“DISCIPLINA DELLA CONCORRENZA NELLA UE” BY ALDO FRIGNANI AND STEFANIA BARIATTI

Laura Brancaccio


The volume provides an analytical and detailed study of competition law in the European Union, and it is presented as the fifth edition of “Diritto della concorrenza nella CE”, originally edited by Frignani and Waelbroeck, whose fourth UTET edition dates back to 1996.

The aim of this work is to satisfy the need - very much felt both by academics and professionals – for a comprehensive antitrust handbook in the Italian literature. Such need arises from the many developments in administrative, jurisprudential and procedural frameworks which have occurred in the last ten years; in particular, the so-called “modernisation” of the implementation of antitrust laws.

The volume was realized through the cooperation of various experts in the subject, chosen among academics, lawyers, professionals, as well as officials belonging to the Italian Competition Authority and to EU institutions.

The foreword is by Prof. Giovanni Pitruzzella, well-known scholar of constitutional law and currently the President of the Italian Competition Authority. In few incisive pages, he highlights the practical and in-depth characteristics of the work which make it a precious tool for practitioners and scholars involved in competition law.

The volume covers many topics: from substantial legislation to procedural rules, from the relationship between the European and national competition law to the relationship among the European Commission, National Authorities, European and national judges, all in the light of the Commission’s practices and of the relevant European jurisprudence.

The volume is divided into four parts and is composed of 19 chapters.

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1 Italian Competition Authority.

The first part offers a general introduction to the topic. In particular, Paolo Buccirossi and Aldo Frignani provide a general overview from both an economic and legal perspective, while Stefania Bariatti deals mainly with the sources of the European Union’s competition law and its field of application, whereas Paola Nebbia covers the relationship among the different sources.

The second part of the volume is dedicated to the substantial aspects of antitrust law. It starts with a description of agreements by Aldo Frignani, who talks about the principles of prohibition and exemption and then outlines the issue from various viewpoints. Moreover, in this second part Stefania Bariatti and Adele Sodano provide a thorough description of abuses of dominant position. Finally, Luca Arnaudo analyses the issue of merger control in all its aspects, while Pier Paolo Rossi dedicates a section to State Aid problems and Marco Giuliani offers a particularly articulated section on the application of competition law with respect to public enterprises.

The third part covers procedural competition law. It starts with a long section by Ginevra Bruzzone and Aurora Saija who analyse the procedures concerning agreements and abuses. Luca Arnaudo provides instead a study on the procedures regarding mergers, while Pierpaolo Rossi dedicates his writing to State Aid procedures. Bruno Gencarelli and Serena Crespi offer a description of the judicial review procedures implemented by the European Courts. Finally, the issue concerning the implementation of competition rules by national judges, the so-called private enforcement, is covered by Paolo Caprile.

The fourth part assesses the actual implementation of this legislative structure in chapters written by Simone Gambuto, Massimo Granieri, Emilio Cucchiara and Paolo Iannuccelli, who provide a detailed study of distribution agreements, intellectual property rights, cooperation agreements and the implementation of competition rules in “special sectors” (defence, agriculture, network industries, financial sectors, etc.).

It is not easy to review such a complex work. Operators of competition law are already familiar with the general parts and know Aldo Frignani’s and Stefania Bariatti’s fundamental contributions to the subject. Therefore, this complex structure has been completed thanks to the contributions of young authors or well-known experts covering specific issues. Some topics are of particular interest, especially those concerning the most delicate issues in the implementation of competition law. For example, the application of antitrust law to public enterprises, the relationship between intellectual property rights and competition law and the implementation of antitrust law in special sectors are tackled in a particularly detailed and analytical way.

Owing to the many aspects to cover and the great amount of material to analyse, the exposition of the subject in the volume is quite articulated, requiring the contribution of many authors with different backgrounds. Therefore, the combination of the different chapters is not always perfect and inevitably leads to small overlaps.
The authors, in general, decided not to provide in depth comparisons with other antitrust legal systems, such as that of the United States.

One of the strengths of this volume lies in providing, within an essentially juridical work, an introduction to economic concepts which are indispensable for all those involved in antitrust.

Moreover, the work analyses the most important decisions and leading cases of antitrust law, describing the evolution of antitrust policies throughout the years, up to the beginning of 2012.

In conclusion, a very appreciable aspect of the volume consists in the fact that, as highlighted by Prof. Pitruzzella, not only does it “photograph the state of the art in European antitrust law”, but it also offers insights for the future development of the subject.\(^3\)

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\(^3\) Laura Brancaccio, “Disciplina della Concorrenza nella UE” by Aldo Frignani and Stefania Bariatti. DOI: 10.12870/iar-9943.