Advocacy And Competition Policy

Competition authorities are increasingly interested in understanding the impact of their activities on markets and consumers. The goal is to improve competition policy rules and decision-making practices and to get robust evidence on the benefits of competition and competition policy for society as a whole. Discussions with competition authorities, practitioners and academics have shown the need to take stock of the experience gained in this field by the European Commission and to present it in an easily accessible way. The studies collected in this volume – prepared by senior Commission officials and competition policy experts – range from the ex post evaluation of specific policy interventions to the assessment of the broader impact of competition policy. The issues and topics examined include the following: objectives and scope of evaluations by the European Commission; description of counterfactual evaluation techniques used; conditions for a successful ex post evaluation of a competition policy intervention; a wide selection of individual cases covering a variety of economic sectors; applications in merger control, antitrust and State aid; direct benefits of competition policy interventions for consumers; deterrent effects of such interventions on market participants; and macroeconomic outcomes in terms of job creation, productivity and GDP growth. This matchless book assembles within a single volume all that is needed for competition policy analysts and practitioners to undertake ex post economic evaluations. While its collection of state-of-the-art ex post evaluation studies has a clear value for competition authorities, it is sure to be welcomed as well by competition law practitioners in the private sector, who will greatly appreciate the effort made to cast a critical eye on decisions taken in the past. Moreover, it allows for addressing some of the new challenges facing competition policymakers. Fabienne Ilzkovitz is Principal Advisor responsible for the economic evaluation of competition policy within the Directorate-General for Competition of the European Commission, and since 2014, she has coordinated various ex post evaluation projects in the Directorate-General. She is also Associate Professor of Economics in the Solvay Brussels School of Economics and Management at the Université Libre de Bruxelles, Belgium. Adriaan Dierx is Senior Expert on ex post economic evaluation within the Directorate-General for Competition of the European Commission. He has managed a number of studies aimed at assessing the economic impact of the European Commission’s competition policy interventions.

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you may freely copy and distribute this work, as no entity (individual or corporate) has a copyright on the body of the work. As a reproduction of a historical artifact, this work may contain missing or blurred pages, poor pictures, errant marks, etc. Scholars believe, and we concur, that this work is important enough to be preserved, reproduced, and made generally available to the public. We appreciate your support of the preservation process, and thank you for being an important part of keeping this knowledge alive and relevant.

Contains the results of peer reviews of the competition law and policies of Argentina, Brazil, Chile, Mexico, and Argentina.

While competition is good for consumers and economies, competition rules alone cannot necessarily produce adequate outcomes for all circumstances. Other norms, particularly regulatory norms, are also often likely to be relevant. The current legal and policy debates about 'disruptive innovation' highlight the need for a healthy mixture of competition and regulation. This paper offers a series of reflections arising from the challenges posed by disruptive products, services and business models. These reflections cover matters such as the capacity of legal procedures to keep pace with rapidly changing market environments.

Competition advocacy can help regulators decide controversial points. The paper discusses several sectors, such as the car-riding and overnight sleeping sectors, in which different interests must simultaneously be accommodated within the boundaries of national tradition and European Union law. As discussed, some of these matters have now been adjudicated by the EU Courts. The related subjects of the acquisition of data as well as the requirements of privacy and data protection principles are also considered. The paper reflects on the role of network effects and on the difficult choices to be made with regard to the wisdom of relying on competition law or on the nature of innovation itself to deliver appropriate responses to the growth of network-based economic power; and the paper notes but does not suggest a remedy for the problem of delay as inimical to effective judicial review.

For reasons hard to define, the communications field is not subject to the general rules of competition law e and more so now than ever. With the increasingly complex competitive battleground entailed by the bundling of networks and services, matters such as intellectual property of content, consumer protection, privacy, and data security come to the fore in a legal environment very different from that in which such matters are handled in other fields."

