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This section selects books on themes related to competition laws and economics. This compilation does not attempt to be exhaustive but rather a survey of themes important in the area. The survey usually covers publication over the last three months after publication of the latest issue of Concurrences. Publishers, authors and editors are welcome to send books to stephane.rodrigues-domingues@univ-paris1.fr for review in this section.

Cette rubrique recense et commente les ouvrages et autres publications en droit de la concurrence, droit & économie de la concurrence et en droit de la régulation. Une telle recension ne peut par nature être exhaustive et se limite donc à présenter quelques publications récentes dans ces matières. Auteurs et éditeurs peuvent envoyer les ouvrages à l'intention du responsable de cette rubrique : stephane.rodrigues-domingues@univ-paris1.fr

Communications and Competition Law. Key issues in the Telecoms, Media and Technology Sectors

CUGIA DI SANT'ORSOLA Fabrizio, NOORMOHAMED Rehman et ALVES GUIMÃRAES Denis

Wolters Kluwer Law, International Bar Association Series Vol. 25, 2014, 488 p.

The authors of this book of six parts are legal practitioners. Denis Alves Guimãraes is a Partner at Alves Guimarães Política Regulatória in Sao Paulo. Fabrizio Cugia di Sant'Orsola is a Partner at Cugia Cuomo & Associati in Rome. Rehman Noormohamed is a Partner and Head of Technology Media & Communications Law at Michelmores LLP in London.

This book with 31 contributions gathered during Communications and Competitions IBA Committees, which took place in Rio de Janeiro in 2013 and in Prague in 2014, gives a global and comprehensive picture of competition law and communications in several countries. Indeed, the book sheds some light on legislative, regulatory and judicial developments in Brazil, the European Union, China, the U.S., Canada, Chile and Singapore. This contribution will guide practitioners and policy makers to match specific communication matters into competition law framework such as mobile e-commerce, compulsory licensing of standards, cloud computing, search engine optimization, data aggregation & consumer profiling, geolocalization services and Internet advertising to name but a few.

The first part of the book focuses on comparative experiences of convergence, takeovers and mergers in the communications and technology industry. In chapter 1, Yvan Desmedt and Philippe Laconte look at three different issues: the scope of the Commission's competence to promote cultural diversity and media plurality under EU merger rules, the Commission's restrictive approach in relation to media plurality in *News Corp/BSkyB*, and the Commission's interventionist approach in relation to cultural diversity, as shown in *Universal/EMI*. In chapter 2, Ilene Knable Gotts summarizes recent U.S. enforcement decisions in communication and entertainment industry transactions (*AT&T/T-Mobile*, *Verizon/SpectrumCo*, *Deutsche Telekom/MetroPCS* and *Vivendi/EMI*). In chapter 3, Thomas Janssens and Joep Wolfhagen deal with competition and regulatory aspects of convergence, takeovers and mergers in the communications and media industries. They believe that regulatory changes are reflective of consolidation and convergence trends. The recent EU practice may shape the framework for further consolidation and there are limits of mobile consolidation with the U.S. experience. In chapter 4, Ana Paula Martinez and Alexandre Ditzel Faraco underline the lessons that should be learned from the Brazil's antitrust and regulatory review of *TIM/Telefónica*. They describe the *Telefónica/Telco* transaction and the regulatory framework for reviewing transactions in the telecommunications sector in Brazil. They explain why Telefónica's indirect equity interest in TIM Brasil may be viewed as problematic from a regulatory perspective. They also look at the merger review framework in Brazil. Four lessons should be learned from this case. The first lesson is that behavioral remedies are resource-intensive and will likely be viewed with skepticism as a remedy under Brazil's new pre-merger review system. The second lesson is that regulatory and antitrust agencies are expected to conduct independent reviews. The third lesson is that minority shareholdings raise substantial antitrust concerns. The fourth lesson is that there is enhanced skepticism towards the role of economics in minority shareholdings cases. In chapter 5, Gesner Oliveira and Wagner Heibel provide an interesting view on changes in the global telecommunication market and its implications in Brazil. In chapter 6, Lorne Salzman looks at the mergers in the Canadian communications sector, which is an increasingly curious situation.

