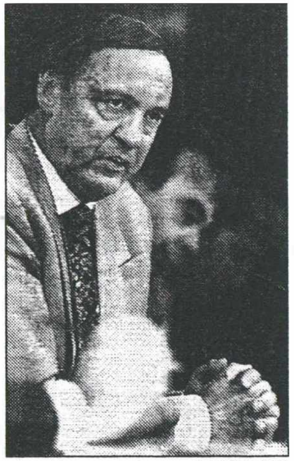
Barking at Europe's Watchdog for Competition



Agence France-Presse

Karel Van Miert, chief of the European Commission's division that sets policy on competition.

By Barry James
International Herald Tribune

BRUSSELS — For the European Commission's trustbusters, these are trying times.

Last week, a European court overturned a decision by the commission, the European Union's executive agency, to allow the French government to pump aid into the struggling Air France.

Recently, Chancellor Helmut Kohl of Germany angrily attacked the commission's refusal of a proposed merger in the digital television field involving Bertelsmann AG and Kirch Group, both media companies, and Deutsche Telekom AG.

Each case illustrates the problems facing the commission's competition division. Headed by Karel Van Miert, a Belgian Socialist, the division monitors state aid to companies and regions and enforces antitrust rules affecting the European Union as a whole.

Few aspects are as central to the cohesion of the Union, yet potentially as divisive, as competition issues. When heads of state accuse the commission of crossing the line, competition policy is often at the root of the rancor.

NEWS ANALYSIS

Nor does the public seem to appreciate its efforts. It received few thank-you's for its role in forcing France to make more World Cup tickets available to foreign soccer supporters.

In creating a common market, the EU's founding fathers wrote competition policy into the Treaty of Rome, and — in a rare concentration of power — made the commission responsible for both monitoring and enforcement.

As in the United States, which adopted the world's first antitrust legislation a century ago, European competition policy was not based solely on concepts of economic efficiency.

The founders reasoned that a concentration of economic power in the hands of individuals, corporations or governments would be damaging both for democracy and for European integration. In fact, the creation of the European Coal and Steel Community — the embryo of the current EU — was aimed at preventing Europe's basic industries from perpetuating themselves as national cartels.

In dealing with antitrust issues, such as attempts to form monopolies and cartels, the commission has to assess whether community interests are jeopardized, and it can impose fines of up to 10 percent of an offending company's sales.

In assessing state aid, the commission asks the question: Would a reasonable private investor have acted the same way in similar circumstances? And does protecting declining firms and regions in one country push the burden of readjustment — such as job losses and plant closures — onto other countries?

These principles are at the root of the protests in the Air France and German merger cases.

A group of airlines challenged the basis by which the commission authorized the French government to pour 20 billion francs ($3.33 billion) of taxpayers' money into the capitalization of Air France in 1994.

The aid, which enabled Air France to buy 17 new aircraft, unfairly prejudiced competitors, the rival airlines argued. The commission replied that it built in guarantees that the aid would not allow Air France to expand faster than market growth. The carrier, for example has had to give up slots at Paris's Orly airport to other airlines, including a British Airways subsidiary.

The European Court of First Instance last week ruled in favor of Air France's rivals. The commission now has to review its entire policy on state aid. Should it stick by its original decision, and return with a better presented argument? Or should it appeal in a higher court?

In Germany, Mr. Kohl, facing the strong possibility of defeat in this fall's general election, has attacked the perceived centralism of Brussels. The attack seems uncharacteristic, coming from one of the main architects of European Union. But Mr. Kohl's stand apparently is considered to be a vote-catcher. He cited the Bertelsmann-Kirch-Telekom affair as a glaring example of unjustified meddling by Brussels in an area of national competence.

The commission argued that the scale of the proposed merger and the certainty that it would exclude competitors qualified it as a community issue, even if it directly affected only one country.

Still, the issue has forced the commission to consider whether its actions conflict with the principle that decisions should be made at the lowest possible level. The German affair also raises the question of whether antitrust enforcement should be left more in the hands of national governments and courts.

The prospect of EU enlargement and the already considerable pressure on the commission also make such a re-examination necessary. The commission has a relatively small staff — about 500 — to deal with an increasing number of cases, a total of 1,338 last year. Some of those cases are very complicated, such as the commission's initial objection last year to the Boeing-McDonnell Douglas merger, or its examination of the proposed alliance between British Airways and American Airlines.

Officials here warn against the danger of diluting the commission's responsibility for ensuring a level playing field on behalf of all 15 member countries.

It is the largest countries that complain loudest. Mr. Van Miert, who is described as a formidable negotiator, frequently has to face an angry minister demanding to know why he cannot distribute public money as he sees fit.

What if things get rough? "When he shouts, I shout," the commissioner was once quoted as saying.

Business Is Far From Spotlight at China Summit

By Joseph Kahn
New York Times Service

To learn more about the state of relations between the United States and China, look at a few of the things that are not happening during President Bill Clinton's nine-day trip to China.

Although he has an official delegation of 1,000 people, not one represents an American company. Some U.S. companies will sign around $1.5 billion in contracts during the visit, but Mr. Clinton does not plan to attend that ceremony Monday. The president considered stopping by a new General Motors Corp. auto factory in Shanghai, but decided against it.

The fact that the president's trip focuses on diplomatic strategy, culture and tourism instead of commerce is a sign that business ties have in some ways outgrown the contract-by-contract nurturing required during the 1980s or the early 1990s, when many visiting American dignitaries traveled with planes full of chief executives seeking high-level contacts.

