I. FACTS

On March 25, 1992, Nestle SA won an arduous takeover battle of Source Perrier SA and its mineral water collection. Nestle bid $2.7 billion, about $302 per share for Perrier, ending a five-month takeover process involving several suitors for the target company. On March 26, 1992, the European Commission, the 17-member executive arm of the European Community (EC), began an inquiry into the acquisition to determine whether the deal would limit free trade.

The Commission determined that the proposed merger as initially presented by Nestle could impede competition in the common market and was therefore incompatible with the common market. Because it had determined the proposed merger limited free trade, the Commission worked out a proposal with Nestle whereby Nestle agreed to modify the initial merger plan by fulfilling a series of commitments. On July 22, 1992, after approving Nestle’s modified merger proposal, the Commission approved the

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2 EC Panel Reviewing Perrier Deal, supra note 1. In June of 1992 Nestle and BSN bid $315 per share for the remaining outstanding Perrier stock which amounts to about 3% of Perrier. Firm Seeks Remaining Perrier Shares, STAR TRIB. (Minn./St. Paul), June 4, 1992, at D3.

3 EC Panel Reviewing Perrier Deal, supra note 1.


5 Id. recital 136, at 29. Nestle agreed to sell the Vichy, Thonon, Pierval, and Saint-Yorre as well as other smaller water brands, formerly owned by Perrier, to a new buyer who could cultivate the brands into competition with Nestle and BSN. Id. Nestle agreed not to repurchase the brands for at least ten years. Id. at 30. The assets and interests acquired from Perrier are to be held separate from Nestle’s operations until the sale is complete. Id. at 29. Nestle is restrained from providing data on sales volumes to competitors. Id. Additionally, Nestle is prohibited from selling Volvic to BSN until the sale of the Perrier brands is completed. Id. at 30.
takeover of Perrier SA by Nestle SA.6

Under EC merger regulations,7 the Commission must approve large mergers in the twelve-nation EC8 and has the power to block an alliance if it feels that free trade would be reduced. The Commission raised doubts about the validity of the original Nestle proposal because the merger created market shares exceeding fifty percent and could create an excessive concentration in the French bottled water market.9

Because the Merger Regulation text does not expressly mention or prohibit duopolistic market positions, the decision by the Commission tested the limits of the Commission's regulatory powers10 and indicated that the Commission has the authority to block the creation of restrictive duopolies.11

II. LAW

A. Prior Merger Regulation In The EC

The European Community (EC) was established in 1957 when six European nations12 signed the European Economic Community Treaty (Treaty of Rome)13 with the goal of creating a common market by 1970.14 The Treaty provided for "the establishment of a system ensuring that competition [would not be] distorted in the Common Market."15 To preserve competition in the community, mergers were regulated by separate policies of individual member states and also by Articles 85 and 86 of the

6 Id. art. 1, at 31.
7 Council Regulation on the Control of Concentrations Between Undertakings 4064/89, 1990 O.J. (L 257) 13 (corrected version) [hereinafter Merger Regulation].
8 The twelve nations include France, Germany, Italy, Belgium, the Netherlands, Luxembourg, the United Kingdom, Denmark, Ireland, Greece, Spain, and Portugal.
9 EC Panel Reviewing Perrier Deal, supra note 1. The Commission based part of its decision on competition within a single country, France, instead of looking at the effects to the EC as a whole. Commission Decision, supra note 4, recital 21, at 7.
11 Commission Decision, supra note 4, at 24, 25.
12 France, Germany, Italy, Belgium, the Netherlands, and Luxembourg.
13 TREATY ESTABLISHING THE EUROPEAN ECONOMIC COMMUNITY, [EEC TREATY].
14 By 1986 there were twelve nations in the community. Other nations joining included the United Kingdom, Denmark, and Ireland in 1973, Greece in 1981, and finally Spain and Portugal in 1986.
15 EEC TREATY art. 3(f).
Treaty.

Article 85 prohibits price-fixing, production controls, and other actions by undertakings which may distort, prevent, or restrict competition within the common market. Because those practices are inconsistent with the common market, any agreements violating Article 85 are automatically void.

