by K. Kohutek discusses the extent to which the modernized approach to Article 102 TFEU will influence the traditional approach to the abuse of a dominant position employed by Polish antitrust and judiciary institutions. J. Sroczyński's paper focuses on exclusive rights to broadcast television coverage of sports events in light of a decision adopted by the Polish antitrust authority relating to a long-term licence agreement between the Polish Football Association and Canal+. In the first of the regulatory papers, E.D. Sage considers a specific example of the direct intertwining of telecoms regulation and antitrust enforcement concerning broadcasting transmission services. The final paper by M. Król

shows that the liberalization process of the railway freight transport market in Poland occurred between 1997 and 2009 not because of ‘effective regulation’ but despite its absence.

Aside from its research papers, the current volume of YARS also contains a series of detailed reviews of legislative amendments and case law developments in the antitrust field and in infrastructure sectors. Similarly to YARS 2008, 1(1), D. Koška and K. Kuik consider first the 2008-2009 developments in EU competition and regulatory case law with a nexus to Poland. The following reviews by A. Jurkowska-Gomułka and K. Kosmala were prepared according to a new concept that covers both legislative amendments and essential jurisprudence in the field of antitrust and telecoms regulation respectively. The key changes affecting Polish energy, railway and civil aviation legislation are presented next.

The following part covers the most important Polish antitrust jurisprudence of 2009 including the order of the Polish Supreme Court (Ref. No. III SK 16/09) to refer a preliminary question to the Court of Justice of the European Union (*C-410/99 Polska Telefonia Cyfrowa sp. z o.o. v Prezes Urzędu Komunikacji Elektronicznej*), concerning the publication of the Commission’s guidelines in an official language of a new Member State as a condition for their application. Reviews of Polish books on international co-ordination of competition policy, the antitrust notion of an undertaking and the regulatory function of public administration are presented later. YARS 2010, 3(3) closes with the 2009 CARS Activity Report and a report on the Conference of the Global Competition Law Centre in the Natolin Campus of the College of Europe concerning ‘Competition Law – New Tendencies, New Tools and New Enforcement Methods from an EC and Polish Perspective’.

Finally, the Editorial Board wishes to express its gratitude to the distinguished Professor Franz Jürgen Säcker, Director of the Institute for German and European Business, Competition and Regulation Law at the Free University of Berlin, for his consent to join the Advisory Board of YARS.

The Editorial Board hopes that YARS will continue to enrich legal and economic libraries concerning antitrust and regulatory issues especially in that it will continue to provide its readers with up to date insights into the workings of antitrust and regulation in a ‘new’ EU Member State. Starting **from 2011**, we intended to **open YARS to foreign authors** and their **contributions on the models, experiences and challenges facing antitrust and regulation in the emerging markets of Central and Eastern Europe**.

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Tadeusz Skoczny
Editor-in-chief