

## Changes at European Commission

By Matthew Hall and Robert Rakison (McGuireWoods LLP)

On Feb. 9, 2010, the new group of European Commissioners was approved by the European Parliament, and took office on Feb. 10. They will remain in office until Oct. 31, 2014.

The new European Commissioner for Competition, responsible for the Directorate-General for Competition (DG COMP), the part of the Commission responsible for enforcing competition policy in the EU, is Joaquín Almunia from Spain. He will work with a new Director-General for Competition, or day-to-day functional head of DG COMP, Alexander Italianer, from the Netherlands. In addition to these senior personnel changes, the groups of Commission officials dealing with state aid in the transport and energy sectors have been moved to DG COMP from the former Directorate-General for Energy and Transport (part of which, along with Task Force Energy from the Directorate-General for External Relations, has just become the new Directorate-General for Energy (DG ENER), with the remainder being renamed the Directorate-General for Mobility and Transport (DG MOVE)).

Almunia has spoken about his policy direction during his term of office. He will “focus on fighting against cartels, preventing dominant companies from abusing their market power in any sector or any country in Europe, and maintaining a rigorous scrutiny of proposed mergers.” This has been very much the focus of recent Commissioners for Competition and reflects orthodox competition policy in most jurisdictions, as well as EU law. In particular, it is clear that fines for cartel infringements will remain high, despite the economic crisis, and that economic analysis will continue to underpin competition law decisions in the EU.

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So far as concerns EU-specific issues, Almunia has indicated he will consider whether there should be EU legislation on rules governing damages actions for infringements of competition law in the EU. Proposed legislation on this issue has been held up pending the installation of the new Commissioner, and it will be interesting to see how Almunia takes it forward. However, in the absence of EU harmonization, competition litigation is developing in the EU anyway, with the UK in particular now a forum for numerous claims.

**It is clear from Almunia’s statements regarding his policy direction during his term of office that fines for cartel infringements will remain high, despite the economic crisis, and that economic analysis will continue to underpin competition law decisions in the EU.**

So far as concerns state aid, Almunia has indicated that the “most pressing issue is to manage the financial crisis and its impact.” Bailed-out banks will be required to restructure, and Almunia has indicated it is important to ensure a level playing field and avoid the “moral hazard” effect.

More generally, Almunia has indicated that companies must assume responsibility for their behavior and take the necessary measures to prevent unlawful conduct. This is yet another reminder that companies operating in the EU are expected to have competition law compliance programs in place. □

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