Article 86 prohibits as incompatible with the common market any "abuse" of a dominant position within the Common Market (or a substantial part thereof) by an undertaking. The Article lists possible abuses such as imposing unfair prices and limiting production, markets, or technology to the

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16 Undertaking is the EC term for firms or companies.
17 EEC TREATY art. 85.

Article 85 provides:

1. The following shall be prohibited as incompatible with the Common Market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the Common Market, and in particular those which:
   (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
   (b) limit or control production, markets, technical development, or investment;
   (c) share markets or sources of supply;
   (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
   (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.
3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:
   - any agreement or category of agreements between undertakings;
   - any decision or category of decisions by associations of undertakings;
   - any concerted practice or category of concerted practices;
   which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:
   (a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;
   (b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.
The first landmark in the historical application of Treaty articles for merger control was the Commission Memorandum on Concentrations of 1966. In the Memorandum, the Commission distinguished between a "concentration" and an agreement between companies. The Commission concluded that Article 85 did not apply to concentrations but that Article 86 did.

In 1972, the Continental Can case established the power of Article 86 to regulate a company in a dominant position which acquires a competitor. This was a significant decision because Article 86 does not specifi-
cally contain an express provision to this extent. 24

The need for merger control at the European level became evident as the Commission intervened more and more in concentration cases under Articles 85 and 86. 25 Merger regulation under Articles 85 and 86 had many drawbacks including long time delays, uncertainty due to the informal clearance process, and differences in standards between Article 85 and Article 86. As the ability to reach larger consumer bases grew and market opportunities increased due to the integration of the European economy, the number of mergers and acquisitions in the EC increased, 26 and thus the need for clear, consistent regulation became urgent.

B. The New EC Merger Regulation

The Commission submitted the first proposal for a European regulation on merger control in 1973 27 in response to the shortcomings of the established system of regulation and control. Opposition by individual member states thwarted the unanimous approval required to pass the initial draft and the regulation was not enacted. 28 The present merger regulation was finally adopted on December 21, 1989 and became effective September 21, 1990. 29

24 EEC Treaty art. 86; see also Continental Can, 1973 E.C.R. at 244-45.


26 Peat Marwick reported that in 1989 the number of cross border mergers and acquisitions in Europe rose to 1,314 from 847, with a respective increase in value to $50 billion from $31.6 billion. Cross-Border Mergers Rose by 8% in 1989, Study Says, WALL ST. J., Jan. 29, 1990, at A5.


28 The External Impact of European Unification, Apr. 7, 1989, vol. 1, no. 1, at 1. The United Kingdom opposed the regulation and sought to fix the threshold level at a high level in order to minimize the number of mergers subject to the regulation. Id.

In discussions with Member States prior to the new regulation, several principles emerged to guide the drafting of the new proposal.\(^{30}\) One principle maintained that in order to prevent the creation or enlargement of a dominant position, merger control under the new regulation should apply to large-scale mergers that have a "truly European dimension."\(^{31}\) Limiting most regulation of large-scale mergers within the EC to the Commission\(^{32}\) will enable Member States to concentrate their regulation efforts on small mergers which primarily affect local markets. The principle of allowing the Commission to regulate all mergers which meet the threshold requirements of the Merger Regulation is incorporated into the Regulation and is known as the "one-stop shop." If a merger meets the threshold qualifications of the Merger Regulation,\(^{33}\) the Commission has the sole authority to evaluate the proposal.\(^{34}\) Once the Commission has approved the proposal, the undertakings do not have to worry about interference from individual Member States.

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\(^{31}\) Merger Regulation, *supra* note 7, para. 6 states that:

Articles 85 and 86, while applicable, according to the case-law of the Court of Justice, to certain concentrations, are not however, sufficient to control all operations which may prove to be incompatible with the system of undistorted competition envisaged in the Treaty.

\(^{32}\) The Merger Regulation draws its power from Article 87 of the Treaty of Rome which allows the Council the authority to promulgate regulations to implement Articles 85 and 86. The Merger Regulation also draws power from Article 235 which allows the Council authority to take "appropriate measures" necessary to achieve one of the Community's stated objectives where the Treaty itself fails to provide the requisite powers. This gives the Merger Regulation a legal status equivalent to Articles 85 and 86 of the Treaty.