The second part of the book examines new markets and competitive hurdles in the offering of globalized services. In chapter 7, Jeffrey A. Eisenach and Ilene Knable Gotts search competition doctrine for information technology markets in recent antitrust developments in the online sector. They highlight the IT challenge to traditional antitrust doctrine while looking at the dynamism, modularity and demand-side effects of IT Trifecta. Moreover, they analyze the horizontal and vertical theories in transactions involving content providers, database software, hardware, platforms or networks, and potential competition and future markets. They also look at some issues for the future such as the net neutrality. In chapter 8, Anna Blume Huttenlauch and Thoralf Knuth underline that digitalization of convergence is a result of industry trends and they look at approaches of antitrust authorities, namely the European Commission and the German Federal Cartel Office. In chapter 9, Bernardo Macedo and Sílvia Fagá De Almeida explain more about dynamic markets and competition policy while highlighting elements that pose challenges to competitors and elements that intensify competition. Also, they look at antitrust enforcement with the relevant market, market power and the competitive environment and efficiencies. In chapter 10, Federico Marini-Balestra analyzes recent antitrust developments in the online sector. In chapter 11, Márcio Issao Nakane, Camila Yumy Saito and Mariana Oliveira e Silva examine mobile payments and mobile banking in Brazil. In chapter 12, Kurt Tiam and Andy Huang look at manufacturing companies industry and the use of "White Spectrum" and, more specifically, the allocation of frequency spectrum in China, development of IPV6,

foreign investment challenges in the M2M industry, data protection and data transfer concerns, restrictions on types of data transferred and encryption requirements in China.

The third part of the book analyzes intellectual property and competition in electronic environments. In chapter 13, Fabrizio Cugia di Sant'Orsola and Silvia Giampaolo explain competitive aspects of cloud-based services. In chapter 14, Leon B. Greenfield, Hartmut Schneider and Perry A. Lange question whether there is light at the end of the tunnel for the standard-essential patents and U.S. antitrust law. They look at injunctions based on standard-essential patents, antitrust violations based on abuse of standard-essential patents and determination of FRAND rates. They also assess the ability to challenge standard-essential patents (validity, infringement and enforceability). In chapter 15, Miguel Rato and Mark English present recent developments on IP and antitrust with factual context (standards, SEPs and FRAND commitments) and theoretical context ("hold-up" and "reverse hold-up"). They also provide a critical assessment of the *Samsung* and *Motorola* decisions. In chapter 16, Barbara Rosenberg, Luis Bernardo Cascão and Vivian Terng give an overview of antitrust cases involving intellectual property rights in the communication and media sector in Brazil. In chapter 17, Wolrad Prinz zu Waldeck und Pyrmont talks about standardization and FRAND licensing declarations, peculiarities of the German patent litigation system and the *Orange-Book-Standard* decision.

The fourth part of the book gives an overview of power over data. In chapter 18, Chris Boam looks at the role of privacy in a changing world. In chapter 19, Pamela Jones Harbour analyzes the Transatlantic perspective of data protection and competition law. In chapter 20, Loriano de Azevedo Marques Neto, Milene Louise Renée Coscione and Juliana Deguirmendjian examine Brazil in times of digital uncertainty. They analyze intimacy, private life, honor and image as persons' fundamental rights and the legislation of the telecommunications sector in Brazil. In chapter 21, Lyda Mastrantonio and Natalia Porto question whether privacy and security threat mass digital surveillance.

The fifth part of the book examines open Internet and net neutrality. In chapter 22, Alfonso Silva and Sebastian Squella analyze net neutrality regulation with a worldwide overview and the Chilean pioneer's experience. They talk about the net neutrality concept and its pros and cons. They also look at regulatory perspective of net neutrality. They approach Chilean experience with the content of the net neutrality law. In chapter 23, Chung Nian Lam explains net neutrality in Singapore, looks at the telecoms regulatory approach and licensing regulation and the TCC's interconnection and non-discrimination obligations in this country. In chapter 24, Lauro Celidonio Gomes dos Reis Neto, Fabio Ferreira Kujawski and Thays Castaldi Gentil speak about the network neutrality issue in the context of Internet regulation in Brazil. In chapter 25, João Moura gives an interesting analysis of the new Brazilian Internet Constitution and the Netmundial Forum. In chapter 26, Regina Ribeiro do Valle points out the Brazilian telecom regulatory scenario and the proposals of the Internet law. For instance, she looks at neutrality of network vis-à-vis the right to charge for quality services.