'This comprehensive and well written volume surveys the private enforcement provisions of virtually every country in the world that has a competition law recognizing private actions. It is a first-of-its-kind, incredibly valuable undertaking. In addition to individual country surveys this book includes valuable comparative studies of private enforcement as well as theoretical and empirical analysis of its effects. Every competition lawyer with a multinational practice will benefit from owning it.' - Herbert Hovenkamp, University of Iowa, US

This book offers an unparalleled analysis of the emerging law and economics of

competition policy in Latin America. Nearly all Latin American countries now have competition laws and agencies to enforce them. Yet, these laws and agencies are relatively young. The relative youth of Latin American competition agencies and the institutional and political environment in which they operate limit the ability of agencies to effectively address anti-competitive conduct. Competition policy is a tool to overcome anti-market traditions in Latin America. Effective competition policy is critical to assisting in the growth of Latin American economies, their global competitiveness, and improving the welfare of domestic consumers. This book provides new region specific insights on how to better achieve these aims. This authoritative volume will be of particular interest to competition agencies, academics in law, economics and Latin American Studies, practitioners around the world in the areas of antitrust and competition policy, policymakers, and journalists.

Competition and the State analyzes the role of the state across a number of dimensions as it relates to competition law and policy across a number of dimensions. This book re-conceptualizes the interaction between competition law and government activities in light of the profound transformation of the conception of state action in recent years by looking to the challenges of privatization, new public management, and public-private partnerships. It then asks whether there is a substantive legal framework that might be put in place to address competition issues as they relate to the role of the state. Various chapters also provide case studies of national experiences. The volume also examines one of the most highly controversial policy issues within the competition and regulatory sphere—the role of competition law and policy in the financial sector. This book, the third in the Global Competition Law and Economics series, provides a number of viewpoints of what competition law and policy mean both in theory and practice in a development context.

This report presents the results of an OECD peer review of competition law and policy in Chile held in 2003.

The Research Handbook on International Competition Law brings together leading academics, practitioners and competition officials to discuss the most recent developments in international competition law and policy. This comprehensive Handbook explores the dynamics of international cooperation and national enforcement. It identifies initiatives that led to the current state of collaboration and also highlights current and future challenges. The Handbook features twenty-two contributions on topical subjects including: competition in developed and developing economies, enforcement trends, advocacy and regional and multinational cooperation. In addition, selected areas of law are explored from a comparative perspective. These include intellectual property and competition law, the pharmaceutical industry, merger control worldwide and the application of competition law to agreements and dominant market position. Presenting an overview of the current state of cooperation and convergence as well as a comparative analysis of substance and procedure, this authoritative Handbook will prove an invaluable reference tool for academics, competition officials and practitioners who focus on international competition law.

A dynamic and competitive environment, underpinned by competition law policy, is an essential characteristic of successful market economies. To satisfy the growing demand for information on current approaches and practices in competition law policy, the project "Framework for the Design and Implementation of Competition Law-Policy" was

initiated by the World Bank, with participation by OECD. This ensuing volume reflects the main issues that arise in design and implementation of competition law and policy in order to assist countries in developing an approach that suits their own needs and conditions. The views articulated in this publication suggest that the administration and enforcement of competition law policy should assign the greatest importance to fostering economic efficiency and consumer welfare.

What the authors offer is a thoroughgoing analysis clearly demonstrating that, whatever economic path developing countries pursue, imposing Western-style antitrust regimes will engender uncertainty, chill economic behaviour, and foster an unhealthy climate for business. They employ the influential error-cost methodology to appraise the performance of competition policy and to show how such a policy creates irresolvable tensions in fragile economies with weak institutions - economies characterized by informal rules of business practice, long-standing symbiotic business-state relationships, and unpredictable state action. They mount a powerful critique of the arguments of neo-institutionalists (who fail to recognize the vulnerable nature of emerging market economies) and competition `advocates' (who presume to stand ready and vigilant to enforce competition policy on state entities). --

