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Abuse Regulation in Competition Law: Past, Present and Future. 10th Annual ASCOLA. Tokyo, 21–23 May 2015

The 10th Annual Conference of the Academic Society for Competition Law (ASCOLA) was hosted by Meiji University in Tokyo, Japan on 21-23 May 2015. The Conference was entitled 'Abuse Regulation in Competition Law: Past, Present and Future.' ASCOLA is an academic association embracing lawyers and economists who specialize in competition law. ASCOLA promotes the exchange of views and ideas between scholars through the organization of annual conferences and the publication of their proceedings.

This year's conference focused on one of the pillars of modern competition law – the regulation of the abuse of market power. Even though rules on unilateral conduct are part of competition law worldwide, there are many points which differentiate one regime from another. The Conference was meant to facilitate a discussion between scholars in order to find different solutions to similar problems.

The Conference was opened on the 21st of May with several welcome addresses. The first to take the floor was Mr Kazuyuki Sugimoto, Chairman of the Japan Fair Trade Commission. Mr Sugimoto welcomed the participants and thanked everybody for coming to Tokyo. He introduced the basis and fundamental values protected by Japanese competition law and provided an insight into the recent practice of the Japan Fair Trade Commission. Professor Kenichi Fukumiya, the President of Meiji University, spoke next expressing his gratitude to all that arrived at Meiji University. He emphasised that it was a great honour for the Meiji University to host an ASCOLA conference and expressed the hope that the Conference would be a meaningful experience for both Meiji University and ASCOLA. The theme of the conference was explained in the next welcome speech delivered by Professor Paul Nihoul, Chair of ASCOLA. The structure of the conference was thereafter outlined by the main organizer of this event Professor Iwakazu Takahashi (Meiji University).

After the opening remarks, keynote speeches were delivered by Professor Mitsuo Matsushita (Tokyo University) and Professor Eleanor Fox (New York University). Professor Matsushita spoke about abuses of superior bargaining position in Japanese antitrust law. The two elements that constitute an abuse of superior bargaining position are: superior bargaining position and its unreasonable use in a particular transaction. Professor Matsushita emphasised that what differentiates abuses of superior bargaining position from abuses of dominance or monopolization offences

is that the former requires only an impact in a particular transaction, whereas the two latter concepts require an impact on a market as a whole. To give examples of the discussed conduct, the speaker referred to retail trade and the financial sector. After outlining the historical evolution of Japanese regulation in the discussed field, Professor Matsushita presented the legislative definitions of superior bargaining position in Japanese law. The speaker stressed a major feature of abuses of superior bargaining position, namely the fact that a party with a weaker position is coerced into accepting conditions which it would not have accepted had there been an alternative way.

According to Professor Matsushita, the law governing abuses of superior bargaining position is important to Japan because it protects medium and small enterprises. Since over 99% of enterprises in Japan are small and medium-sized, and almost 70% of all workers are employed by such enterprises, the promotion and protection of such businesses is important from a political, economic and social point of view. Such concerns, however, may not be shared by other jurisdictions and in different antitrust philosophies. The focus of antitrust philosophies may be on the protection of different values such as efficiency, consumer welfare, freedom, egalitarianism, fairness, or a pluralistic society. Professor Matsushita mentioned in this context the Harvard School, the Chicago School and Ordoliberalism. Each country should decide its antitrust philosophy and identify what it would protect. The regulation of abuses of superior bargaining position in Japan is mainly concerned with fairness, egalitarianism and independence. The speaker noted in conclusion that the regulation of these abuses is closely related to civil law principles and presented a diagram of the relationship between civil law and competition law.

Professor Fox spoke subsequently about US law on the prohibition of monopolization. Her main thesis was that this part of US law is hermetically sealed. Professor Fox distinguished two periods in US antitrust law on monopolization. The first period extends from 1890 to 1980 when US law protected various values. Since the law was general, much space was left for courts to interpret the law. Professor Fox concluded that in that first period, the law was basically against power and was not concerned with efficiency. She stressed that US law was never against excessive prices; rather, it protected the open market. According to Professor Fox, it could thus be said that US law resembled the ordoliberal approach.