\(^{33}\) The new Regulation applies to all concentrations with a "community dimension." Merger Regulation, *supra* note 7, art. 1(2) states that a concentration has a Community dimension where:

(a) the combined aggregate worldwide turnover of all the undertakings concerned is more than ECU 5000 million; and

(b) the aggregate Community-wide turnover of each of at least two of the undertakings concerned is more than ECU 250 million, unless each of the undertakings concerned achieves more than two-thirds of its aggregate Community-wide turnover within one and the same Member State.

\(^{34}\) Merger Regulation, *supra* note 7, art. 21 states:

(1) Subject to the review by the Court of Justice, the Commission shall have sole jurisdiction to take the decisions provided for in this Regulation.

(2) No Member State shall apply its national legislation on competition to any consideration that has a Community Dimension.
who may oppose the deal.

When the Commission published the new regulation, it announced some key principles that it believed would improve legal certainty involving corporate mergers. The principles were designed to enhance certainty in three areas: the jurisdiction to review mergers, the definition of rules under which mergers are to be evaluated, and the Commission clearance procedures. First, the Regulation gives the Commission jurisdiction over all mergers with a “Community Dimension” and removes the uncertainty that resulted from the dual jurisdiction under the prior system. The Regulation will enable companies to better predict which jurisdiction their proposals will fall into and thus predict with increased certainty the decision that will follow. Second, the Merger Regulation attempts to provide undertakings a more concrete standard of how their proposals will be reviewed. Concentrations that are found to threaten competition in the Common Market will

35 Stewart, supra note 25, at 299.
36 Id.
37 See supra note 33 for a definition of Community Dimension.
38 The test is presented in Article 2 of the Merger Regulation, supra note 7, which states:

1. Concentrations within the scope of this Regulation shall be appraised in accordance with the following provisions with a view to establishing whether or not they are compatible with the Common Market.

In making this appraisal, the Commission shall take into account:

(a) the need to maintain and develop effective competition within the Common Market in view of, among other things, the structure of all the markets concerned and the actual or potential competition from undertakings located either within or outside the Community;

(b) the market position of the undertakings concerned and their economic and financial power, the alternatives available to suppliers and users, their access to supplies or markets, any legal or other barriers to entry, supply and demand trends for the relevant goods and services, the interests of the intermediate and ultimate consumers, and the development of technical and economic progress provided that it is to consumers’ advantage and does not form an obstacle to competition.

2. A concentration which does not create or strengthen a dominant position as a result of which effective competition would be significantly impeded in the Common Market or in a substantial part of it shall be declared compatible with the Common Market.

3. A concentration which creates or strengthens a dominant position as a result of which effective competition would be significantly impeded in the Common Market or in a substantial part of it shall be declared incompatible with the Common Market.
be blocked or restructured. Finally, the Merger Regulation imposes notification requirements on the undertakings and imposes strict time limits on the Commission to respond to the notifications. Thus, the period of time companies must wait for the Commission to approve or reject a merger proposal is decreased.

C. EC Regulation of Collective Dominance

Dominance in a particular market is not always maintained by one large firm or concentration. Collective dominance occurs when a duopoly (two market controlling firms) or an oligopoly (multiple firms) exists. In the Nestle case, the Commission believes that Nestle and BSN combined will control an exceptionally large share of the bottled water market. The duopoly formed by Nestle and BSN would allow the two companies to act in concert to set prices at higher levels.

In the past, regulation of duopolies within the EC has been mixed. While applying Articles 85 and 86 to merger regulation in the EC, the Court of Justice never found individual dominance to exist with a market share below forty percent. The Commission, however, prosecuted cases charging firms with collective dominance in a market even though the firms did not have individual dominance in a market.

Prior to the Merger regulation, collective dominance was regulated by Article 86 which referred to "one or more undertakings of a dominant position" in the common market. Historically, the Court of Justice has not supported the Commission's attempts to prosecute joint dominance under

39 Id. Articles 8(2) and 8(4) allow the Commission to attach conditions or restructure a proposal in order to ensure a sufficient level of competition in the market.

40 Id. art. 4.

41 Id. art. 10.

42 Aside from cases in which, because of customer dependence, dominance has been found to exist with respect to a company's own products regardless of its market share.


