

Active enforcement of Articles 85 and 86 of the EEC Treaty during the 1960s, 1970s and 1980s has put in place an extensive competition policy framework that underlies the attempt to complete the internal market by the end of 1992. Until recently, however, the treatment of mergers under these Articles remained a major gap in the framework. Much remained to be resolved concerning the responsibilities of the governments of the individual Member States versus the EC Commission with respect to the control of anti-competitive mergers within the Community. As a consequence, parties to mergers having potential implications for trade between the Member States often had to deal separately with competition authorities from the EC Commission and the affected Member States.

The need for a more systematic approach to merger control has long been recognized by the EC Commission and the Member States. Several attempts at establishing a community-wide regulation on this issue were made during the 1970s and early 1980s. However, these attempts failed to resolve major differences between the approaches of the individual Member States toward merger control, or come up with a formula for allocating responsibilities between the Member States and the EC Commission.

The start of the current initiative to complete the common market in 1992 provided renewed impetus to the discussions on merger control in the Community. The development of a merger regulation was not specifically included in the program for finalizing the internal market set forth by the European Commission in 1985. However, the issue obtained high political and economic prominence due to the large amount of cross-border merger activity that took place during the late 1980s, and the continuing disparities among the merger policies of the individual Member States. Increasingly, the development of a merger regulation came to be viewed as a necessary part of the completion of a "Community legal regime which will translate the economic objective of a unified internal market into reality."⁴ In response to this concern, the Merger Control Regulation was finally accepted by the Member States in December 1989, and came into effect in September 1990.