

## **'European Parliament Vote on Merger Regulation & Legal Privilege',**

'The European Parliament adopted the Della Vedova report on the EC Merger Regulation on 9 October

(<http://www3.europarl.eu.int/omk/omnsapir.s>)

As reported last month this draft Regulation, whilst essentially a major overhaul of competition policy, includes provisions on requests for information and therefore covers legal privilege. This has been a controversial issue with intensive discussion between the members of the CCBE (Council of the European Bars and Law Societies). Following the leading case on this subject, *AM&S v. Commission* (155/79), inhouse lawyers do not have equivalent standing compared to lawyers in private practice in EC competition cases when it comes to legal professional privilege. However, the European Parliament's report as adopted includes crucial amendments that seek to reverse this situation and establish legal privilege for in-house lawyers where that lawyer is subject to adequate rules of professional ethics and discipline laid down and enforced in the general interest by the professional association to which the legal counsel belongs. Discussions on the draft Regulation will now continue in the Council of Ministers although negotiations are currently in deadlock. The Italian Presidency aims however to reach a compromise at working group level prior to the Competitiveness Council in November.

October 2003