

technology. Most importantly, it was ascertained that the agreement did not contain unnecessary or excessive restrictions on competition. Finally, the Commission approved the pool, considering its overall beneficial effects on the consumers, thus granting a “comfort letter” under Art. 81(3) of the EC Treaty and thereby clearing the underlying agreement.<sup>404</sup>

#### IV. Moving Picture Experts Group (MPEG)

Other relatively recent notifications include the previously mentioned MPEG-2 pool, eventually cleared in 1998,<sup>405</sup> and the subsequent MPEG LA +5 pool, cleared in 2001.<sup>406</sup> As previously mentioned,<sup>407</sup> the MPEG-2 (Moving Pictures Experts Group) is an open standard for transmitting and storing video signals, providing a technique for eliminating redundant information and, consequently, saving transmission resources and space in storage media, such as optical discs. Both above-mentioned pooling agreements offered a single non-exclusive licence program and were unitarily administered by an independent entity, MPEG LA, based in the US city of Denver, Colorado. Furthermore, patent holders could offer licences for their patents outside the pool.

By clearing these agreements, the European Commission maintained that the pool had overall beneficial effects for the consumers and did not impose excessive or unnecessary restrictions on competition, therefore ultimately complying with the exemption criteria of Art. 81(3) of the EC Treaty.

#### V. Third Generation Patent Platform Partnership (3G3P)

Relatively recently, in November 2002, the European Commission’s competition services, following the same balanced approach, eventually cleared the agreement among the so called Third Generation (3G) mobile equipment manufacturers (who refer to themselves as the “3G Patent Platform Partnership” or “3G3P”), involving a world-wide mechanism for evaluating, certifying and licensing essential patents for 3G mobile communications systems.<sup>408</sup> A positive administrative “comfort letter” was then issued in favour of the newly established 3G3P consortium, covering the creation of five 3G technology-specific platforms, fundamentally intended to determine and attest the essentiality of 3G patents, streamline licensing administration

404 Further details of the notification of the DVD Licensing Program were published in the Official Journal of the European Communities, 27 August 1999, vol. 242, p. 5 *et seq.*

405 Press release IP/98/1155 of 18 December 1998; Notice in OJ No 98/C 229/6 of 22 July 1998.

406 Notice in OJ 174/6 of 19 June 2001.

407 See Part I / B / 2 of this contribution, dedicated to The “MPEG LA” Case.

408 Press release IP/02/1651 of 12 November 2002.