The sixth part of the book highlights a Brazilian case study. In chapter 27, Maximiliano Martinhão, Guido Lorencini Schuina, Haitam Laboissiere Naser and Leonardo Fernandez Zagonn stress competition in the Brazilian telecommunications market. They look at institutional aspects for telecommunications in Brazil, the Brazilian telecommunications sector as well as the telecommunications market, fixed telephony, mobile telephony and broadband, fixed broadband, pay TV, indicators for the telecommunications sector, indicator for companies' performance, competition indicators and service indicators. They recommend several actions for the telecommunications sector in Brazil to be undertaken such as general plan of competition (PGMC), wholesale products broker system (SNOA), regulation of industrial exploitation of dedicated lines (EILD), Anatel's competition office, law of conditioned access service and infrastructure sharing. In chapter 28, Adriano Augusto do Couto Costa, Marcelo de Matos Ramos and Roberto Domingos Taufick see a new horizon for competition advocacy in Brazil. They speak about completion of universal access, digital TV and end of the term of the PSTN concession. In chapter 29, Marcelo Bechara de Souza Hobaika and Carlos M. Baigorri point out overlaps and synergies between regulators in the Brazilian telecommunications market and necessity of regulation. In chapter 30, Carlos Emmanuel Joppert Ragazzo and Cristiane Landerdahl de Albuquerque look at the new competition law in Brazil and the new framework for merger analysis in telecom. They highlight the importance of the telecommunications sector in the Brazilian economy. In chapter 31, Denis Alves Guimarães debates on dialogue between telecommunications and antitrust authorities.

D. L.

Antitrust damages in EU law and policy - GCLC Annual Conferences Series,

DERENNE Jacques, MORGAN de RIVERY Eric et PETIT Nicolas

Bruylant, 2014, 184 pages.

On 7-8 November 2013, the 9th Conference of the Global Competition Law Centre (GCLC) dealt with the question of antitrust damages in EU law and policy. The content of this highly rated conference was summarized in this book. The directors of this contribution are some of the most renowned experts in this field. They made use of both their academic and professional experiences.

The foreword of this book is written by Joaquín Almunia, former EU Commissioner for competition. He stresses that "*some contributions [of this book] offer an insight into the state of play of private enforcement within and outside the EU and others cast light into certain legal and practical issues which are not covered by the Commission's initiative*."

This book of four parts explains the life-cycle of an action for damages before national courts, or in the context of alternative dispute resolution proceedings. During the GCLC conference, the participants discussed the Commission's reform package (i.e., the proposed Directive on antitrust damages actions, the non-binding recommendation on collective redress and the Communication on quantifying antitrust harm) adopted in June 2013 after a decade of work. It is important to note that the Directive on antitrust damage actions was signed into law on 26 November 2014.

The first part of the book deals with the state of play of antitrust damages in the EU and gives an overview of the proposed reform. First, Barry Rodger looks at antitrust damages at Member States level. He presents competition case-law across the EU and the remedies in competition litigation. Second, Jacqueline Riffaut Silk studies the national Courts' perspectives with the binding effect of National Customs Authority ("NCA") decisions. She recalls the principle of legal certainty, the obligation of sincere cooperation between, on the one hand, national courts, and on the other, the Commission and the EU courts, and the principles of effectiveness and efficiency. She stresses the need for convergence by presenting the scope of the Proposal of the Directive on antitrust damages actions and the diversity of national rules applicable to damages actions throughout Europe. Furthermore, she explains the binding effect rule and the legal elements of tort liability (fault, existence of harm and link of causation). Next, she poses

several questions: how to ensure the effective implementation of the new rule? Should an infringement to the binding effect rule be sanctioned? Would the claimant have a choice? Should control of the application of the binding effect rule be given to reviewing courts? Finally, she examines the access to decisions on public enforcement taken by NCAs in the EU.

The second part of the book analyzes the initiation of a claim. First, Rafael Amaro stresses that plurality is the key for collective redress, consensual settlements and other incentive devices. He compares EU "legal tradition" with US experience. He asks several questions: Do opt-in systems work? Should group actions be limited to follow-on litigation? Are representative actions a good alternative to group actions? Is there a need to protect infringers sued through further courts'litigation? Are consensual settlements adapted to mass consumer litigation? Are opt-out consensual settlements the future of alternative dispute resolution? May group action systems work in EU Member States without punitive damages and contingency fees? Is public funding a sustainable alternative to private funding? Second, Vincent Smith looks at collective redress: the group and the judicial supervision of the settlement.