The second period began in 1980s when the law started to aim to protect efficiency and consumer welfare, with no recourse to other values. Professor Fox mentioned the *Trinko* case which expresses the philosophy that markets work, and that the government and antitrust law should be kept out of them. In conclusion to her speech, she stated that there are jurisdictions outside the US which are concerned with legitimacy and democracy problems and that such approaches may be justified. If society does not see economic transactions as legitimate, the problem spreads to the whole market which, in turn, is not seen as legitimate. Professor Fox offered a few recommendations for jurisdictions protecting values other than economic efficiency. In her opinion, clear standards and some limitations on the application of the law must be developed. Otherwise, anything can be treated as illegal.

The opening session ended with a dialog between Professor Matsushita and Professor Fox. Professor Matsushita asked about antitrust law at the level of individual American States and whether it protects more than efficiency. Professor Fox replied that she was not aware of individual States having antitrust laws protecting values other than consumer welfare, but it was possible that same States might have 'unfair practices' laws to focus on the protection of other values. Professor Fox then asked Professor Matsushita whether he would agree that if Japanese law protected small businesses, then this might be in conflict with consumer welfare. Professor Matsushita agreed that this might be the case.

Thereafter the opening session and the first day of the Conference was concluded by Professor Takahashi.

The second day of conference included general and parallel sessions. Two general sessions we held, one in the morning and one in the afternoon of the 22nd of May. The morning general session was chaired by Professor Fox. First to take the floor was Dr Adi Ayal (Bar Ilan University) whose presentation was entitled 'Abuse of Power: Market, Economic, and Bargaining.' His starting point was a political cartoon depicting the Standard Oil octopus as an example of a monopoly that controlled the economy and the government in the USA. According to Dr Ayal, in the era of Standard Oil, antitrust was aimed at fighting economic power because of the effects that this power had on politics. The central point of his presentation was to find an answer to the question: what is an abuse? Dr Ayal claimed that the concept of abuse is unhelpful and it is hard to distinguish between behaviour that should be desired and conduct that should be punished. Nobody would argue that abuses of power should go unpunished, since the concept of abuse as such denotes some kind of unfair conduct. On the other hand, one may have different opinions as to whether a particular business practice (without any connotations of unfairness) should be lawful or not. Therefore, in order to determine what an abuse is, it is necessary to go deeper.

Dr Ayal proposed to delineate antitrust and mentioned three points to consider: (1) public or private character of antitrust; (2) current or future oriented; (3) focused on local or general effects. In his view, antitrust should be seen as public in character, economy-wide and future-oriented. Competition is a network structure: it is stable but shifting; markets are linked and firms holding power may lose it to their competitors. Abuse should be seen through the paradigm of fairness. In order to determine what an abuse is, one should look for the cause of the problems in the structure. Antitrust should protect markets rather than its current participants. Therefore, focus on individual transactions is not warranted unless the current action is part of a plan. Dr Ayal's conclusion was that the fairness that antitrust should protect is 'a right to compete' rather than 'a right to win.

Professor Peter Behrens (University of Hamburg) spoke next on ordoliberalism and its impact on Article 102 of the Treaty on the Functioning of European Union (TFEU). Professor Behrens emphasised that he intended to clarify some of the misunderstandings concerning ordoliberalism present in the current scholarship on dominant position abuses in the EU. In his opinion, the concept of abuse contained in Article 102 TFEU was in fact influenced by ordoliberalism. It is, however, unfortunate

that some authors in the debate about the roots of Article 102 TFUE depicted ordoliberalism as a static and frozen concept. Widespread views about ordoliberalism and its features refer only to the first (out of four) generation of this set of ideas; this, according to Professor Behrens, is an unduly narrow approach. Although the various generations of ordoliberalism differ, it is possible to identify some common constituent elements which they share: (1) competition as a rivalry resulting from individuals' freedom of choice; (2) competition as a dynamic system of interactions between choice-making individuals; (3) competition law protecting the system as well as individuals' rights.