ÔNearly every important country now has a competition law. It is vital to understand the institutions that drive the operation of these laws. This excellent volume provides case studies of some of the more substantial new competition authorities written by former or current top agency officials and academics closely connected with those institutions. The book highlights the fact that whilst these institutions have certain features in common, they are very much shaped by the history and circumstances of their own countries and cultures, and that any serious prescription for them needs to balance those factors against the general economic doctrines that lie behind competition law around the world. Without that understanding, regulators and those dealing with them are likely to face failure. The book points to ways of resolving those problems.Õ Đ Allan Fels, The Australia and New Zealand School of Government (ANZSOG) This detailed book focuses on the development of competition law institutions and contains case studies that examine this against the backdrop of the debate around global convergence of competition law and the limits imposed by particular national circumstances. Five of the chapters examine the development of competition law regimes in a diverse range of countries: Mexico, Hungary, South Africa, Thailand (with comparative remarks on South Korea) and Zambia. The remaining chapters examine the role of multinational institutions, particularly the International Competition Network, and the practice of and potential for regional competition law arrangements. The majority of the authors are seasoned practitioners of competition law, all of whom acknowledge the importance of convergence, while simultaneously demonstrating the limits imposed by divergent national circumstances. This carefully edited collection is a companion volume to Enforcing Competition Rules in South Africa, an account of the development of competition law institutions in South Africa, authored by David Lewis and published by Edward Elgar. Building New Competition Law Regimes will be of

particular benefit to scholars, teachers and practitioners of competition law. It will also be of interest to development studies scholars, teachers and practitioners and to specialists in the countries that are the subjects of the case studies.

To what extent should competition agencies act as market regulators? Competition Law as Regulation provides numerous insights from competition scholars on new trends at the interface of competition law and sector-specific regulation. By relying on the experiences of a considerable number of different jurisdictions, and applying a comparative approach to the topic, this book constitutes an important addition to international research on the interface of competition and regulation. It addresses the fundamental issues of the subject, and contributes to legal theory and practice. Topics discussed include foundations of the complex relationship of competition law and regulation, new forms of advocacy powers of competition agencies, competition law enforcement in regulated industries in general, information and telecommunications markets, and competition law as regulation in IP-related markets. Scholars in the two fields of law and economics will find the research aspects of the book to be of interest. Officials in competition and regulatory agencies will benefit from the practical relevance of the book.

This book brings together perspectives of development economics and law to tackle the relationship between competition law enforcement and economic development. It addresses the question of whether, and how, competition law enforcement helps to promote economic growth and development. This question is highly pertinent for developing countries largely because many developing countries have only adopted competition law in recent years: about thirty jurisdictions had in place a competition law in the early 1980s, and there are now more than 130 competition law regimes across the world, of which many are developing countries. The book proposes a customized approach to competition law enforcement for developing countries, set against the background of the academic and policy debate concerning convergence of competition law. The implicit premise of convergence is that there may exist one, or a few, correct approaches to competition law enforcement, which in most cases emanate from developed jurisdictions, that are applicable to all. This book rejects this assumption and argues that developing countries ought to tailor competition law enforcement to their own economic and political circumstances. In particular, it suggests how competition law enforcement can better incorporate development concerns without causing undue dilution of its traditional focus on protecting consumer welfare. It proposes ways in which approaches to competition law enforcement need to be adjusted to reflect the special economic characteristics of developing country economies and the more limited enforcement capacity of developing country competition authorities. Finally, it also addresses the long-running debate concerning the desirability and viability of industrial policy for developing countries. The author would like to acknowledge the Research Grants Council of Hong Kong for its generous support. The work in this book was fully

supported by a grant from the Research Grants Council of Hong Kong (Project No. HKU 742412H).

