

Editorial foreword

The Editorial Board is pleased to present the seventh volume of the **Yearbook of Antitrust and Regulatory Studies** (YARS 2012, 5(7)). As its 'regular' edition, this is the second volume of YARS issued in 2012 following a 'special' volume (YARS 2012, 5(6)) which was dedicated solely to entrepreneurs' rights in antitrust proceedings.

YARS 2012, 5(7) starts a new era in the history of this periodical. For the very first time, its articles focus not only on Polish antitrust and sector-specific regulation but also present antitrust enforcement-related problems in other Central and Eastern European countries. Indeed, we expect considerable growth in the coming years in the number of contributions to YARS from authors from European emerging economies.

The first article of YARS 2012, 5(7) is written by Doc. dr. sc. Jasminka Pecotić Kaufman, a member of the YARS Scientific Board. It presents the state of play of private enforcement of competition law in Croatia analysing a number of procedural and substantive law issues relevant to the facilitation of civil proceedings for antitrust damages. The paper applies a Croatian perspective to this very current issue taking however into account also the recent developments in EU competition law and policy in this area. Similar problems are raised in the article written by Dr. Anna Piszcz. Her paper focuses on the developments in private competition law enforcement in Poland, using European initiatives as an analytical background. The author considers in particular to what an extent are Polish developments responding to the challenges outlined by the European Commission. In his article on limitation periods for sanctions in antitrust cases, Dr. Ondrej Blazo refers to Slovak, and to some extent also Czech experiences in this field. He analyses the question whether limitation periods associated with antitrust sanctions by Slovak competition law also limit the powers of its competition authority to declare the illegality of illicit behaviour or to prohibit it. Further on, Silvia Šramelová and Andrea Šupáková provide a review of the most important judgments rendered by Slovak courts in antitrust cases between the end of 2010 and the beginning of 2012. The jurisprudential developments presented here deal with key issues concerning public enforcement of competition law

such as: the application of the so-called ‘general clause’; competences of the Slovak competition authority in regulated sectors; and the application of the economic continuity test. The final two papers concern economic aspects of sector-specific regulation. The article written by Dilyara Bakhtieva and Dr. Kamil Kiljański estimates the effects of consumer loyalty as an intangible benefit of USO in the postal sector on the basis of the agent-based modelling (ABM) approach. The paper by Dr. Magdalena Olender-Skorek analyzes a new entry barriers remedy in the telecoms sector – an Indefeasible Right of Use. The IRU model described in this article can be seen as one of the many ways to analyze the consequences of sector-specific regulation.

Aside from its scientific papers, the current volume of YARS contains also a number of legislative and jurisprudential reviews. It opens with a paper written by Anna Moscibroda and Krzysztof Kuik which covers the 2010-2011 developments in EU competition law and regulatory case law with a nexus to Poland. All of the following reviews concern strictly Polish legislation and case law only. They include a review of 2011 legislative and jurisprudential developments in Polish antitrust as well as a series of detailed reviews of primarily legal, but to a certain extent also case law-related, developments in Polish infrastructure sectors (telecoms, energy, rail transport, aviation, postal sector).

Selected European and Polish antitrust jurisprudence is presented next including two judgments delivered in 2011 by the European Court of Justice. The first (C-375/09), discussed by Iлона Szwedziak, regards the competences of a national competition authority in applying EU competition rules with respect to the issuance of ‘negative decisions’ as far as Article 102 TFEU is concerned; the other (C-410/09), discussed by Dr. Inga Kawka, concerns the obligation to publish EU acts in the languages of new EU Member States. The latter case concerns in particular Commission Guidelines on relevant market analysis and the assessment of significant market power in the field of electronic communication. Dr. Tomasz Bagdzinski presents a judgment rendered by the Polish Court of Appeals in Warsaw, concerning a dispute between the President of the Polish Competition Authority on the one hand and the Polish Football Association and the broadcaster Canal + on the other hand (IV ACa 996/10).

The current volume of YARS continues on to present reviews of Polish books in the antitrust and sector specific regulation field published in 2011. Two concern the audiovisual sector (European Audiovisual Policy and regulatory conflict regarding audiovisual media) and the third focuses on the place of broadband networks in telecoms policy. YARS 2012, 5(7) closes with the CARS Activity Report for 2011.

Warsaw, November 2012

Agata Jurkowska-Gomulka
YARS Volume Editor