Small states are usually small economies and it is generally accepted that they face particular difficulties in implementing and developing competition law. It is arguable that these difficulties arise precisely from the fact that these states are small. After all, the constructs that have found their way into the modern competition law disciplines were developed in large economies and these were later exported to smaller ones. The participants in large economies have had and continue to have opportunities to develop in terms of scale and scope, which opportunities are usually denied to the market participants in small economies. More importantly, perhaps, market participants in large economies generally have per capita less overall impact on the economy where they operate than the impact that even smaller entities would have in smaller economies. Indeed, from one perspective that is precisely the purpose of modern competition law, which is to reduce the debilitating impact any one market participant may have on the overall economy. So, one may argue, small states need competition law more than large states.

Small states face the further challenge of developing adequate administrative and support structures to advance competition law policy. It is, of course, possible to contemplate a pro-competition regime without a supporting administrative or regulatory infrastructure, other than the courts. For example, the common law has had history of opposing policies which were in restraint of trade. It has been and remains a matter of public policy that the common law would not and does not enforce agreements which are in unreasonable restraint of trade. In addition, the common law tort of conspiracy, with some significant limitations, may be used to promote a pro-competition regime. This tort imposes a civic duty at common law not to cause harm by a conspiracy to injure the plaintiff's business. However, such policies are enforced by private action and a competition regime that seeks to rely on them alone would not be very effective. We may argue that private rights of action in competition regimes are essential, especially where the public administrative structures are weakly developed, but we cannot construct an effective regime on private rights of action only. So almost by definition, the modern competition regime requires supporting administrative bureaucracies and these structures are difficult to construct and maintain. Competition agencies in all countries compete with the rest of the public bureaucracies for public financing and human resources but in a small state, where the pool of resources is very shallow, the competition for those resources is much more acute.

Regional organizations can provide a solution to some of those problems. Indeed, the small states of the Caribbean region have had to address all these issues of competition law and policy and have addressed some of them through its regional organization, CARICOM. A regional solution may address the resource constraints in a way the small individual member state cannot. In addition, and perhaps more impotently, a regional competition agency may address cross-border competition problems that would otherwise be completely outside the capability of the national agencies. The CARICOM Competition Agency is new and, it may be argued, the regional competition regime is still emerging. Nevertheless, there may some things

instructive in the CARICOM experience.

There are many challenges relating to content of the law to be introduced, and in particular how we should treat the mergers, of economic units in small economies, as well as the administrative structures themselves. Competition law should promote or maintain market competition and discourage anti-competitive conduct, but initiatives to pursue these operate in the context of policies for the time being pursued by national governments. Competition policies, however, are not so uncontroversial or so universally accepted that they can be uniformly exported from one country to the next or, within a country, even from one political administration to another. Governments have different views as to how their economies should develop. We are therefore faced with questions of what we should included in our competition laws; whether or not we should include, say, provisions governing mergers; whether the competition regime should exclude particular industries; whether our competition policies should pursue the short-term interests of consumers over the long-term interests of economic development; whether the competition regime should prohibit, per se, interlocking directorship as distinct from examining them on a case by case basis; and whether particular activities be required to operated in a competitive or a regulatory environment. These are just some of the highly contested issues and debate on them will arise in any state, whatever its size. It nonsensical to pretend that we will agree on how we wish to approach these questions or even that we will always answer them rationally. Even a causal comparison of several competition regimes will demonstrate the point. For example, there was obviously something peculiar in the American psychology that justified the exclusion of one sport, baseball, from the competition framework. It is difficult to justify why baseball should have been excluded while other sports are not. Similarly, in the case of Jamaica, coffee production and sales are excluded from the national competition framework. One may ask, why coffee and not, say, sugar cane production?

Merger regulations are particularly problematic for small states. On the one hand, there are fewer market participants in small economies than there are in larger ones and thus there is greater likelihood that in small economies fewer entities will dominate the economy. On the other hand, even when they merge, these entities are not likely to achieve the scale and scope that is required for effective competition in a globalized world.

Finally, there is the question of effective administrative structures. The capacity to develop effective bureaucracies is not so much a problem for small states as it is a problem for poor states, but as small states are likely to be poor, this is a very real small-state issue. This position may be put quite simply: Poor states, which generally include small states, cannot readily afford nor can they staff the administrative and technical structures necessary for effective competition regimes. Competition regimes in small and poor states must of necessity come at the expense

of the rest of the public bureaucracy.