Lorenzo Federico Pace

Il diritto antitrust dell'Unione europea is, as we will see, a hybrid “case and materials” volume on European antitrust law. Its five chapters deal with the key themes of this sector (cartels, abuse of dominant position, enforcement procedural rules, fining policy, merger control) and each chapter begins with introductory notes by the three authors Bernardo Cortese, Fabio Ferraro, Piero Mazzini, all prominent Professors of Law. These notes are then followed by Court of Justice judgments on the issue under examination.

As explained in the presentation of the book by Roberto Mastroianni (the editor of the series Collana di casi e materiali di diritto dell’Unione europea), the volume – as well as the series itself – attempts to satisfy four distinct needs, namely the need to: (i) publish such a book on EU antitrust law, so filling a gap in the Italian publishing landscape; (ii) take into account the extreme specialization of the EU legal order; (iii) recognise what professor Mastroianni calls the trend to "internalize" the study of EU law (i.e. to apply principles of European Union law to areas of Member States' "internal" law); and (iv) underline to students the importance of studying European Court of Justice case-law, the “flesh and blood” of European Union law.

The book is the third volume of the series. The first volume examined the external relations of the European Union (2012), whilst the second covered European Criminal Law (2014).

Volume three can be described as a hybrid of various types of books or tutorials used at University level studies in different EU Member States.

Firstly, it follows an established tradition of Italian “case-law collections”, such as Bruno Nascimbene’s, Giurisprudenza di diritto comunitario, Giuffrè, Milan, 2007 and Antonio Tizzano’s I “grands arrets” della giurisprudenza dell’Unione europea, Giappichelli, Turin, 2012. Secondly, by providing introductory notes for each of the different topics and then the text of the Court of Justice's judgment, Il diritto antitrust dell’Unione europea follows in this respect the “cases and materials” topos of Anglo-Saxon tradition (for example, in competition law, Alison Jones, Brenda Sufrin, EU Competition Law, Text, Cases & Materials, Oxford University Press, 2014). However, unlike in “cases and materials” books, the volume here reviewed contains no piece of legislation or excerpts

* Professor at the University of Molise
from the legal doctrine. A further difference from other university text books is that the volume presents at the end of each section questions on the themes dealt with in the judgments. In this way, students can check their understanding of the legal principles illustrated, a characteristic typical of some “cases and materials” volumes as well as publications in the German Fallrepetitorium tradition.

The authors introductory notes do not therefore aim to comment on the judgments published in the volume, but seek to make clear to students the key issues of EU antitrust law.

With reference to the topics covered in the book, in the first chapter (pp. 1-44), Piero Manzini discusses anticompetitive agreements. The chapter has two sections, one on horizontal and the other on vertical agreements, that analyse the key themes of this issue, i.e. joint and several liability for breach of the prohibition, burden of proof in the evidence of the infringement, the distinction between agreements and unilateral measures, the role of the rule of reason in antitrust law, the legal framework on vertical agreements.

The second chapter (pp. 45-100), by Fabio Ferraro, addresses the issue of the abuse of dominant position and discusses the issue of the definition of the relevant market, the concept of dominance and collective dominance, the rationale of prohibition, the issue of the objective justification of illegal conduct and its effect on trade between Member States.

In the third chapter, Bernardo Cortese (pp. 101-258) examines the "rules of procedure of European antitrust law". The chapter addresses issues relating to the Commission's decisions during the antitrust procedure and the judicial control of Commission decisions in antitrust law.

Pietro Manzini tackles the issue of fines in EU antitrust law in the fourth chapter (pp. 259-283), dealing in detail with the Commission's power in setting fines, the legal nature of the fines and the principles of law for its enforcement in addition to the method of calculating fines under the 2006 Commission's guidelines.

The fifth and final chapter (pp. 283-340), by Fabio Ferraro, reviews the rules on merger control. The topics covered in this chapter are the evolution of the legal framework on merger control, the concept of “concentration between undertakings”, the Commission's jurisdiction in merger control and its cooperation with the national competition authorities, the Commission’s control procedure on merger, financial penalties in merger control, judicial control by the Court of Justice on merger decisions.

As we have seen, Il diritto antitrust dell'Unione europea, along with the two accompanying volumes in the series, fills a valuable gap in the Italian university-targeted publications market and for this reason should be highly welcomed.