
Advocacy And Competition Policy

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RAMIREZ ARI

Competition Law and Policy in Chile A peer review World Bank Publications

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.

Making Markets Work for Africa Kluwer Law International B.V.

In 2000 the Argentine antitrust authorities conducted a study of the state of competition in the gasoline market. The study concludes with a set of policy recommendations (that is, limits to vertical integration and to the duration of contracts between oil companies and gasoline stations) which were subsequently implemented by the Argentine government. This was one of the rare occasions where the Argentine antitrust authorities exercised its advocacy role in a country that underwent an extensive process of deregulation and privatization. Serebrisky assesses the design and impact of the policies recommended by the Argentine antitrust authorities. In particular, he evaluates under which circumstances the new policies can reduce barriers to entry and foster competition in the Argentine gasoline market. This paper - a product of the Finance and Private Sector Development Division, World Bank Institute - is part of a larger effort in the institute to increase the understanding of infrastructure regulation.

Competition Law and Policy in Latin America DIANE Publishing

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.

A Follow-up: Argentina, Brazil, Mexico and Peru World Bank Publications

'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

The Latin American Experience Edward Elgar 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.

Voluntary Peer Review on Competition Policy, Kenya Springer

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.

The Role of Advocacy in Competition Policy World Bank Publications

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.

The Shortcomings of Antitrust in Developing and Reforming Economies OECD Publishing

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.

Paris, France, December 2003 The Limits of Competition Policy The Shortcomings of Antitrust in Developing and Reforming Economies Contains the results of peer reviews of the competition law and policies of Argentina, Brazil, Chile, Mexico, and Argentina.

The Relationship Between Competition and Industrial Policies in Promoting Economic Development World Bank Publications

For reasons hard to define, the communications field is not subject to the general rules of competition law 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."

Stanford University Press

AAI Research Fellow Kevin Kim concludes that although the absence of antitrust enforcement was not a cause of the financial crisis, the government's role as "deal maker" was one where competition advocacy should have been present.

Recent Developments OECD Publishing

The International Competition Network (ICN) is an informal, virtual network that seeks to facilitate cooperation between competition law authorities globally. This study attempts to determine the impact of the ICN on competition advocacy and global competition collaboration. It does so by examining the impact of the ICN's Advocacy Working Group's activities on ICN members' domestic legislation and analyzing whether the ICN can help domestic competition authorities cooperate in international matters in two principal ways. First, the article assesses the impact of ICN efforts on legislation and international collaboration with respect to competition policy as well as working methods to deal with multinational cases. Second, the article identifies the strengths and weaknesses of ICN strategies and provides recommendations on how to enhance ICN's operations. These two methods of analysis help to determine if the ICN could serve as the basis for a new approach to address competition issues globally.

Competition Authorities in South Eastern Europe Nova Science Pub Incorporated

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.

A Case Study on Brazil and Argentina Kluwer Law International B.V.

The Limits of Competition Policy The Shortcomings of Antitrust in Developing and Reforming Economies Kluwer Law International B.V.

The Limits of Competition Policy Kluwer Law International B.V.

This chapter presents the main strategies towards greater enforcement of the Brazilian Competition Law. It focuses on the two major problems faced by Brazilian competition authorities: (a) merger review, and (b) dissemination of competition values among the judiciary, public prosecutors, and economic agents in general, thus giving a special role to competition advocacy. The chapter is organized as follows: First, there is a brief description of the basic features of the Brazilian Competition Policy System, emphasizing judicial review and the historical background that illustrates the transition from state coordination to a market-based economy. The next section explores problems related to the efficacy of a system of post-merger notification and review and the need for competition advocacy. Finally, the chapter presents the main actions taken by Cade to increasingly enforce competition law in Brazil.