45 EEC TREATY art. 86.
Article 86.\textsuperscript{46} The Merger Regulation presumes that any concentration in which the undertakings hold a market share of less than twenty-five percent is compatible with the Common Market,\textsuperscript{47} but it does not specifically mention collective dominance.

III. ANALYSIS

The Nestle acquisition of Perrier is a landmark case in the young and uncharted life of the new Merger Regulation.\textsuperscript{48} Because the Nestle acquisition is the first case that the Commission has challenged on duopoly grounds\textsuperscript{49} the EC merger atmosphere is full of uncertainty about future interpretation of the Merger Regulation. The Merger Regulation controls proposed mergers of EC based companies as well as companies outside of the Community whose mergers have substantial effects within the EC.\textsuperscript{50} Because the Regulation has an extra-territorial reach, any policy changes by the Commission concerning the Merger Regulation will have an impact on future world corporate strategy.

A. Legal Basis For Regulating Collective Dominance

To many in the corporate world, the legal basis of the Commission's duopoly principle is unknown since the Merger Regulation does not explicitly refer to joint dominance by multiple firms.\textsuperscript{51} Nestle has accused the Commission of changing the rules in the middle of the game. Additionally, some lawyers point out that the decision is just another example of Brussels pushing the boundaries of the text farther than anyone expected.\textsuperscript{52}

\textsuperscript{46} Venit, \textit{supra} note 43, at 539; \textit{see} Hoffman LaRoche, \textit{supra} note 44.

\textsuperscript{47} Merger Regulation, \textit{supra} note 7, at 15.

\textsuperscript{48} Sir Leon Brittan, EC competition commissioner, hailed the Commission's decision to allow the deal to proceed with conditions as "a considerable victory for the consumer" and a landmark in Brussels' rapidly evolving merger policy. Experts agree that this is a landmark development, which should in theory enable Brussels to apply the two-year-old EC Merger Regulation to large cross-border deals in any industry where the number of competitors is limited. Andrew Hill & Guy de Jonquieres, \textit{Commission Clears Bid For Perrier}, FIN. TIMES, July 23, 1992, at 2.

\textsuperscript{49} Id.

\textsuperscript{50} Merger Regulation, \textit{supra} note 7, art. 1.

\textsuperscript{51} Hill & de Jonquieres, \textit{supra} note 48, at 16.

\textsuperscript{52} Id.
After reviewing Nestle's proposal, including the sale of Volvic from Nestle to BSN, the Commission found that the merger would create duopolistic dominance and might impede effective competition in a substantial part of the common market.\(^53\) The Nestle decision appears to be grounded in the spirit and intent of EC competition policy as set forth in the EEC Treaty\(^54\) and the Merger Regulation. The central question posed by the Commission is whether Article 2(3) of the Merger Regulation covers only competition impeded by a single firm, or whether the provision also covers impeded competition resulting from collective dominance.\(^55\) The ruling indicates that the decisive issue for the Commission is not the distinction between single firm dominance and multiple firm dominance, but whether competition is impeded.\(^56\)

The Commission's formal report provides several reasons why the Commission felt that it had the authority and the obligation to regulate the Nestle merger on duopolistic grounds. First, as noted above, the Commission did not think that the number of firms involved was a sufficient reason to approve a merger that might otherwise impede effective competition in the common market. The Commission stated that dominant position is only the means of impeding competition, and that a dominant position may be held by a group of firms as well as by a single firm.\(^57\)

The second reason for regulation of multiple-firm dominance involves the gap in competition policy which would result from an inability to prevent market dominance by a group of firms.\(^58\) The structure of EC competition policy divides coverage of most mergers between the Merger Regulation and national regulations, based on the size and impact of the merger.\(^59\) Most mergers which meet the threshold coverage requirements of the Merger Regulation fall outside of regulation by individual Member States of the EC.

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\(^53\) Commission Decision, *supra* note 4, recital 108, at 23. In deciding that the initial merger proposal was not compatible with the Common Market, the Commission considered the high market shares of Nestle and BSN after the transfer of Volvic from Nestle to BSN, the absence of effective counter competition from local suppliers, and the increasing reliance of consumers on brands sold by Nestle and BSN along with other factors. *Id.*

\(^54\) EEC TREATY art. 3(f) (providing for a system ensuring undistorted competition in the Common Market.)


