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AMERICAN BAR ASSOCIATION

November 3, 1999

Professor Mario Monti, Competition Commissioner
Competition Directorate of the European Commission
Avenue de Cortenbergh 150
B-1000 Brussels, Belgium

Dear Commissioner Monti:

On behalf of the Section of Antitrust Law of the American Bar Association, I am pleased to transmit the Section's Comments on the European Commission's "White Paper on the Modernisation of the Rules Implementing Articles 85 and 86 of the EC Treaty."

I have also enclosed a copy of the Antitrust Section's State Merger Enforcement monograph, which is referred to in the Section's Comments, because the de-centralization of antitrust enforcement proposed by the White Paper raises issues similar to the issues that have arisen in the U.S. as a result of dual enforcement of the antitrust laws by both federal and state governments. One of the alternatives identified in the White Paper would involve use of a "rule of reason" analysis under for Article 81(1), which, as you know, if the standard applied in the U.S. for most violations of Section 1 of the Sherman Act. The Section is currently completing publication of a new Rule of Reason monograph that seems highly relevant to this issue, so a copy of that monograph will be sent to you upon publication.

If you have any questions after reviewing these materials, I would be happy to respond.

Very truly yours,

Janet L. McDavid
Chair, Section of Antitrust Law

Enclosure w/o book

Cc: Joel I. Klein
Robert Pitofsky
Shiela Anthony
Thomas B Leary
Mozelle W. Thompson
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