Peer Reviews of Competition Law and Policy in Latin America A Follow-up: Argentina, Brazil, Mexico and Peru OECD Publishing

Sound antitrust law and policy is in tension with industrial policy. Antitrust promotes consumer welfare whereas industrial policy promotes government intervention for privileged groups or industries. Unfortunately, industrial policy seems to be alive and well both within antitrust law and policy and within a broader competition policy worldwide. This Article identifies how industrial policy impacts both antitrust and competition policy. It provides examples from the United States, Europe and China of how industrial policy has been used in antitrust. However, this Article also makes a broader claim that the overt or subtle use of industrial policy in antitrust and a broader competition policy is a global phenomenon. The United States' experience teaches that industrial policy can be pushed to the margins in antitrust (and the failure to push such industrial policy to the margins produces economic inefficiencies). Further, successful competition advocacy can reduce the competitive distortions that industrial policy may have on of a broader competition policy more broadly. This Article first identifies the relationship between antitrust and industrial policy. It provides examples of industrial policy in the antitrust experiences of the United States, Europe, and China. Second, the Article explores how a lack of procedural fairness in antitrust may be abused by inefficient competitors as a way to push industrial policy goals. Third, the Article demonstrates how industrial policy hurts a broader competition policy and suggests potential competition advocacy interventions on the part of antitrust authorities to limit the anticompetitive effects of such policy. The Article concludes with the suggestion that industrial policy is in fundamental tension with promoting consumer welfare and fostering long-term economic growth and should be abandoned both explicitly and implicitly extracted from the antitrust enterprise. Further, antitrust agencies should implement more competition advocacy interventions to stop the spread of industrial policy in antitrust globally.

APEC-OECD Co-operative Initiative on Regulatory Reform Proceedings of the Fifth APEC-OECD Workshop on Regulatory Reform Paris, France, December 2003 Stanford University Press

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.

Lessons for Latin American Competition Policy OECD Publishing

"This report introduces competition and industrial policy concepts, practices and their implementation, and evolving roles. It explores the fundamentals of competition law enforcement and industrial policy dynamics. This includes handling of anti-competitive practices, exclusions/exemptions, the role of competition advocacy and the type of industrial policy tools applied. An analysis of the link between competition and industrial policies, synergies and tensions is presented. This study looks at the implications of the current economic crisis on competition and industrial policies, and raises issues for policy considerations and the way forward."--Executive summary.

The Case of the Argentine Gasoline Market Edward Elgar Publishing

Derived from the renowned multi-volume International Encyclopaedia of Laws, this practical analysis of competition law and its interpretation in Bosnia and Herzegovina covers every aspect of the subject - the various forms of restrictive agreements and abuse of dominance prohibited by law and the rules on merger control; tests of illegality; filing obligations; administrative investigation and enforcement procedures; civil remedies and criminal penalties; and raising challenges to administrative decisions. Lawyers who handle transnational commercial transactions will appreciate the

explanation of fundamental differences in procedure from one legal system to another, as well as the international aspects of competition law. Throughout the book, the treatment emphasizes enforcement, with relevant cases analysed where appropriate. An informative introductory chapter provides detailed information on the economic, legal, and historical background, including national and international sources, scope of application, an overview of substantive provisions and main notions, and a comprehensive description of the enforcement system including private enforcement. The book proceeds to a detailed analysis of substantive prohibitions, including cartels and other horizontal agreements, vertical restraints, the various types of abusive conduct by the dominant firms and the appraisal of concentrations, and then goes on to the administrative enforcement of competition law, with a focus on the antitrust authorities' powers of investigation and the right of defence of suspected companies. This part also covers voluntary merger notifications and clearance decisions, as well as a description of the judicial review of administrative decisions. Its succinct yet scholarly nature, as well as the practical quality of the information it provides, make this book a valuable time-saving tool for business and legal professionals alike. Lawyers representing parties with interests in Bosnia and Herzegovina will welcome this very useful guide, and academics and researchers will appreciate its value in the study of international and comparative competition law.

A peer review Oxford University Press, USA

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