\(^56\) *Id.* recital 112, at 24.

\(^57\) *Id.* recital 113, at 24.

\(^58\) *Id.* recital 114, at 24.

\(^59\) Merger Regulation, *supra* note 7, art. 1.
many of whose regulations control duopolistic dominance.\textsuperscript{60} If an anticompetitive merger which would create a duopoly or oligopoly falls into the Commission's sole jurisdiction but cannot be blocked on duopolistic grounds, competition could suffer simply because a dominant position was created by a tight group of firms as opposed to one firm acting alone. The Commission's decision relies on the principle that a core intent of EC competition law should not be circumventable because an express prohibition on multiple-firm dominance was omitted from the regulation.\textsuperscript{61} In addition, the Commission noted that national legislation in many countries allows for the implied regulation of possible multi-firm dominance even though oligopolies are not expressly mentioned in the statutes.\textsuperscript{62}

During the Commission's investigation of the Nestle proposal, BSN argued that the decision of the Commission violated the principle of legal certainty because the Nestle proposal is the first merger facing rejection by the Commission based on duopolistic grounds.\textsuperscript{63} The Commission rejected BSN's argument because Article 2(3) of the Merger Regulation covers dominance which might impede competition in the Common Market independently of whether the dominance is by a single firm or a collection of firms.\textsuperscript{64}

The Nestle decision appears to be solidly within the spirit and purpose of the Merger Regulation, which requires the Commission to take into account the need to preserve and maintain competition in the Common Market,\textsuperscript{65} because duopolies often stifle effective price competition. The Merger Regulation design ensures that competition in the Common Market is not

\textsuperscript{60} Commission Decision, \textit{supra} note 4, recital 115, at 25.

\textsuperscript{61} \textit{Id.} recital 114, at 24.

\textsuperscript{62} \textit{Id.} Sir Leon Brittan argues that the position of the Commission is consistent with the Merger Regulation, and that he is only bringing EC merger policy into line with the practice in nations such as Britain, Germany, and the United States. All of these countries can challenge oligopolies but only Germany has legislation which mentions them explicitly. Andrew Hill & Guy de Jonquieres, \textit{Source of Change for Mergers}, \textsc{FIN. TIMES}, July 23, 1992, at 16.

\textsuperscript{63} Commission Decision, \textit{supra} note 4, recital 116, at 25.

\textsuperscript{64} \textit{Id.} The Commission noted that because mergers must be approved prior to implementation, the results in the Nestle decision are not as severe as other possible situations where already acquired rights are involved. \textit{Id.}

\textsuperscript{65} Venit, \textit{supra} note 43, at 541.
Prior to the Commission's conditions of divestment, Nestle and BSN would have combined to control sixty-seven percent of the French mineral water market. Because the market is hard to enter successfully Nestle and BSN would have faced few new competitors in the future and they possibly could have set the prices of their products above market levels.

B. Future Effects of The Nestle Decision

The effects of the Nestle decision on future mergers in the EC are unclear, but many experts think that the Nestle case could expand the Commission's power to block a concentration and could ultimately restrict corporate growth through acquisitions. Although the decision could possibly restrict corporate expansion by merger, results of past proposals submitted to the Commission indicate that mergers should still remain an effective means of corporate growth. The overwhelming majority of proposed concentrations have been approved without any formal inquiry by the Commission, and only one proposal has been blocked by the Commission under the Merger Regulation.

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66 Merger Regulation, supra note 7, para. (1). The Commission commented in 1986 that one principle behind the proposed Merger Regulation was "to prevent the creation of situations which will result in stable collusion between oligopolists." Venit, supra note 43, at 533.

Hill & de Jonquieres, supra note 62.

68 Mr. Reto Dominiconi, finance director at Nestle, stated that if the duopoly position is upheld "it would be a very major hurdle to many future acquisitions," particularly hostile ones. Guy de Jonquieres, A thirst for expansion, FIN. TIMES, July 8, 1992, at 20.

69 Stephen Walzer, British Petroleum's manager of international legal affairs, thinks that there will be major implications for industries like oil. Derek Ridyard, an economic consultant of Nera, predicted the impact will be felt in any business where high capital costs limit competitive entry, and in industries where many product categories are dominated by several large brands such as the consumer food industry. Id.