The third part of the book focuses on the determination of liability. First, Pascale Déchamps explains quantification issues (estimation and calculation of harm and presumption of harm in cartel cases). Moreover, she analyzes the new draft Directive on antitrust damages actions and general approach to estimating damages. She deepens her analysis for the construction of the benchmark (classification of methods and models, cross-sectional analysis, before-during-after analysis, difference-in-differences analysis, financial-analysis-based techniques, market-structure-based analysis, using the example of Cardiff Bus). Also, she questions whether there is any economic rationale for a presumption of X% overcharge in cartel cases and how to go from the benchmark to calculating harm. Second, Thomas Rouhette looks at critical observations on the proposed presumption of harm. Third, Muriel Chagny examines the imputability issues in collection of damages (joint liability and parent-subsidiary relationship). She analyzes the imputability to the liable parties and binding effect of NCAs' decisions, more specifically the imputability on the basis of competition decisions and the imputability of an undertaking's actions to legal persons. Moreover, she studies the imputability between co-infringers and solidarity rules with the principle "imputability shared among joint and several co-infringers" and the exception "limited imputability in favor of the leniency recipient".

The fourth part of the book is the conclusion. Jacques Bourgeois explains the aim(s) of the Directive on antitrust damages actions and the effect of NCAs decisions on national courts of other Member States. He also points out the way to determine liability.

To summarize, we strongly recommend this book to anyone who has a keen interest in antitrust damages in EU law, since the adoption of the Directive on antitrust damages actions is a cornerstone for the future of EU competition law enforcement.

D. L.

European Yearbook of International Economic Law (EYIEL), Vol. 4

HERRMANN Christoph, KRAJEWSKI Markus et TERHECHTE Jörg Philipp (dir.)

Springer, 2013, 602 pp.

Fourth volume in the excellent series of European Yearbook of International Economic Law (EYIEL) published yearly by Springer, the book under review deserves to be brought to the attention of those interested or involved with competition law because it contains a special and substantial (248 pages) focus on international competition policy and law.

Originally (in the 1960s and in the 1970s) dealt with a focus mainly on the extraterritorial application of competition laws, the topic of international competition law and policy has since been given a much wider meaning. This is also a consequence of the Commission's choice to conclude bilateral agreements in that particular field (see Ehlermann, *The international Dimension of Competition Policy*, in *Fordham International Law Journal*, 1993, pag. 833-845). This trend has not stopped and today, as remarked by the editors of the book under review, international competition law is commonly perceived as "*a complex multi-layered system of rules and principles encompassing not only the external application of domestic competition law and traditional bilateral cooperation agreements but also competition provision in regional trade agreements and non-binding guidelines and standards*" (page v).

The contributions contained in the volume emphasize the diversity and different elements of such "part" of competition law.

William Kovacic looks at approaches to creating stronger competition law institutions. Building up on his own personal experience of former Chairman of the US Federal Trade Commission (FTC), a self-assessment study carried out by the FTC in 2008, and experience gathered working with individual jurisdictions on the management, organization and strategy of competition systems, Kovacic discusses and reviews good agencies practices and provides some useful suggestions.

The relationship between trade law and competition law is dealt with in the following three essays. For example, Alden Abbott and Shanker Singham argue that competition law and trade law, although serving different goals (sanctioning anticompetitive business conducts and imposing restrictions on business transactions that cross national boundaries, respectively), both promote welfare. With this in mind, the authors review the limited efforts of the WTO to deal with anticompetitive market distortions.

There is also a set of essays more focused on EU competition law. Anestis Papadopoulos, for example, reviews the development of the external competition law of the EU. Looking at the issue of the extraterritoriality of competition law, he observes that "*when important interests are at stake, recent history has showed that the EU (especially the Commission) has been eager to apply EU rules in an extra-territorial manner*" (page 107).

Finally, it is worth mentioning a very informative essay on competition law in Africa. The last essay discusses "*to what extent the self-constitutionalization of private regimes may be understood as a privatization of competition law*" (pag. 202).

In addition to the above, which is already a good reason to get a copy of the book under review, there are just less than 400 pages on classic issues relating to international economic law (from regional economic integration issues to recent institutional developments within, amongst others, the International Monetary Fund and the World Trade Organization).

In conclusion, the book contains a very interesting set of essays dealing the international dimension of competition law. Very informative e thought provoking, they will appeal practitioners as well as scholars and public officials.

R. S.

EU Competition Law, Regulation and the Internet. The Case of Net Neutrality

MANIADAKI Katerina

Wolters Kluwer Law, International Competition Law Series Vol. 59, 2014, 416 p.