In the second part of his presentation, Professor Behrens tried to identify concepts in EU competition law that could be regarded as parts of the ordoliberal approach. Among them he mentioned concepts of competition on the merits and special responsibility of dominant firms. He also claimed that ordoliberal thinking is present in the contemporary jurisprudence of EU Courts. This may be seen in judgments such as *TeliaSonera* (from the Court of Justice) and, most recently, *Intel* (decided by the General Court). In conclusion, Professor Behrens referred to Judge Richard Posner who stated that even though efficiency is the ultimate goal of antitrust, protection of competition may be a mediate goal to achieve efficiency. Ordoliberalism protects a system of undistorted competition as the most efficient way of organizing the economy.

Next to take the floor was Dr Pablo Ibáñez Colomo (the London School of Economic and Political Science). He delivered a speech entitled 'Uncovering the Rationale of Article 102 TFEU: The Real Nature of Abuse of Dominance Provisions.' Dr Ibáñez Colomo recalled that the jurisprudence of EU Courts on Article 102 TFEU is surrounded by controversy. The most recent example of a debate in EU scholarship relates to the ruling of the General Court in the *Intel* case. He noted that recent literature trends to analyse the jurisprudence of EU Courts on abuses from the perspective of its conformity with economic theories. By contrast, the speaker wanted to analyse EU judgements from a legal perspective.

The starting point of Dr Ibáñez Colomo's analysis was a reference to the distinction between restrictions of competition by object and by effect contained in Article 101 TFEU. This distinction differentiates between practices which are most harmful to competition, and thus considered restrictive of competition by object, and practices the detrimental effects of which are not certain, and thus need to be determined on a case-by-case basis. In light of recent jurisprudence, object restrictions should be interpreted narrowly. Hence conduct could only be regarded as an object restriction when confirmed by economic analysis.

Dr Ibáñez Colomo thesis was that a similar distinction between abuses that are anticompetitive by their very nature, and those the effects of which need to be established, is present in EU jurisprudence on Article 102 TFEU. Examples of the former are exclusive dealing and loyalty rebates. In the context of these practices, Dr Ibáñez Colomo referred to rulings such as *Hoffmann-La Roche* or, most recently, *Intel*. On the other hand, margin squeezes and selective price cuts are not considered abusive by their very nature, a fact confirmed by cases such as *TeliaSonera* or *Post Danmark I*.

The main problem with the current position of EU law is that similar practices receive different treatment under Articles 101 and 102 TFEU. For example, the ruling of the Court of Justice in *Delimitis* is an example of a different treatment of exclusivity arrangements under Article 101 TFEU compared to that of the *Hoffmann-La Roche* judgement under Article 102 TFEU. According to Dr Ibáñez Colomo, it would be desirable to provide consistent treatment of similar practices under both provisions. He concluded by making reference to the recently published opinion of Advocate General Kokott in *Post Danmark II* which could mark a different approach to Article 102 TFEU.

The next presentation was given by Dr Thomas K. Cheng (University of Hong Kong) and Professor Michal S. Gal (University of Haifa). They focused on the issue of the prohibition of the abuse of superior bargaining position as a regulatory tool to deal with problems of aggregate concentration. The latter phenomenon occurs when a small number of firms control a large part of the economy. Aggregate concentration is a problem in Japan and South Korea and the speakers focused on these jurisdictions. They discussed effects of aggregate concentration on competition and welfare. They also analysed abuse regulation in South Korea by distinguishing five types of abuses.

Professor Nihoul (Universite´ catholique de Louvain) was the last to deliver a speech in this session entitled 'Dominance and Market Power – Do We Need an Abuse?' Professor Nihoul strived to find an answer to the question whether competition law should focus on abuses of market power or whether the sole existence of market power suffices for an intervention. He claimed that emphasis is currently being placed on abuses, rather than on market power. Yet, there are some judgements such as *Hoffmann-La Roche* and *Continental Can,* which put great emphasis on market power. Professor Nihoul also considered this issue within the area of anticompetitive agreements and merger regulation. He stressed that the current position is derives from the strong influence of the Chicago School, which is part of the 'more economic approach' to EU competition law.

