

## **Regulation (EEC) No 1017/68 of the Council of 19 July 1968 applying rules of competition to transport by rail, road and waterway**

- has been substantially amended several times
- last and most far-reaching modification by Council Regulation 1/2003 of 16 December 2002 which repeals i.a. Articles 5 to 29 of Regulation 1017/68:
  - the possibility for the prohibition of restrictive agreements to be declared inapplicable in the event of a *crisis* in a part of a transport market was repealed
  - the same applies to provisions regarding abuse of a dominant position in the relevant transport sectors and to undertakings with special or exclusive rights
  - all the procedural rules regarding complaints, applications for exemptions and the enforcement powers of the Commission are withdrawn, therefore the procedural rules of Reg. 1/2003 and 773/2004 are fully applicable to this sector
- the only remaining substantial provisions in Reg. 1017/68 are:
  - the exception for agreements to apply technical improvements or achieve technical co-operation (standardisation, pooling of equipment, co-ordination of time-tables, grouping of single consignments etc.)
  - the exemption for groups of small and medium-sized undertakings: these may form groupings of road and inland waterway transport undertakings to carry on transport activities, or jointly finance or acquire transport equipment or supplies
- practical importance of the Regulation is now very limited
- most of the case-law concerned the question whether the procedural rules of Reg. 1017/68 or that of Reg. 17/62 are applicable, this is now irrelevant because
  - the procedural rules of Reg. 1017/68 have been replaced by Reg. 1/2003 and
  - Reg. 1/2003 has taken over the principle of Reg. 1017/68 which did not foresee the obligation of an ex-ante notification of agreements and concerted practices