

**Book Review: *Coherence in EU Competition Law*, Wolf Sauter (Oxford University Press, 2016, ISBN 978-0-19-874915-8); 289 pp, bibliography, index, £70.00 hb.**

EU competition law plays a central role in the process of European integration and has constantly been developing at a different pace. The dynamics of change in EU competition law have been quickened by the introduction of Regulation 1/2003 that has enabled a decentralised enforcement system of EU antitrust where NCAs and national courts have been empowered to apply articles 81 and 82 EC (now 101 and 102 TFEU). Along with decentralisation, other recent developments, such as the emerging embracement of a more economic-based approach to antitrust since the late 1990s, have entailed risk to the coherence of EU competition law.

So far, there has not been an extensive study of the coherence of EU competition law and therefore the book appropriately fills the gap. The book examines (i) the degree of coherence that exists in EU competition law; (ii) how this coherence can be explained; and (iii) how it contributes to the legitimacy and the effectiveness of EU competition law (p 2). In this respect, the author primarily concentrates on antitrust (articles 101 and 102) but also considers merger and State aid and, for comparative purposes, also examines the sectoral competition regimes for electronic communications and energy. The author defines coherence as a set of rules that is applied consistently in the interest of achieving a common objective or set of principles (p 247). Coherence is analysed at three levels: (i) the external level that observes EU competition law within the context of EU law as a whole, and at the internal level which can be distinguished between (ii) the systemic level of EU competition law as a whole, and (iii) the level of its individual rules and rulings (ie component level). In its analysis, the author uses two secondary criteria, namely effectiveness and legitimacy, in order to give coherence its practical meaning. The study is based on a review of literature and case law, complemented by the relevant inputs from economics, philosophy of law and political science.

The author poses relevant and carefully formulated questions, answers to which give the reader a clear picture of whether or not there is, and to what extent, coherence in EU competition law. Namely, in 10 chapters the author takes us on a journey of competition law by examining its relevant elements and characteristics in order to see whether they attain a common objective or set of principles. Chapter 1 contains an introduction to the topic, defines coherence, explains the three levels at which it will be examined, including two secondary criteria, and introduces the research questions. Chapter 2 gives a historical overview

of the development of the instruments and institutions of EU competition law divided into four stages: before 1957 (ie the European Coal and Steel Community); the introduction of a competition regime by the Rome Treaty in 1957; the period of the emergence of a more effects-based approach; and finally a modernisation period characterised by a more substantive economic approach, decentralisation and reform of the antitrust instruments. Chapter 3 identifies the multiple objectives of EU competition law and discusses their role in the context of the coherence of EU competition law. Namely, the author considers economic objectives, non-economic objectives, and EU-specific objectives. This chapter also sets out the limits of the EU competition regimes in pursuing these objectives. The author especially addresses the question of how the internal market can function both as an objective and as a justification for EU competition policy. Chapter 4 deals with internal coherence – both at the systemic level and at the component level. It examines key rules and exceptions of EU competition law, as well as its main standards (eg effective competition, margin squeeze, refusal to supply, market access) in order to conclude whether they form a coherent whole. Chapter 5 concerns procedures and remedies by examining their roles as tools for the effective enforcement of competition law while having their autonomous legal values (eg due process and the rights of defence, and the legality and proportionality of enforcement action). The author thus analyses whether this enforcement system is coherent and examines its direction of development. Particular attention is given to the relation between leniency and new developments in the sphere of private enforcement (damages). Chapter 6, titled Networks, Hierarchy and Coordination in Antitrust, deals with the network of national competition authorities and the European Commission that together form the European Competition Network (ECN). The author analyses the effects of the rules under which the ECN operates (which inaugurate both cooperation and hierarchy) on the effectiveness and consistency of EU competition law. Chapter 7 on the other hand charts the role of the courts, both national and European, as the safeguards of the uniformity of EU competition law through the preliminary ruling procedure before the CJEU and the duty to avoid conflicting decisions. Particular attention is given to their interaction with the European Commission, especially in terms of the European Commission's *amicus curiae* briefs. Chapter 8 considers mergers and State aid in order to examine whether those instruments of EU competition law, with their history and objectives, rules and exceptions, enforcement and some aspects of decentralisation, form a coherent whole with the antitrust instruments discussed in previous chapters. In Chapter 9 the author gives comparative case studies on the sectoral competition regimes for electronic communications and energy and sees to what extent these regimes, along with their set of objectives, rules and exceptions, and with

their organisation, are consistent with general competition law. In Chapter 10 the author concludes by giving answers to the main research questions. It should be noted that at the beginning and end of every chapter the author defines the relevant questions for the research and provides a conclusion for each aspect of the analyses.

The aim of the book is to provide deeper awareness of the development of the competition law system, to give the reader a sense of the direction in which it is going and hence to broaden understanding of competition law as a whole. This aim has effectively been accomplished – the book addresses the right questions with appropriate methodology and thus represents an excellent and valuable basis for further academic analyses. As the author rightly points out, the book is neither a toolbox for legal practice nor a teaching text; rather, it sets out elements of a conceptual framework to serve as a foundation for further academic analysis. However, it should be added that the book also offers other readers outside the academic arena, be they practitioners or students interested in competition law, a broad overview of the general trends of competition law. This book is also very useful for clarifying the nature of the relationships between institutions and between the instruments of EU competition law and how the latter has evolved over time. Discussion of the objectives of EU competition law is of particular value.

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