Katerina Maniadaki is a Legal Advisor at Ofcom (the independent regulator and competition authority for the UK communications industries) and she has a sound knowledge of competition law and Internet. Her book questions how the net neutrality can be preserved by the prohibition of article 102 TFEU and answers this question by discussing principles and identifying specific issues. She criticizes the standards set by the existing case law and introduces a framework for the relevant market definition assessment of market power and analysis of practices in markets. She analyzes interesting issues such as pluralism on the Internet, search neutrality, interconnection agreements among operators and scope of the EU regulatory framework for electronic communications to name but a few. She reviews Commission decisions, case law of the EU Court of Justice, soft law instruments and relevant policy documents like BEREC (the Body of European Regulators for Electronic Communications, established by Regulation (EC) N° 1211/2009 of the European Parliament and of the Council of 25 November 2009).

In chapter 1, she introduces net neutrality and its links with competition law. She also presents the main players and the architecture of Internet.

In chapter 2, she presents the definition, principles and objectives of net neutrality. Actually, there are several definitions of net neutrality (no blocking, no discrimination in favor of vertically integrated content services, maintaining the "zero-price rule," and no "undue discrimination" and "reasonable traffic management"). Then, she looks at net neutrality from another angle as an interconnection issue. She explains broader definition of net neutrality with open access, neutrality across all levels and device neutrality.

In chapter 3, the author highlights net neutrality regulation in the EU. She provides a short overview on the EU Regulatory Framework with its scope, separation of transmission and content. She focuses on the imposition of obligations on operators with significant market power. She also analyzes the background of the review of the EU Regulatory Framework with respect to net neutrality and subsequent developments within EU institutions (Commission, Council, Parliament), BEREC and in some Member States (France and UK principally).

In chapter 4, the author points out the inherent potential and limitations of competition law in protecting net neutrality. She stresses the "openness" of the objectives of EU competition law versus the objectives of net neutrality. Under the objectives of EU competition law, she highlights the various aims of the rules on competition, as well as the exclusionary and the exploitative abuses. She also recalls the evolution of the objectives of EU competition law and per se restrictions and effects analysis. She compares the objectives of competition law with those of net neutrality and she highlights pluralism. She defines pluralism as a public policy objective and diversity as a hallmark of consumer welfare. The concept of innovation is also a key concept. She presents the case law with implications for dynamic competition and the 2008 Guidance with the incorporation of innovation considerations (objective justifications and burden of proof of dynamic efficiencies).

In chapter 5, the author looks at relevant market definition and assessment of market power. She analyzes the markets for content termination with call termination and content termination (direct constraints, indirect constraints and countervailing power). Successively, she explains the retail markets for Internet access services, the markets for interconnection, the markets for interconnection to an IAP's network, collective dominance and relevant markets at the content level.

In chapter 6, the author qualifies net neutrality violations as refusals to deal. She examines EU case law and the Commission's practice on refusals to deal and refers to *Microsoft I*. She proposes an alternative approach to refusals to deal and presents the notion of indispensability, as a restriction of effective competition. There are several situations in which there are violations of net neutrality as refusals to deal. First, there is blocking, namely indispensability (market power in content termination markets and market power at the retail Internet access level) and restriction of competition and consumer harm. There is also refusal to interconnect, refusal to provide premium services, refusal to include in a "Granny Package" or "Walled Garden" and objective justifications (congestion control and other justifications).

In chapter 7, the author explains the links between net neutrality discrimination and unfair pricing. Regarding discrimination, she presents an overview of EU case law on article 102 TFEU with shortage of supplies (*BP* and *BPB Industries*) discounts and rebates (*Hoffmann-La Roche*, *Michelin I*, *AKZO*, *Soda-ash/Solvay*, *Irish Sugar* and *British Airways*), violations of the internal market principle (*United Brands, Tetra Pak II, Corsica Ferries, Portuguese Airports, Deutsche Bahn*) and miscellaneous (*Deutsche Post*, *Clearstream*, *Kanal 5* and *Post Denmark*). Then she assesses harm to competitors versus harm to effective competition and consumers, efficiencies and other objective justifications. She also examines the price or quality discrimination against downstream competitors and the relationship with article 102(b) TFEU. Next, she looks at price, quality, and objective discriminations. Finally, she presents excessive pricing and the implications for net neutrality.

In chapter 8, she concludes by looking at the EU Google investigation and questions whether there are new features of online competition. She looks at non-price competition, information failures and behavioral biases, network effects, economies of scale and two-sided markets, innovation and proof of discrimination.

D. L.

Competition Law Enforcement and Compliance Across the World. A Comparative View

VEDIA JEREZ Horacio

Wolters Kluwer Law, International Competition Law Series Vol. 61, 2014, 504 p.