Antitrust policy nominally plays an instrumental public interest role. The generally accepted notion is that it is a government instrument designed to intervene in relatively unregulated markets in order to preserve rivalry among independent buyers and sellers. Competition authorities are supposed to restrain business conduct that exercises monopoly power aimed at excluding competitors or exploiting consumers and clients. Thus it can be said – although few pro-market theorists make the insight explicit – that antitrust provisions reveal mistrust of the capacity of markets to promote social welfare. The inner logic, enforcement mechanisms, and practical outcomes of antitrust provisions are all intrinsically contradictory to the natural dynamic course of market functioning. In Dr. De Leon's challenging thesis, this mistrust of the market lies at the root of antitrust policy, giving rise always to a preference towards 'predicting' the result of impersonal market forces rather than interpreting the entrepreneurial behaviour which creates those forces. And it is in Latin America that he finds the powerful evidence he needs to support his case. From the formative years of Latin American economic institutions, during the Spanish Empire, economic regulations – far from being driven by the pursuit of promoting free trade and economic freedom – have been conceived, enacted and implemented in the context of deeply anti-market public policies, trade mercantilism and government dirigisme. The so-called "neoliberal" revolution of the 1990s triggered by the Washington Consensus did not really change the interventionist innuendo of these policies, but merely restated the social welfare goal to be achieved: the pursuit of economic efficiency. Dr. De Leon presents his case against the assumption that consumer welfare orientated policies such as antitrust do really promote entrepreneurship and market goals. Paradoxically, antitrust enforcement has undermined the transparency of market institutions, in the name of promoting market competition. The author's provocative analysis marshals several sets of facts in support of his thesis, including the actual functioning of antitrust policy as reflected in case law in various Latin American countries, the preference of merger control over other less intrusive forms of market surveillance, the constrained role of competition advocacy against government acts, and the ineffective institutional structure created to apply the policy. Among the many specific topics treated are the following: government immunity; strategic industries; state-owned enterprises; politically influential groups; measurement of market concentration; the burden of proof of social welfare benefits; the role of joint trade associations and professional guilds; institutional arrangements that favour collusion; selective distribution; sector regulation; erosion of property rights; marginal role of courts in the antitrust system; leniency programs; and privatized public utilities. The growing significance of Latin America in the context of economic globalization endows this book with huge international interest. Written by a leading authority on the topic, this is the first book that presents a

detailed description of Latin American antitrust law and policy as it has been developed through numerous judicial opinions. A wide variety of audiences around the world will find it of extraordinary value: competition law specialists, scholars and students of the subject, policymakers and politicians in Latin America, as well as all interested lawyers, jurists, and economists.

The assumption that competition law and consumer protection are mutually reinforcing is rarely challenged. The theory seems uncontroversial. However, because a positive interaction between the two is presumed to be self-evident, the frequent conflicts that do in fact arise are often dealt with on an ad hoc basis, with no overarching legal authority. There is a clear need for a detailed and coherent understanding of exactly where the complements and tensions between the two policy areas exist. Dr Cseres in-depth analysis provides that understanding. Proceeding from the dual perspective of law and economics that is, of justice, fairness, and reasonableness on the one hand, and of efficiency of the other she fully considers such underlying issues as the following: the role of competition law and consumer law in a free market economy;the notion of consumer welfare;the effect of the modernisation of EC competition law for consumers;economics theories of information, bounded rationality, and transaction costs;the special significance of vertical agreements and merger control; and,how consumers are affected by information asymmetries. The ultimate focus of the book is on current and emerging EC law, in which a rapprochement between the two areas seems to be under way. Dr. Cseres provides a knowledgeable guide to the various strands of theory, policy, and jurisprudence that (she shows) ought to be taken into account in the process, including schools of thought and law and policy experience in both Europe and the United States. A special chapter on Hungary, where post-1989 law and practice reveal a fresh and distinctly forward-looking understanding of the matter, is one of the book's most extraordinary features. Competition Law and Consumer Protection stands alone as a committed contribution to bridging a gap in legal knowledge the significance of which grows daily. It will be of immeasurable value to a wide range of professionals from academics and researchers to officials, policymakers, and practitioners in competition law, consumer protection advocacy, economic theory and planning, business administration, and various pertinent government authorities.