The morning general session ended with a panel discussion and brief, one minute conclusions from the panellists.

The general session in the afternoon focused on 'The relationship with dominance' and was presided over by Professor Barry Rodger (University of Strathclyde). Dr Florian Wagner-Von Papp (University College London) delivered the first presentation focusing on unilateral conduct by non-dominant firms. In the first part of his presentation, Dr Wagner-Von Papp took a comparative law approach and looked at various jurisdictions such as Germany, Japan or the United States, in order to find provisions dealing with unilateral conduct of non-dominant firms. He concluded that all three jurisdictions apply certain rules to regulate conduct of such firms. In the following, normative part of his presentation, Dr Wagner-Von Papp spoke about desirability of non-economic dependency rules such as rules on superior bargaining position.

Professor Stefan Thomas (Eberhard Karls University) spoke subsequently about *ex-ante* and *ex-post* control of buyer power. Professor Thomas started by explaining what buyer power is. According to him, there are two types of buyer power: one is

single price monopsony and the other is that based on bargaining power. Monopsony power is a mirror image of single price monopoly, where the monopsonist can obtain lower prices by reducing its purchase quantity. Bargaining power allows the buyer to influence prices and contract conditions for reasons other than efficiency. Professor Thomas tried thereafter to identify potential effects that buyer power can have on downstream markets. Particular attention was also given to the issue of supplier harm as a justification for an antitrust intervention. He concluded that supplier welfare cannot be treated as a legitimate goal of antitrust law.

Dr Mor Bakhoum (Max Planck Institute for Innovation and Competition) delivered the next speech entitled 'Abuse without Dominance in Competition Law: Abuse of Economic Dependence and its Interface with Abuse of Dominance.' He began by outlining the interface between economic dependence, freedom of contract and competition law. Freedom of contract may be used to lock-in smaller business partners. By creating a network of such contracts, a relatively dominant firm limits the economic freedom of its partners and strengthens its market power. This was the scenario in the *Carrefour* case in France. Dr Bakhoum then moved on to discuss the legal approach to economic dependence as well as the international dimension of economic dependency situations.

The last paper of the second general session was authored by Professors Mariateresa Maggiolino and Maria Lillà Montagnani (Bocconi University). The speech entitled 'Wandering in the Land of the EU Abuse of Rights. Coordinates from the Antitrust Experience?' was presented by Professor Montagnani as Professor Maggiolino was absent. The paper concerned the abuse of rights doctrine which, according to the authors, had emerged in EU law. This fundamental doctrine had then turned into a principle of EU abuse of rights. In order to support their theses, the authors surveyed a number of cases from various areas of EU law.

The afternoon general session ended with a panel discussion and, afterwards, Professor Takahashi thanked all participants for their presence and closed the second day of the Conference.

Two general sessions took place on the 23rd of May. The first focused on national practices relating to abuses of dominance and superior bargaining position; the second general session of the day covered unconscionable conduct and the Japanese Subcontract Act.

Professor Josef Drexl (Max Planck Institute for Innovation and Competition) chaired the earlier general session. Professor Toshiaki Takigawa (Kansai University) spoke first on regulating abuses of bargaining position through competition law. He addressed, in particular, Japanese law in comparison to EU regulation on exploitative abuses. He started by introducing the enforcement practice of the Japan Fair Trade Commission concerning abuses of superior bargaining position, which form part of Japanese antimonopoly law, and is directed at business methods which are abusive to weaker trading partners regardless of their effect on competition.

According to Professor Takigawa, abuses of superior bargaining position can be characterized as exploitative abuses. However, dominant enterprises may only be prohibited from engaging in unreasonable exploitation, which is difficult to identify.

Professor Takigawa analysed examples of unreasonable procedures in reaching agreements on trading terms as well as the 'unreasonableness' in the substance of trading terms. The speaker referred also to the regulation of exploitative practices in the EU and to examples from other jurisdictions. In conclusion, Professor Takigawa pointed out the weaknesses of substantive standards for identifying illegal abuses. In his opinion, the regulation of exploitative abuses should be exercised with restraint so as to minimize sacrifices to consumer welfare.