Horacio Vedia Jerez publishes this comprehensive and interesting book on competition law enforcement and compliance after having defended his PhD on the same topic at Universidad Carlos III of Madrid in October 2014.

In chapter 1, the author gives an introduction about the origins, objectives and legal framework of competition law as well as practices subject to the control of competition law. He looks at multilateral anticompetitive agreements while presenting types of restrictive agreements (horizontal agreements with hard-core cartels, other horizontal restrictive agreements and vertical agreements). Furthermore, he highlights single firm or unilateral anticompetitive conduct with types of abusive practices (exploitative abuse, excessive pricing, discriminatory abuse, discriminatory pricing, exclusionary abuse, predatory pricing, exclusive dealing, resale price maintenance, refusal to deal, tying or bundling and other abusive practices), merger control and other practices controlled by competition law. Moreover, he examines institutional design of competition law, the enforcement of competition law, types of competition law enforcement (public, private and international), the interaction of competition law proceedings, and the law and economics of antitrust enforcement.

In chapter 2, the author focuses on public enforcement of competition law. To begin with, he introduces the subject,

the objectives and the benefits of public enforcement of competition law. Then, he turns to institutions responsible for the public enforcement of competition law with the legal basis for the establishment of the competition authority, the position of the competition authority in the administrative structure, the composition of the competition authority, the structural design or model of the competition authority and the enforcement of competition law by sector regulators. Furthermore, procedural issues are presented by the author with the initiation of the investigation either by the competition authority, or the complaints or the requests to the competition authority. Also, case selection and prioritization, investigation process and powers of investigation by the competition authority are examined by the author. Next, he analyzes the benefits and negative effects of leniency programs as well as the rationale and the conditions for effective leniency programs. He explains the degrees of leniency and the drawbacks of settlements systems (criminal, civil and administrative). In addition, the author presents authorities empowered to impose sanctions and the types of sanctions (sanctions for the violation of the substantial provisions of competition law and sanctions for procedural violations). Then, he looks at the types of remedies (e.g., interim measures, permanent orders, divestiture and rescission).

In chapter 3, the author analyzes private enforcement of competition law. He presents the definition, the benefits and the objectives of private enforcement as well as the modalities of litigation in private antitrust actions. The author also explains collective and representative claims (public interest litigation, class actions, collective claims, representative actions, joint actions, assignment of claims, *parens patriae* litigation and fault requirement). Moreover, he looks at the rules of evidence (burden of proof, standard of proof, admissible forms of evidence, disclosure of evidence and limits of disclosure). He also provides an interesting overview of remedies in private antitrust litigation, the four kinds of injunctive relief (permanent, preliminary, declaratory and non-monetary relief) and damages (punitive, exemplary and multiplied). The author deepens its reasoning while presenting economic models for the calculation of damages. He also underlines that the courts are discreet when awarding damages for the breach of competition law. In the same chapter, the author points out the interaction between private and public proceedings and the interaction between the competition authority proceedings and Court proceedings with the requirement of a prior decision by the competition authority. He also looks at the rules of evidence regarding the interaction between public and private proceedings. Next, he highlights the interaction between leniency programs and private actions for damages. Finally, he offers a critical view on the interplay and tension between arbitration and competition law. He questions the arbitrability of competition law disputes and he presents the powers of the arbitrators (interim measures, powers to request information and use of experts in arbitration).

In chapter 4, the author provides an overview on self-enforcement and antitrust compliance. He highlights the legal obligation to comply with the law, the perception of internal and external factors to comply with the law and corporate social responsibility. The author underlines that there are drivers of compliance and non-compliance. The drivers that encourage compliance are, for example, fear of monetary sanctions imposed on corporations and individuals, fear of imprisonment, fear of damage to individual or corporate reputation and morality, and effective compliance training programs. The drivers that encourage non-compliance are, for instance, corporate culture of non-compliance, lack of or ambiguity in senior management's commitment to compliance, market conditions that facilitate the infringement of competition law and ignorance of the legal consequences of non-compliance. In this context, the author refers to the essential features of effective compliance programs (e.g., risk assessment, integrated approach, standards, controls, empowered compliance officer, resources, infrastructure, board oversight, senior management support, training and communication).

In chapter 5, the author concludes that there are inadequate competition law commands, weak competition law institutions, ineffective sanctioning systems and deficient judicial review mechanisms for public enforcement. Moreover, there are unclear legal basis for the private enforcement of competition law, inexperienced competent courts to handle competition law cases, limited legal standing, unavailability of effective collective redress mechanisms, impossibility to access relevant information and high standards of proof, excessive cost of private litigation and rough interaction between private and public proceedings.