This book examines the extent to which competition law and policy could be employed to promote the efficient allocation of resources in resource-dependent developing economies. Its background inquiry into competition policy and the analysis of economic problems of resource-dependent developing economies inspired by global competition trends in the United States and Europe provide an indispensable framework for understanding competition policy and current attitudes to regulation in a liberalised developing economy. The book provides a systematic exposition of some of the problems associated with resource-dependent economies and the implications for competition and what kinds of

conduct in which firms can and cannot engage. In addition to building on basic competition and antitrust concepts, it offers insights into some prevailing problems, which include the issue of ‘resource curse’, rent-seeking, corruption, and abusive business practices, among others. Their examination here is aligned with scrutiny of the characteristics of developing countries in contrast to developed countries; Nigeria is taken as a proxy for resource-dependent developing countries. The book also determines whether competition law and policy could be used as a tool for addressing competition problems that may exist in resource-dependent developing countries. This book provides meaningful material for both undergraduate and graduate business school programs. In addition, it will be of great interest to lawyers, historians, economists, sociologists, and policy makers in both government and business who wish to understand competition issues in a clear and rigorous way in developing economies.

This open access book provides answers to key open questions concerning competition policy in emerging economies, with a focus on South Eastern Europe. The contributions address two major issues. One is the design of competition policy and the national competition authorities that enforce it, including the topics of competition advocacy and state aid control; the other is the use of economic methods in competition law enforcement, especially in the cases of relevant market definition and merger control. Many lessons learned in the countries of South Eastern Europe can be applied to the emerging markets of other regions. As such, the findings presented here will be highly relevant for officials and staff at national competition authorities, advisers to legislators shaping national competition policy, competition law professionals, and university students alike.; Presents topical insights into the institutional design of national competition authorities Offers specific economic methods relevant for competition law enforcement Linked to a dedicated website providing information about ongoing competition law cases in SEE countries This work was published by Saint Philip Street Press pursuant to a Creative Commons license permitting commercial use. All rights not granted by the work's license are retained by the author or authors.

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The vast majority of the countries in the world are developing countries—there are only thirty-four OECD (Organisation for Economic Co-operation and Development) countries—and yet there is a serious dearth of attention to developing countries in the international and comparative law scholarship, which has been preoccupied with the

United States and the European Union. Competition Law and Development investigates whether or not the competition law and policy transplanted from Europe and the United States can be successfully implemented in the developing world or whether the developing-world experience suggests a need for a different analytical framework. The political and economic environment of developing countries often differs significantly from that of developed countries in ways that may have serious implications for competition law enforcement. The need to devote greater attention to developing countries is also justified by the changing global economic reality in which developing countries—especially China, India, and Brazil—have emerged as economic powerhouses. Together with Russia, the so-called BRIC countries have accounted for thirty percent of global economic growth since the term was coined in 2001. In this sense, developing countries deserve more attention not because of any justifiable differences from developed countries in competition law enforcement, either in theoretical or practical terms, but because of their sheer economic heft. This book, the second in the Global Competition Law and Economics series, provides a number of viewpoints of what competition law and policy mean both in theory and practice in a development context.