Professor Josef Bejček (Masaryk University) spoke next on 'Regulatory Dancing Between a Plain Market Power and Genuine Significant Market Power'. He discussed the notion of significant (but still subdominant) market power in the context of relevant Czech legislation. He critically examined potential goals which could be ascribed to this legislation, namely: protection of weaker parties, protection of fairness, protection of competition (abuse of sub-dominance) and disguised redistribution. The speaker also stated that the concept of significant market power may overlap with other market positions and conduct (such as market power, economic dependency, buyer power, bargaining power or fairness). He considered that the objective concept of significant market power can be equated with qualified sub-dominance and went on to discuss its theoretical foundations.

Professor Valeria Falce (European University of Rome) delivered the next speech on Italian regulations against abuses of economic dependence. Professor Falce started from explaining the current stance of Italian legislation on abuses of economic dependence. In her opinion, this legislation has different rationales and is not harmonized. In Italy, the law that regulates abuses of economic dependence can be found in the 1998 Law on Subcontracting. The scope of the application of this law in Italy is not clear – while some courts are in favour of a broad interpretation (abuses occur in all kinds of relations), other courts tend to favour a narrow one (abuses occur in subcontracting relations only). Professor Falce continued on to discuss the notion of economic dependence, examples of abusive conduct as well as public law regulations dealing with abuses of economic dependence. The last part of the speech concerned a new law on late payments as abuses of superior bargaining position.

The last to take the floor in this panel was Dr Emmanuela Truli (Athens University of Economics and Business) who spoke of Greek provisions on economic dependence. Dr Truli began by providing an overview of how economic dependence rules function in different competition law regimes in Europe. Then she turned to the Greek legal system. Prior to 2009, legal provisions concerning economic dependence were contained in the Greek Competition Act. According to Dr Truli, this part of this legislation was not in line with the general purposes of competition law, since it was concerned with private interests of weaker parties. In 2009, provisions on economic dependence were moved to the Unfair Commercial Practices Act. Accordingly, the Greek National Competition Authority is no longer required to enforce them – the competence to apply these rules was given to civil courts. Dr Truli concluded her presentation by discussing the impact of relevant changes in Greek competition law.

The session ended with questions from participants and a brief conclusion from the chairman.

The last general session of the Conference was devoted to unconscionable conduct and the Japanese Subcontract Act and was chaired by Professor Allan Fels (University of Melbourne). Professor David Bosco (Aix-Marseille University) delivered a speech on unconscionable conduct in France. He focused firstly on identifying what unconscionable conduct is. For that purpose, he surveyed US and Australian laws and subsequently went on to discuss relevant French legislation. For a long time there were relatively few means in France to address contractual abuses by dominant parties. This situation changed because of a judgement delivered by the Supreme Court and amendments to the relevant French commercial legislation. The current rules on unconscionable conduct are enforced through the concept of abuse. After explaining relevant provisions on this issue, Professor Bosco finished his presentation by raising some objections to the French regulation of unconscionable conduct.

Dr Kazuhiko Fuchikawa (Yamaguchi University) devoted his presentation to a legal analysis of the Japanese Subcontract Act. The said act was established to prevent abuses of superior bargaining position of parent companies against subcontractors. After describing the history of the Subcontract Act, Dr Fuchikawa moved on to explain its contents and examples of practice prohibited by the Subcontract Act. In general, the purpose of the act is to protect fairness in transactions between subcontracting entities and their subcontractors, as well as to provide protection to subcontractors. Subsequently, the speaker demonstrated how the Subcontract Act works in practice by surveying relevant case law. Most of the cases concerned reduction in the cost of the subcontract or unjust lowering of prices. According to Dr Fuchikawa, the main flaw of the Subcontract Act lies in its enforcement practice, which was described by the speaker as 'weak'.

