There is a distinction drawn in competition law between the legal test to be met in a case tried under the *per se* and rule of reason standards. Under the *per se* standard, once a court determines that all the elements of a proscribed practice are found, no further proof of anti-competitive effect is required. In contrast, according to the rule of reason approach, the plaintiff/applicant must show that the impugned practice has had an adverse impact on competition.

Interestingly, our survey of the economics literature points out that more than one type of vertical restraint can be used in manufacturer-dealer contracts to deal with a particular vertical arrangement situation. Which vertical restraints may be used to deal with the problems faced by a manufacturer-retailer/supplier vertical structure will depend on the particular circumstances of the situation. Not all vertical arrangements will increase overall economic efficiency. In general, depending upon the facts, vertical contracts may increase, reduce or leave unchanged economic efficiency. The conclusion one ultimately reaches regarding the overall acceptability of a given vertical restraint will depend on the facts of each specific case. This argues for a rule of reason approach rather than outright prohibition (the *per se* illegality approach) when judging vertical restraints under competition policy.

With regard to specific practices, RPM agreements attempt to take away the re-seller's discretion in product pricing. RPM is unlawful in most jurisdictions. The U.S. treats price ceiling schemes (as well as price floors) as *per se* illegal, like any other kind of price restriction. In Canada, competition law only prohibits restrictions that prevent reductions in price or influence prices upward. In Japan, an approach analogous to the rule of reason appears to exist. Among the three jurisdictions examined in this Paper, Japan is the only country where there are several products that have been specifically exempted from the application of RPM provisions.

Exclusive territorial and customer restrictions (ETCR) are often acceptable under the competition laws examined in this Paper where they do not have an adverse effect on competition. The U.S. Supreme Court, for example, has determined that ETCR should be judged under the rule of reason, rather than be regarded as *per se* illegal. Exclusive dealing (ED) practices in the U.S. normally are also tested by the rule of reason standard. Although U.S. jurisprudence on ED still retains an element akin to a *per se* illegality approach, an alternative based on the rule of reason has gathered considerable strength over the last few decades. In Japan, relevant ED cases are considered on a case-by-case basis, echoing similar treatment in the Canadian system. Finally, competition laws in most countries apply a flexible rule of reason treatment to TS. One important exception has been the U.S., where tying practices in some circumstances have been considered *per se* illegal. However, considerable market analysis is required and a number of conditions must be satisfied before the *per se* rule is applied.