When emerging economies draft competition law and begin to enforce it, they usually draw on the EU and US competition law systems. However, significant country-specific legal and practical variations tend to arise quickly, making it imperative for international business lawyers to acquire more than a passing knowledge of competition legislation and relevant case law in these countries. Now for the first time a thoroughly researched book provides an in-depth empirical analysis of the legal problems raised for competition, and especially for merger control and its enforcement, in emerging economies, using a case study approach in the Brazilian and Argentinean contexts to reveal paradigmatic trends. Brazil and Argentina are chosen not only because they are among the major trading jurisdictions in the developing world, but also because they have each established a track record of over a decade in formulating and enforcing a system of merger control. The author describes and analyses all Brazilian and Argentinean legislation in the field of competition law, as well as the main merger decisions adopted by the competition authorities and the judgements held by the courts of these countries. The book thoroughly covers the system of competition law currently enforced in each country, as well as the main innovations of proposed new competition law currently pending in Brazil. In addition, the author draws on field interviews with competition lawyers and officers of competition authorities conducted between April and July 2008 in Buenos Aires, Brasilia, and São Paulo. The analysis considers such issues as the following: y impact of M & As on the level of competition in the markets of developing countries; y enforcement of competition law and the judiciary; y criteria for notification of economic concentrations; y application of econometric tests to define the relevant market and the degree of market concentration.

Over the last three decades, the field of antitrust law has grown increasingly prominent, and more than one hundred countries have enacted competition law statutes. As competition law expands to jurisdictions with very different economic, social, cultural, and institutional backgrounds, the debates over its usefulness have similarly evolved. This book, the first in a new series on global competition law, critically assesses the importance of competition law, its development and modern practice, and the global

limits that have emerged. This volume will be a key resource to both scholars and practitioners interested in antitrust, competition law, economics, business strategy, and administrative sciences.

This is a book on market law and policy in sub-Saharan Africa. It shows how markets can be harnessed by poorer and developing economies to help make the markets work for them: to help them integrate into the world economy and raise the standard of living for their people while preserving their values of inclusive development. It studies particular countries and particular regions, delving deeply into the facts.

The Latin American countries, both individually and as a community, are poised to become increasingly important in the international recognition and enforcement of competition law. Recent policy developments in the region are particularly instructive on cross-border mergers and international cartel investigations. Although this book's focus is on Latin America, its in-depth exploration of areas such as information exchange among competition authorities, compliance, settlements and remedies are of great value and interest to competition lawyers and policymakers worldwide. Including numerous recent cases and best practice indicators, the contributors ? competition authority officials, practitioners, academics and economists ? cover such topics and issues as the following: • antitrust compliance programs; • competition advocacy; • bid rigging in public procurement; • predatory pricing; • use of indirect evidence in investigations; • shareholders' damages claims; • relation between antitrust and intellectual property; and • merger control. There are country-specific chapters on particular developments in Argentina, Brazil, Chile, Colombia, Ecuador, El Salvador, Mexico and Paraguay. Highlighting the importance of international competition regulatory cooperation, this insightful book offers both practical guidance and food for thought to lawyers at national competition authorities, corporate counsel, and other competition law practitioners and academics.

Papers and commentaries orginally presented at a March 2007 symposium held in Ottawa, Ont.

Advocacy and Competition PolicyThe Role of Advocacy in Competition PolicyThe Case of the Argentine Gasoline MarketWorld Bank PublicationsCompetition Law and Policy in Chile A peer reviewA peer reviewOECD Publishing

The Federal Trade Commission (FTC or Commission) vigorously promotes competition in the health care industry through enforcement, study, and advocacy. Competition in health care markets benefits consumers by helping to control costs and prices, improve quality of care, promote innovative products, services, and service delivery models, and expand access to health care services and goods. While state legislators and policymakers addressing health care issues are rightly concerned with patient health and safety, an important goal of competition law and policy is to foster quality competition, which also furthers health and safety objectives. Likewise, to ignore competitive concerns in health policy can impede quality competition, raise prices, or diminish access to health care all of which carry their own health and safety risks. This book builds on FTC staff competition advocacy comments that focus on proposed state-level changes to statutes and rules governing the scope of practice of Advanced Practice Registered Nurses (APRNs). Scope of practice rules determine the range of health care procedures and services that various health care professionals are licensed to provide under state law.