



LAW, ECONOMICS & SOCIETY



INSTITUTE FOR STUDIES IN  
COMPETITION LAW AND POLICY



# New Challenges in Competition Law Enforcement

Friday 6 June 2014

at the Hilton Bosphorus, Istanbul



with the kind support of the  
Turkish Competition Authority



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**ELIG**

*Attorneys at Law*

## ABOUT THE CONFERENCE

The conference welcomes world-leading antitrust specialists from law and economics and consists of five panels which explore the most important topics in recent competition law practice.

## CONFERENCE SCHEDULE

08:15 Registration

08:45 **Introduction**  
**Ioannis Lianos** (UCL)

08:50 **Keynote Speaker:**  
**Professor Dr. Nurettin Kaldirimci** (Chairman, Turkish Competition Authority)

09:30 **PANEL 1**

### **THE OBJECT / EFFECT DISTINCTION IN COMPETITION LAW** **(collusion and abusive practices)**

The first panel of the conference will delve into the intriguing distinction between anticompetitive object and effect in the context of Article 101 TFEU but also in all other competition regimes that have been inspired by such a distinction. A similar distinction has also been envisaged by some for Article 102 TFEU. The discussion should aim to engage with the tension between categorisation and balancing as two different narratives/techniques often employed in competition law analysis. The topic of categorical thinking in the context of Article 102 TFEU was examined at the plenary session of the ICN in Marrakech this year, which illustrates the interest of competition authorities on this question. The first part of the discussion will focus on Article 101 TFEU and will explore how certain practices may be included in one or the other category (e.g. Resale Price Maintenance, some forms of information exchange), including some interesting recent case law of the Court of Justice of the EU that engaged with this distinction. The discussion will then move to Article 102 TFEU.

Moderator: **Herbert Hovenkamp** (University of Iowa School of Law)

Panelists: **Barry Rodger** (University of Strathclyde)  
**Giorgio Monti** (European University Institute)  
**Ioannis Lianos** (UCL Centre for Law, Economics & Society)  
**Assimakis Komninos** (White & Case LLP)  
**Vassilis Karagiannis** (KLC Law Firm)  
**Pinar Akman** (University of Leeds)

11:00 **COFFEE BREAK**

11:30

## PANEL 2

### DUE PROCESS IN COMPETITION LAW

The second panel will engage with the never ending topic of due process and competition law. This is an old theme but in constant evolution as the legitimacy of competition authorities' actions, in particular their remedies and procedures, is constantly challenged and scrutinized by different stakeholders. Different enforcement systems choose various instruments to supply the "public good" of due process and different institutions are put in place. Adaptations to the existing environment of due process in other areas of public action may also influence the demand for due process and the perception by stakeholders of the optimal level of due process. Demands for effectiveness and due process may enter into competition with each other and difficult compromises need to be made.

Moderator: **Judge Nicholas Forwood** (General Court of the European Union)

Panelists: **Gönenç Gürkaynak** (ELIG, Attorneys-at-Law)  
**Mario Siragusa** (Cleary Gottlieb Steen & Hamilton LLP, and College of Europe)  
**Wouter Wils** (European Commission)  
**Ian Forrester** (White & Case LLP)

13:00 LUNCH BREAK

14:00

## PANEL 3

### ECONOMIC ANALYSIS AND OLIGOPOLY IN COMPETITION LAW

The third panel will explore the thorny issue of the use of economic evidence and oligopoly theory in competition law cases, in the enforcement of antitrust and merger control. Some authors have advanced recently the view that competition authorities and courts should focus less on evidence of communication between undertakings in order to unveil price fixing and more on predictive economic evidence. Is this a practical and desirable suggestion? Similarly, economic evidence, in particular oligopoly theory, has been relied upon in the context of merger control and abuse of collective dominance. Do these different areas of competition law adopt a consistent view of the role of economic evidence and oligopoly theory in the discovery and assessment of anticompetitive practices? More generally, how effects-focused, the effects-based approach to competition law is? What is, if any, the role of institutional limitations and how much these may explain the current situation?