D. L.

À SIGNALER

OUVRAGES REÇUS POUR RECENSION ULTÉRIEURE

L'appréhension des pratiques restrictives par les autorités françaises et européennes de la concurrence : Analyse des pratiques contractuelles abusives entre professionnels à l'épreuve du droit des pratiques anticoncurrentielles

MALLEN Guillaume

Préface de Linda Arcelin-Lécuyer, éditions L'Harmattan, collection Logiques Juridiques, 2014, 874 p.

Publication de la thèse de l'auteur soutenue en décembre 2013 à l'Université de La Rochelle, sous la direction de Linda Arcelin-Lécuyer, qui en signe la préface. Sont analysés sous l'angle du droit français et européen de la concurrence (prévention des ententes et des abus de position dominante) ce que M. Mallen vise comme étant les comportements contractuels unilatéraux et abusifs dans les rapports commerciaux entre professionnels. Distinguant entre une "*appréhension nuancée*" de ces pratiques au titre des abus de position dominante (v. première partie) et une "*appréhension privilégiée*" de ces mêmes pratiques au titre des ententes prohibées (v. seconde partie), l'auteur complète son analyse fouillée de la jurisprudence et de la doctrine par des suggestions et des recommandations de perfectionnement des modalités d'appréhension de ces comportements abusifs.

S. R.

DU CÔTÉ DES MÉLANGES

Mundi et Europae civis - Liber Amicorum Jacques Steenbergen

ARTS Dirk, DEVROE Wouter, FOQUÉ René, MARCHAND Karel et VEROUGSTRAETE Ivan (dir.)

Larcier, 2014, 664 p.

On signalera, parmi plus de quarante contributions (en anglais, en français et en néerlandais) en l'honneur de Jacques Steenbergen, professeur à l'Université catholique de Leuven et directeur général de l'autorité belge de concurrence, celles portant de manière spécifique sur le droit européen de la concurrence : Dirk Arts et Karel Bourgeois (Some Reflections on the Effect on Trade Concept Contained in Articles 101 and 102 TFEU, p. 331) ; Jacques H. J. Bourgeois (On the Internal Morality of EU Competition Law, p. 347) ; Geert De Baere (Tussen 'A la recherche de l'union perdue' en 'L'Union retrouvée' ? – Enkele gedachten bij een zoektocht langsheen subsidiariteit, evenredigheid en nauwere samenwerking, p. 375) ; Bruno de Vuyst (Cookies in Europa, p. 397) ; Chris Fonteijn et Annetje Ottow (Independence of Competition

Authorities – Independence in Heart, Mind and Law, p. 405) ; Hans Gilliams (Proportionality of Fines for Infringements of Competition Law, p. 415) ; Inge Govaere et Valérie Demedts (Towards an 'Ex Ante' or 'Preventive' Application of Article 102 TFEU in the Commission's Policy Pursuant to the Astrazeneca-Case, p. 441) ; Alexander Italianer (Competition Policy and the Food Sector: A Matter of Taste? p. 465) ; Bruno Lasserre (Le réseau européen de concurrence : entre réussites et défis, p. 475) ; Koen Lenaerts (The Interplay between Regulation No. 1049/2001 on Access to Documents and the Specific EU Regulations in the Field of Competition Law, p. 483) ; Rob Mok (Mededinging, doel of middel? p. 493) ; Andreas Mundt (Ten Years of ECN – Cooperation at its Best, p. 503) ; Tom Ottervanger (Food for Thought: van staatssteun & standstill, p. 515) ; Ewoud Sakkers ("A Good Hearing Sooths the Heart" – Of Procedural Justice, Legitimacy and Compliance, p. 523) ; René Smits (Sustainable Competition Law Enforcement: Animal Rights, p. 533) ; Geert van Calster (De Europese IPR regels inzake bevoegdheid en toepasselijk recht bijschadeloosstelling na mededinging beperkende gedragingen, p. 543) ; Bernard van de Walle de Ghelcke (Handhaving van de EU-mededingingsregelen, procedurele autonomie en bevoegdheid van nationale mededingingsoverheden : 'en liberté surveillée ? ', p. 555) ; Anne-Marie Van den Bossche (Over de privaat- en publiekrechtelijke implicaties van de wisselwerking tussen de publiek- en privaatrechtelijke handhaving van de EU-mededingingsregels, p. 565) ; Piet Van Nuffel (Human Rights and Competition Law: Do Undertakings Have a 'Fundamental Right' of Protection of Confidential Business Information? p. 579) ; Monique van Oers en Maarten Schueler (Landsgrenzen en de beboeting van inbreuken op artikel 101 en 102 VWEU door nationale mededingingsautoriteiten, p. 593); Alexis Walckiers (Élargissement du contrôle des concentrations aux participations minoritaires : quelques avantages et inconvénients, p. 609) et Wouter P. J. Wils (Ten Years of Regulation 1/2003, p. 621).