Dr Abayomi Al-Ameen (Cardiff University) delivered a speech entitled 'Application of Abuse of Dominance in New Competition Regimes: Unconscionability as a Stabilising Tool at Time of Indecision.' Dr Al-Ameen focused on finding alternative legal tools that could be used by new competition law regimes to address problems of dominance abuse. In his opinion, there is no ultimate method for assessing abuses. Pure economic models used in advanced competition law jurisdictions, such as the US or the EU, have proven unreliable and may cause difficulties in new competition law regimes. The speaker proposed therefore to use the doctrine of unconscionability as an alternative method of addressing abuses of dominance. What this doctrine could offer to emerging economies is, among others, the ease of establishing legal liability, a simple and amenable tool of enforcement and the improvement of understanding among stakeholders such as lawyers.

In the final speech of the conference, Professor Fels and Mr Matthew Lees (Arnold Bloch Leibler) discussed unconscionable conduct in the context of competition law with reference to retailer-supplier relationships in Australia. The current structure of the national retail grocery industry and factors which had led to it was the starting point of the presentation. According to the speakers, the high level of concentration in Australian grocery retail is problematic. Potential policy responses include divestiture, proper use of merger law, direct price control, use of cartel laws, prohibition of misuse of market power, or the concept of unconscionable conduct. That last concept was

then discussed by the two panellists in detail. This included a case study of a decision of the Australian Competition and Consumer Commission issued against one of the supermarket chains. In their concluding remarks, Professor Fels and Mr Lees categorized various policy responses that may be employed in Australia to deal with the current situation in the retail grocery industry and explained their pros and cons.

After the closure of the last session Professor Daniel Zimmer (University of Bonn) delivered a summary of the Conference. Professor Zimmer noted that the Conference shed light on a major divide between different jurisdictions in terms of abuses of market power regulations. Some jurisdictions focus on pursuing exclusionary conduct, while others would rather target exploitative behaviours. In regard to the latter, Professor Zimmer warned that it is a tricky and difficult task to intervene in pricing policies of firms. Another point to consider relates to the issue of market power. Should competition law be concerned solely with market power? Or should it be devoted also to the concept of economic dependence? These are questions to which there are no uniform answers. Professor Zimmer placed particular emphasis on the point that in addressing concerns of market power abuses one should look at a number of different legal areas – such as the law on unfair practices, administrative law or private law – rather than only looking at competition law. He considered the Conference to be a real eye-opener that generated vast amount of knowledge. Professor Zimmer thanked all speakers and organizers for their work.

Apart from a morning and an afternoon general session, the schedule of the second day of the Conference (22nd of May) also included five parallel conference sessions and three workshop sessions where a variety of contributors presented papers on a number of subjects related to the regulation of market power abuse. The two parallel sessions which started shortly after the general morning session were devoted to topical issues.

Four speakers participated in a session concerning general matters and state intervention, which was chaired by Professor Daniel Zimmer. Professor Rupprecht Podszun (University of Bayreuth, Max Planck Institute for Innovation and Competition) spoke therein about pitfalls of market definition. He was followed by Mr Lorenz Marx (research assistant and PhD Candidate, University of Bayreuth) who shared the results of his statistical analysis of Article 102 TFEU enforcement. Professor Francisco Marcos (IE Law School) discussed different forms of state intervention which result in granting market power. Professor Fang Xiaomin (Nanjing University) addressed the issues of the application of Chinese antimonopoly law to state-owned enterprises.

Another parallel session chaired by Professor Sandra Marco Colino (Chinese University of Hong Kong) focused on conduct which may amount to an abuse of market power. Professor Antonio Robles (Universidad Carlos III de Madrid) presented his research on exploitative prices in EU competition law. Professor Andreas Fuchs (University of Osnabrück) delivered a speech about margin squeezes both in EU and US antitrust law. Mr Krzysztof Rokita (research assistant, PhD candidate, University of Wrocław) addressed the issue of rebates granted by dominant undertakings in EU competition law. Dr Petri Kuoppamäki (Alto University Business School) spoke of tying in the context of two-sided digital platforms.

