

BOOK REVIEWS

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NEW DIMENSION OF THE EU RULES ON COMPETITION¹

The reviewed monograph by Kseniya Smyrnova is entitled "Legal Regulation of Competition in European Union: theory and practice". It was recently published in the beginning of 2015.

As we know competition policy is about applying rules to make sure companies compete fairly with each other. This encourages enterprise and efficiency, creates a wider choice for consumers and helps reduce prices and improve quality. These are the reasons why the EU fights anticompetitive behaviour, reviews mergers and encourages liberalization. The author argued and proved therein that competition has not only purely economic regulation function of market mechanisms, but also the social function shown in getting positive benefits of competition and consumer welfare achievements by receiving fair pricing and quality products.

The work was focused on systematic evolutionary stages origin and development of the idea of free competition is subjected to change depending on the socio-economic factors in the states. The question is whether does free competition involve state intervention in economic processes? How far this state influence can affect the development of fair competition? And most importantly: whether free competition is justified in terms of getting more benefits to consumers?

The book comprises a general introduction, plus six substantial chapters based on the main spheres of competition regulation (basic principles of EU competition law – chapter 2, anticompetitive regimes and agreements – chapter 3, abuse of dominant position – chapter 4, and merger regulation – chapter 5).

The author presented a unique view on the history of competition law since the Rome legislation (pp. 11-22) as well as the formation of international regulation of competition (pp. 22-30), including the history of EU Competition Law (pp. 63-82). The book mounts a clear thesis about the role of the EU Treaty, as interpreted by the Court of Justice, as the EU's economic constitution which draws on well-established literatures in ordoliberal economics and political liberalism, and then elaborates an argument based on a case studies viewed through the potentially contradictory lenses of two very different forms of EU policy-making: competition policy with its highly juridified systems of enforcement for protecting competitive markets and industrial policy, an archetypal 'soft area' of policy-making aimed at dealing with problems of market failure where the Member States have been notably reluctant to confer competence upon the EU institutions.

The author proved that the fact that EU competition policy is not an isolated domain and thus the reviewed monograph is heavily laced with cross-national or international comparisons. In this context the author provides the comparative analysis of American and European system of competition regulation describing main features and distinguishes in cartel regulation, merger control & abuse regulation.

The value of the reviewed monograph partially results from the fact that the analysis presented therein is supported by numerous references to jurisprudence and case-law as well as civil and competition law doctrine.

The book's final conclusions are extremely diversified. Much of the cognitive success of the book stems from the appreciation of the interdependence of substantive and procedural rules in this organizational context. With all the methodological strictness, including bibliographical background, the book demonstrates the harmony combination of theoretical economic and legal foundations of origin and functioning of rules on competition of the EU and its spreading all over the world.

Special attention is paid to the EU-Ukraine Association Agreement analysis, especially its "competition clause" (pp. 328-349). The book leaves the reader convinced that Ukrainian competition law

¹ Review of the monograph: Smyrnova, K. (2015). *Legal Regulation of Competition in European Union: theory and practice*. Odesa: Feniks.

does indeed need a reform, which should, *inter alia*, pay attention to transparency principle implementation and further enforcement of harmonized competition norms.

In conclusion I would strongly recommend the reviewed monograph not only to the representatives of the competition law doctrine. Due to the numerous references to the interdisciplinary thesis and scientific books presented in the doctrine and jurisprudence, the book may prove to be useful for practical lawyers as well as researchers. Above all, it demonstrates the intensity of interactions between those who deal with EU competition law in different capacities: as practitioners, as policy-makers, as enforcers, and as academic commentators. I therefore believe that this publication should be found in every legal library concerned with the role of competition in current system of International and European Law.