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Dear Sirs,

**Provisional Conclusions and Recommendations – April 2017**  
**The Implications of Brexit/Competition Law and Policy**

I was most interested to attend the conference which you organised at Charles Clore House on the implications of Brexit for Competition Law and Policy on 2 May 2017. A useful discussion.

I have one thought which you may wish to consider on Coordination and Cooperation: Antitrust (Section 7 of your paper).

A real concern is that European producers might, cynically, combine to either boycott the UK market or to raise prices when they sell onto UK markets. Any concertation or contact between competitors might well take place entirely outside the United Kingdom. The issue then is to ensure that:-

1. The enforcement agencies have legal powers to examine such infringements;
2. The enforcement agencies (not just the CMA but also the EU Commission) have practical incentives to take action against such behaviour; and
3. Third parties injured by such behaviour have a direct line of action to recover damages.

Might a solution be to have a provision in any future free trade agreement between the United Kingdom and the EU of the 27 which mimics or repeats the terms of Articles 101 and 102 TFEU?

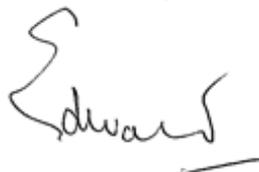
This would be in line with the scheme of the Association Agreements which, for example, Spain and Portugal had with the then EEC before their accession. Those Association Agreements had provisions which repeated, word for word, the provisions on the free movement of goods – what were Article 30/36 EEC Treaty.

The question then would be whether those provisions should also be directly applicable, i.e. enforceable by third parties before the courts either of the United Kingdom or of any of the courts of the EU of the 27, as well as giving power to competition law enforcement agencies either side of the channel.

My real concern is that the UK economy be left wide open to being damaged by anti-competitive behaviour of undertakings with substantial presence in EU member states of the 27, which cannot effectively be controlled.

I hope this helps.

Yours sincerely



**Edward Pitt**

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