Professor Michal S. Gal presided over another parallel session which focused on abuses in specific economy sectors. Professor Luís Silva Morais (University of Lisbon) discussed regulation of abuses in the financial sector. Dr Maria Ioannidou (Queen Mary University of London) presented the issues of abuse regulation in the EU energy sector. Dr Björn Lundqvist (Copenhagen Business School) spoke about abuses in the pharmaceutical and biotech sectors. Professor Claudia Seitz (University of Basel) delivered a speech entitled 'Healthcare Systems and Competition: Challenges and Boundaries for the Application of Competition Law in Highly Regulated Markets of the Healthcare Sector in the European Union'. The session ended with a presentation concerning abuses of market power in the context of online platforms given by Dr Jonathan Galloway (Newcastle Law School).

Another round of parallel sessions took place in the afternoon. Conference participants could also choose to join workshops which were held simultaneously. Professor Marcos chaired a parallel session concerned with intellectual property rights. Professor Wolfgang Kerber and Mr Severin Frank (School of Business and Economics, Philipps-University Marburg) spoke of patent settlements in the pharmaceutical industry. Their presentation was followed by a speech by Professor Sofia Oliveira Pais (Catholic University of Portugal) who addressed the issue of standard essential patents. Professor Shuya Hayashi and Mr Kunlin Wu (Nagoya University Graduate School of Law) gave a speech entitled 'Exclusionary Effects of Blanket Copyright License Agreement Offered by a Dominant Firm'. The session concluded with a presentation from Dr Sven Gallasch (UEA Law School and Centre for Competition Policy) on unilateral product hopping through pay-for-delay settlements under Article 102 TFEU.

Participants interested in procedural issues could join a session chaired by Dr Lundqvist. The first to speak in this session was Dr Pieter Van Cleynenbreugel (Leiden Law School) who delivered a speech on legal presumptions in the regulation of abuses. Thereafter Dr Ewelina D. Sage and Professor Tadeusz Skoczny (Centre for Antitrust and Regulatory Studies, University of Warsaw) addressed the issue of negotiated enforcement of the abuse prohibition by means of commitments decisions. This panel ended with a presentation by Dr Viktoria HSE Robertson (University of Graz) who presented her reaches conducted with Dr Marco Botta (University of Vienna) concerning injunctive relief for standard-essential patents under US antitrust and EU competition law.

Three different workshops were also held. The workshop chaired by Professor Bosco started with an address delivered by Professor Rodger who spoke about abuses of dominance before UK courts. Dr Gintare Surblyte (Max Planck Institute for Innovation and Competition) discussed dominance in the digital economy. The next presentation was given by Mr Knut Fournier (City University of Hong Kong) and entitled 'The dark side of "authors as customers": Amazon as a two-sided market and its antitrust implications.' Dr Sujitha Subramanian (University of Bristol) discussed the car spare parts decision taken by the Indian Competition Authority.

In another workshop, Professor Michal S. Gal and Professor Daniel L. Rubinfeld (U.C. Berkeley, New York University) spoke of the hidden costs of free goods.

Thereafter, Dr Peter Whelan (University of Leeds) addressed the issues of section 47 of the Enterprise and Regulatory Reform Act 2013 in the UK. The next contribution was presented by Dr Alexandr Svetlicinii (University of Macau) who spoke also on behalf of his two co-authors: Dr Marco Botta (University of Vienna) and Dr Maciej Bernatt (University of Warsaw). Their paper concerned the assessment of the 'effect on trade' by NCAs of new EU Member States. This session ended with a speech from Ms Florence Thépot (University College London) who discussed corporate compliance with competition law.

Professor Podszun chaired the third workshop session. Professor Amedeo Arena (University of Naples 'Federico II') discussed recent developments in Italian law concerning abuses of economic dependence. He was followed by Professor Colino whose presentation dealt with boundaries of abuse regulation. Professor Kelvin H. Kwok (University of Hong Kong) spoke about abuses of substantial market power under Hong Kong competition law.

The 10th Annual ASCOLA Conference on abuses of market power was closed by Professor Takahashi. He thanked all participants and expressed his hopes that the conference would be a new start in approaching abuses of market power.[1]

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[1] The official conference website is available at: http://ascola-tokyo-conference-2015.meiji.jp/.