70 Since the Merger Regulation took effect the Commission has investigated in depth only eight of the roughly one hundred deals notified to it and has blocked only one. Source of Change, supra note 62.

71 Aerospatiale-Alenia/de Havilland, 1991 O.J. (L 334) 42. Aerospatiale and Alenia agreed to purchase the de Havilland division of Boeing of Canada. The Commission reportedly rejected the proposed joint acquisition because the concentration would have given Aerospatiale-Alenia at least fifty percent of the worldwide market and at least sixty-seven percent of the EC market for consumer aircraft twenty-to-seventy-passenger range. James S. Venit, European Merger Control: The First Twelve Months, 60 ANTITRUST L.J. 981, 983 (1992).
Business leaders throughout the EC are watching for a possible expansion in the scope of the Commission's authority. If the Nestle case establishes grounds for rejecting proposed mergers that create duopolies, the Commission might seek to expand its powers by challenging looser oligopolies in future merger cases. This expansion of Commission power could eventually create an atmosphere where aggressive corporate merger policy stagnates, limiting corporate growth in a major area.

Although the ruling in the Nestle case will probably not lead to a decline in the level of corporate mergers in the EC, the only official way for the EC corporate community to challenge the power of the Commission is to appeal a decision to the Court of Justice. This has not occurred to date largely because of the time and cost restraints involved in the process.

C. The EC and Objective Merger Review

The Commission is composed of nationals of Member States, with each nation allowed representation by at most two individuals. To ensure objectivity, the Commissioners are required to act "in the general interest of the Communities," to perform their duties independently, and to refrain from seeking or taking any instructions from any national government. The Nestle decision has spurred calls for a system that provides more predictable and objective review of concentrations because many feel that the decision of the Commission was politically influenced.

EC Competition Commissioner Sir Leon Brittan defended the Commission against attacks which called for an independent agency, free from political pressure, to handle merger control. Brittan commented that the Commis-

72 Hill & de Jonquieres, supra note 62.

73 Merger Regulation, supra note 7, art. 16. Nestle was prepared to appeal any Commission decision that would completely block their takeover of Perrier with BSN. Id.; Hill & de Jonquieres, supra note 62. Decisions of the Commission are reviewable by the Court of First Instance and thereafter by the Court of Justice. Graham Smith, EC Merges Control Regulation—the First Nine Months, INT'L MERGER L., Aug. 1991, at 12.


75 Id. art. 10(2). Member States have agreed not to seek to influence commissioners in the performance of their duties. Id.

76 Hill & de Jonquieres, supra note 62.

sion would only be allowed to enjoy responsibility for merger control as long as it is perceived to be capable of resisting political pressures and deciding matters based on a fair interpretation of EC merger policy,78 and he stated that the Commission so far has succeeded in that task.79 Two issues appear to block the realistic creation of a truly independent review board. First, any new agency would be subject to the same political pressure that influences the Commission and its members.80 Second, the negotiations on the Merger Regulation took sixteen years to complete and it would be difficult to convince EC member countries to agree on a new system.81 With these considerations in mind, the present Commission appears to be the best objective body to review merger control in the EC.

IV. CONCLUSION

Since its enactment in 1990, the EC Merger Regulation has charted a new course for the European Community. The Nestle decision is one important highlight in the short history of the Merger Regulation. The Commission followed what it believed to be the spirit and purpose of the Regulation and restructured Nestle’s bid for Perrier on the grounds that the original plan would create a duopoly and might distort effective competition in the Common Market, specifically in the bottled water market in France.

It is unclear what effect this extension of power by the Commission will have on future mergers in the EC. However, based on the Merger Regulation’s track record, it appears that corporations striving for growth will continue to pursue such undertakings as mergers and acquisitions. The Merger Regulation has not existed without criticism, but at the present time it appears to be the best objective system of controlling competition in the Common Market.

William Moore Willis, IV

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78 Id.
79 Id.
80 Id.
81 Id. Brittan pointed to the EC’s current long-time stalemate over the seat of several new EC agencies and wondered how long it would take to resolve the question of where the seat of any new merger authority would be.