Moderator: **Heike Schweitzer** (Free University Berlin and University of Mannheim)

Panelists: **Stephen Calkins** (Member of the Board, Irish Competition Authority)  
**Emmanuel Dryllarakis** (Dryllarakis & Associates)  
**Judge Nicholas Forwood** (General Court of the European Union)  
**Andrew I. Gavil** (US Federal Trade Commission / Howard University School of Law)  
**Frederic Jenny** (Conseiller en Service Extraordinaire, Cour de Cassation (Member of the French Supreme Court))  
**Ioannis Kokkoris** (University of Reading, Centre for Commercial Law and Financial Regulation)

15:40 COFFEE BREAK

16:00

#### PANEL 4

##### **ROUNDTABLE OF AUTHORITIES: COMPETITION LAW IN TIMES OF CRISIS AND RECENT DEVELOPMENTS**

The aim of this panel will be to bring together heads of authorities and competition officials from national competition authorities to discuss a common thread or issue of concern in their enforcement work, but also to explore new themes they are currently exploring. A common theme for almost all the jurisdictions covered in this year's roundtable of authorities is the financial and economic crisis whose effect has been global and has inevitably influenced, to a different level, their work. Did this crisis and the political and social pressure that resulted from it affected their work and may be led to some reconsideration of their role and priorities? Although the crisis by nature cannot become a permanent state of affairs, did the competition authorities develop specific tools, or ways of thinking, that may be used in other contexts?

Moderator: **Frederic Jenny** (Conseiller en Service Extraordinaire, Cour de Cassation (Member of the French Supreme Court))

Panelists: **Murat Çetinkaya** (Member of the Board, Turkish Competition Authority)  
**Antonio Gomes** (President, Portuguese Competition Authority)  
**Gabriela Muscolo** (Member of the Board, Italian Competition Authority)  
**Bogdan Chiritoiu** (President, Romanian Competition Council)  
**Stephen Calkins** (Member of the Board, Irish Competition Authority)  
**Dimitris Loukas** (Vice-President, Hellenic Competition Commission)

17:00

#### PANEL 5

##### **ANTICOMPETITIVE PRACTICES INVOLVING IP RIGHTS**

The last panel of the conference will explore the hot topic of the interaction of competition law with IP. The question of the abuse of the IP and litigation system in order to harm competitors has been a common theme in recent cases in Europe and the United States. The adoption of the new transfer of technology regulation also marks a more restrictive approach to IP. In the meantime, developing and emergent economies contemplate the use of competition law in order to rebalance what they perceive has been the pro-IP holder balance in TRIPS. The panellists will explore the following themes (i) Standard Essential Patents. (ii) abuse of regulatory and IP processes. (iii) the broader issue of the interaction between IP and competition law and the hypothesis that the tide is turning, this time in favour of competition law and access/dissemination of IP.

Moderator: **Ioannis Lianos** (UCL Centre for Law, Economics & Society)

Panelists: **Ian Forrester** (White & Case LLP)  
**Herbert Hovenkamp** (University of Iowa School of Law)  
**Alexey Ivanov** (Skolkovo Foundation and National Research University Moscow)  
**Frederic Jenny** (Conseiller en Service Extraordinaire, Cour de Cassation (Member of the French Supreme Court))  
**Frank Maier-Rigaud** (NERA Economic Consulting)

18:30

Close of Conference

**BOOK YOUR PLACE ONLINE AT:**  
<http://imedipa2014istanbul.eventbrite.com>

### **Booking Queries:**

Contact **IMEDIPA** by emailing [info.imedipa@gmail.com](mailto:info.imedipa@gmail.com)

### **Registration Fees:**

€90 Early Bird Advanced Booking Ticket (ends on Monday 19 May 2014 at 5pm)

€100 Standard Ticket

€90 Reduced Ticket (Only Students, Public Sector and Academics can benefit from this rate)

The registration fee includes:

Conference lunch and all other refreshments during the conference on 6 June and the delegate pack.

### **How to register:**

1. Register online and pay using your credit or debit card at:

<http://imedipa2014istanbul.eventbrite.com>

### **Payment via online bookings:**

Payment should be made online using a credit or debit card. You will receive confirmation of your place at the event via email which will include details of the amount paid.

### **Cancellation Terms**

Please note that cancellation of places must be received in writing by **30 May 2014** and will be subject to an administrative charge of €10. It is regretted that no refunds will be made for cancellations after 30 May 2014 and the full registration fee will be payable. Substitutions can be made at any time.

### **Conference Venue**

Hilton Istanbul Bosphorus  
Cumhuriyet Caddesi Harbiye  
34367 Istanbul, Turkey