



Resolution on Question A

Question A: *“Who is/should be liable for breaches of competition law: which rules should govern the attribution of civil and (where it exists) criminal liability to the company, parent company, management & employee?”*

Whereas imposing sanctions on companies (or other legal persons) for competition law infringements is not sufficient to achieve the goals of deterrence and punishment;

Whereas fines imposed on companies, however high they may be, punish the owners/shareholders of the company and do not reach the individual wrongdoer; and

Whereas the choice of whether to rely on criminal sanctions or administrative sanctions may depend on many factors, including cultural and constitutional traditions,

The LIDC recommends that:

- The introduction and enforcement of sanctions against individuals responsible for competition infringements should be considered, in addition to financial and other sanctions against their companies;
- If administrative sanctions are adopted against companies or individuals, care should be taken to ensure a level of procedural protection consistent with the penal nature of the sanction; and
- Whenever companies are fined, well-intentioned efforts to avoid infringements, i.e. in the form of a genuine, functioning compliance program, should be duly taken into account as a mitigating circumstance.