MAIN DEVELOPMENTS IN COMPETITION LAW AT EUROPEAN AND NATIONAL LEVEL*

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1. FIRST DAY

The conference was organised by the Italian Antitrust Association (“IAA”), in cooperation with the Italian Association of Company Lawyers (“AIGI”) and the Competition Commission of the European Lawyers Union (“UAE”), and with the support of press agency MLex and magazine Legal Community.

Numerous prominent European and Italian antitrust experts attended the conference, including Giovanni Pitruzzella (President of the Italian Competition Authority), Raimondo Rinaldi (President of the AIGI), Enrico Adriano Raffaelli (President of the Commission for Competition Law UAE), several officials from the Italian Competition Authority (“ICA”), the Directorate-General for Competition of the European Commission, and many well-known lawyers and academics from the competition field.

The conference covered numerous areas such as the main developments in European and Italian antitrust practices and caselaw, including State aid. It also looked in more detail at specific topics including: (i) e-commerce and the digital market, (ii) big data and new forms of abuse of dominant position, (iii) the interconnections between public procurement and antitrust, and (iv) the innovation introduced by European Union Directive No. 2014/14 on private enforcement (“Directive 2014/14”).

Professor Giovanni Pitruzzella opened the conference with an overview of the ICA’s activities over the last year and followed with an analysis of recent Italian and European practice in antitrust matters, with a specific focus on digital markets and on the new criteria of economic analysis that these markets necessitate. The other speeches made throughout the morning session focused on ICA and European Commission application and case-law developments in the last year concerning agreements, abuses of dominant position and State aid.

The first afternoon session focused on European and national prospects and expectations in e-commerce and the digital market, and the second afternoon session was devoted to analysing new forms of abuse of dominant position. The speakers examined the definition of the legal standard required to declare the conduct of a dominant undertaking abusive – under Art. 102 of the TFEU – and the possible approaches for doing so.


¹ Secretary General of the Italian Antitrust Association.
2. SECOND DAY

Four sessions were held on the second day of the conference.

The first session looked at contracts in antitrust law, with particular focus on public procurement and the effects of bid-rigging conspiracies. The session also highlighted the increased interest in the sector and discussed how the sector promotes cooperation between authorities such as: (a) between the ICA and the Italian National Anti-Corruption Authority, and (b) between competition authorities and criminal public prosecutors at European level. Additionally, the session underlined the peculiar approach followed by the ICA in bid-rigging cases related to the method applied to calculate fines and to the peculiar standard of proof which is required when the conduct under examination is omissive.

The second session examined the issue of whether competition law is a limit or an opportunity for Italian businesses and the speakers represented various sectors including transport, energy and banking.

The third session discussed the challenges of antitrust enforcement in the new millennium, both inside and outside Europe. With regard to the US, the speeches analysed the benefits that cooperation with foreign authorities brings to effective enforcement of US antitrust laws in a global economy. From the perspective of corporate interests, it was stressed that undertakings need legal certainty, alignment and assurance that their operations will not slow down. The session also discussed the issue of big data and its implications on competition.

The fourth and final session focused on the application of private enforcement – namely of Directive 2014/14. The session opened with a speech on the binding effects of public enforcement decisions in damages actions. This was followed by an analysis of the objectives of Directive 2014/14, such as promoting the exercise of the right to compensation for damage caused by competition law infringements and harmonising legislation in member states. The subsequent speech then focused on the “passing-on” defence and the issues of compound interest awarded as damages and of London retaining its status as the leading forum for competition damages after Brexit. The session ended with an analysis of the temporal application of Directive 2014/14 and its “access to evidence” provisions.

The conference was a constructive and inspiring event that fostered fruitful, first-rate dialogue among experts from the competition community. It offered a thought-provoking opportunity to identify and examine common problems and key recommendations for the future application of antitrust law, within an atmosphere of cooperation and exchange of knowledge and experience. It also provided a valuable occasion to look at the main developments in antitrust practices in both Europe and Italy.