AUTRES OUVRAGES SIGNALÉS

EU Competition Law – Volume I – Procedure, Antitrust – Merger – State Aid

BELLODI Leonardo et TOSATO Gian Luigi

Claeys & Casteels Publishers, 2e éd., 2014, 950 p.

Voici la deuxième édition de l'ouvrage de MM. Bellodi et Tosato qui couvre l'ensemble de la matière et qui consacre toujours plusieurs développements aux aspects de procédure en Italie et au Royaume-Uni.

Competition Law in Asia-Pacific. A practical guid,

GROSHINSKI Katrina and DAVIES Caitlin (dir.)

Kluwer Law International, 2014, 840 pages.

This book of 14 chapters offers a thorough comparative analysis of competition law and practice in 15 Asia Pacific countries (Australia, New Zealand, China, Hong Kong, India, South Korea, Pakistan, Indonesia, Singapore, Malaysia, Vietnam, Cambodia, Laos, Thailand and Japan). This contribution, edited by competition lawyers working at Minter Ellison in Sydney, constitutes the perfect guide for businesses and advisors operating in these countries. It illustrates the businesses' approach to compliance and the regulators' approach to enforcement in the major Asia Pacific countries.

Each chapter of the book is dedicated to a country and uses similar structure. First, the authors provide an overview of the competition legislation and regulatory authorities. Second, they examine fundamental competition concepts (e.g., market and contract). Third, they turn to the question of cartels by highlighting issues such as remedies and sanctions, leniency programs, key recent developments and proposals for reform. Fourth, the authors study the restraints in vertical agreements. Fifth, the authors look at other anti-competitive agreements. Sixth, the authors shed some light on abuse of dominance (e.g., elements of the prohibition, collective dominance, price discrimination, misuse of market power and access to natural monopoly infrastructure, misuse of market power and intellectual property rights). Seventh, the authors analyze other prohibitions on unilateral conduct. Eight, the authors look at mergers (e.g., filing requirements and thresholds, clearance/approval procedures, stages and timetables, remedies, appeals, enforcement action and procedures for assessing proposed mergers). Ninth, the authors explain the regulator's enforcement powers and tools as well as the role played by relevant courts and tribunals in litigation.

It is interesting to note that not all Asia Pacific countries have reached the same stage of development in competition law. The more a country is developed, the more complex issues in competition law arise.

D. L.

Comparative Analysis of Merger Control Policy. Lessons for China

MA Jingyuan

Intersentia, European Studies in Law and Economics, vol. 13, 2014, 272 p.

Committed to Reform? Pragmatic Antitrust Enforcement in Electricity Markets

SADOWSKA Malgorzata

Intersentia, European Studies in Law and Economics, vol. 15, 2014, 252 p.

European Competition Law. A Case Commentary

VERLOREN VAN THEMAAT Weijer et REUDER Berend (dir.)

Edward Elgar Publishing, 2014, 870 p.

Voilà un ouvrage original qui offre un commentaire éclairé uniquement par des citations de jurisprudence de chacun des articles relatifs aux règles de concurrence dans le traité sur le fonctionnement de l'Union européenne (articles 101 à 109 TFUE), mais aussi des principaux instruments de droit dérivé (règlements 1/2003, 139/2004, etc.) et de plusieurs articles de la Convention européenne des droits de l'homme et de la Charte des droits fondamentaux de l'Union européenne, en ce qu'ils sont pertinents pour la mise en œuvre et l'encadrement de ces règles. Un ouvrage coordonné par deux avocats du barreau d'Amsterdam qui devrait vite s'imposer comme un outil de travail fort utile pour universitaires et praticiens désireux de disposer d'un état ordonné et structuré de la jurisprudence en droit européen de la concurrence.

S. R.

Concurrences

Concurrences est une revue trimestrielle couvrant l'ensemble des questions de droits de l'Union européenne et interne de la concurrence. Les analyses de fond sont effectuées sous forme d'articles doctrinaux, de notes de synthèse ou de tableaux jurisprudentiels. L'actualité jurisprudentielle et législative est couverte par onze chroniques thématiques.

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