"China is not exactly virgin territory for American business," said Robert Kapp, president of the U.S.-China Business Council. "They are there in force. It is not as though they need the president to let them in on the best kept secret in world trade."

Since the mid-1980s, when Occidental Petroleum Corp., the former American Motors and a handful of other pioneers first planted stakes in China, China investment has gone from adventurous to ordinary. More than half of the Fortune 500 companies have operations there, and smaller companies are also active, down to entrepreneurs whose only business is in China.

In the early part of this decade, many companies set up factories in China to manufacture goods for export or began aggressively marketing their products in China, a spree that shows few signs of letting up despite China's slowing economic growth.

Last year, American companies had two-way trade with China valued at about

China is 'not exactly virgin territory for American business.' U.S. companies are already there 'in force.'

$75 billion. They have invested a cumulative $36 billion, eight times as much as they had committed when George Bush visited China in 1989, the last American president to make the trip.

Among Asian countries, only Japan has a bigger business relationship with the United States.

Like the broader relationship, the state of commercial ties has long been described in absolutes. Chinese government officials are seen as either friends or foes of business. The Chinese market is called a salvation for some companies and a sinkhole for others.

But after two decades of investing, hyperbole has given way to sober assessments of the pluses and minuses of doing business in what many call the world's most challenging emerging market. Some American companies have been runaway successes; others have proven dismal failures. Most big companies say they are there for the long term and are prepared to take their lumps along the way.

Eastman Kodak Co. is a good example. The company struggled for years to distribute its film in China, while many local companies sell lower-grade products and enjoy government protection. But earlier this year, Beijing approved Kodak's longstanding request to buy out three Chinese competitors, to open two factories and to put its bright yellow boxes on store shelves nationwide. Kodak has announced plans to invest $1 billion over the next two years.

"It took us several years to get the deal we wanted. You have to have patience and the willingness to stick it out," said David Swift, president of Kodak's China operation. "But since we got the license, everything has been superb." China has become Kodak's No. 3 worldwide market, behind the United States and Germany and ahead of Japan.

Massive advertising has helped many American brands gain ground in China. Four out of five Chinese consumers surveyed by the Gallup Organization knew Coca-Cola, more than recognized any other foreign brand name.

Profits have followed, though not as reliably as some investors might have hoped.

Figures are hard to track, as many U.S. multinationals decline to break out sales and profits by country. But the evidence suggests that businesses can operate profitably in China provided they do what they would need to do anywhere else: Develop good business plans, make products people can afford to buy and beat the competition.

One survey conducted by A.T. Kearney, a Chicago-based consulting firm, asked the bosses of 70 multinationals how their ventures in China were performing. They responded that two out of five of their China ventures — many have more than one — were operating in the black.

They said they expected the rest to break even within three years of their start-ups.

Given the huge volume of investments in the mid-1990s, which funded tens of thousands of new ventures along China's eastern coast, some analysts say they are surprised that so many can operate profitably.

"I don't think anyone finds it easy," said Rich Miskewicz, Kearney's managing director for greater China.

For every success story there is at least one bitter memory.

Ameritech Corp., the Chicago-based Baby Bell, sought to get into the business of providing cellular phone service in China, investing $20 million in a venture there. But last year the company pulled out, citing persistent regulatory obstacles.

Caterpillar Inc., the heavy equipment maker, gave up on a troubled joint venture with a Shanghai company, saying it had badly overestimated the market in China for diesel engines. It remains committed to China however, with several other factories there.

SHORT COVER

Bertelsmann Expands

MUNICH (Bloomberg) — Bertelsmann AG said Sunday it bought a majority stake in the German publisher Berlin Verlag. The move was the German media and entertainment company's latest bid to expand its publishing business.

Bertelsmann would not comment on the size of the stake its book unit, Bertelsmann Buch AG, would take in the publisher or disclose a purchase price. Berlin Verlag publishes fiction and nonfiction books, including German versions of U.S. bestsellers.

BA Weighs New Order

LONDON (Bloomberg) — British Airways PLC said Sunday it was still negotiating with both Airbus Industrie and Boeing Co. for a 100-plane order valued at $4 billion after newspapers said the British airline was poised to choose the European plane maker.

It could mark the first time British Airways had bought jets from Airbus, the world's second-biggest jetmaker, and represent a blow to No. 1 Boeing at a time when it is struggling with production backlogs. The order could be announced within the next month, according to reports in The Observer and The Sunday Times in London. Neither cited any named sources.

AT&T and BT in Talks

LONDON (Bloomberg) — British Telecommunications PLC and AT&T Corp., the biggest British and U.S. phone companies, are in "advanced negotiations" to link BT's business networks operation with AT&T, The Sunday Times of London said.

The newspaper, citing no named sources, said BT's Concert business, which services telephone networks of multinational corporations, needs an exclusive U.S. distributor and sees AT&T as a potential partner.

Sweden and the Euro

STOCKHOLM (AFP) — Sweden must sooner or later decide whether or not to join Europe's Economic and Monetary Union, or quit the European Union, the central bank chief, Urban Baeckstroem, said in an interview published Sunday.

"It is regrettable that debates in Sweden do not show more understanding and respect of the fact that 11 countries of the European Union want to launch one of the greatest projects of integration since the war," Mr. Baeckstroem told the Svenska Dagbladet newspaper.

For the Record

Greece will be able to join Europe's Economic and Monetary Union by 2001 provided the government continues to implement its economic policies, the European Central Bank governor, Wim Duisenberg, said. *(Reuters)*