

DIZIONARIO SISTEMATICO DEL DIRITTO DELLA CONCORRENZA,

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The Systematic Dictionary of Competition Law (*Dizionario sistematico di diritto della concorrenza*) is a well-conceived and well-constructed volume on the multi-faceted nature of competition law. It is the result of a research project on the training of national judges in EU competition law developed at the University of Molise and co-financed by the Directorate General for Competition.

In order to adequately tackle the most notable legal issues arising in the intricate and intriguing fields of antitrust law and state aid, the editor brings together well-known academics and experienced practitioners (lawyers, judges, public officials). Their different backgrounds, however, do not affect the uniformity of the single entries: given the objective of the Dictionary – i.e. to act as a working tool for lawyers, judges and public enforcers – the editor deliberately chose to avoid unnecessary doctrinal speculations and insist on the pertinent legislative and jurisprudential references.

The volume is divided in three parts. The first one covers the origins and development of competition law, from the adoption of Regulation No 17/62 to the private

enforcement of Arts. 101 and 102 TFEU, including an exhaustive account of the gradual affirmation of the principles of antitrust legislation in the case law of the Italian Constitutional Court.

The second and third parts, in turn, are dedicated to specific aspects of antitrust and state aid law, respectively. These two areas are analyzed in their many substantive and procedural facets, at the national and supranational level, as well as in their public and private enforcement dimensions.

The similar structure of the relevant sections favors an overall understanding of the macro-phenomena which govern the European competition policy without detracting from the detailed and exhaustive examination of the main topics traceable to the antitrust and state aid sectors. Indeed, both parts begin by providing a complete review of the central notions and concepts elaborated by the Court of Justice and the EU legislator (sections II.1 and III.1) and a detailed analysis of the rules for the implementation of Arts. 101, 102 and 107 TFEU (sections II.2 and III.2).

Here many contributions touch upon traditional issues such as the distinction between vertical and horizontal agreements, the abuse of a dominant position, the application of antitrust law to Member States, the derogation foreseen in relation to the services of general economic interest, the extra-

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territorial effects of Arts. 101 and 102 TFEU, the exceptions to the general prohibition laid down in Art. 107 TFEU, while others address the most recent developments in the context of IP rights and on regional state aid.

The public enforcement of national and EU law is examined placing particular emphasis on the powers of inspection of the National Competition and the Commission – with the assistance of the fiscal police (Guardia di Finanza) – as well as the applicable sanctioning regimes. The section dedicated to State aids, on its part, thoroughly examines the procedures for new and existing aids and the duty to recover the unlawful aid as well as, quite conveniently, the new rules adopted in the aftermath of the economic crisis. In addition, a valuable section is dedicated to the notification and recovery procedures in Italy, recently amended by Law 234 of 2012 on the participation in the decision-making process and implementation of EU law (section III.4).

Attention is also paid to the private enforcement of Arts. 101, 102 and 107 (sections II.3, III.3 and III.5) and the necessary coordination with the measures adopted by the competent public enforcement agencies (sections II.4 and III.6). The crucial role of national courts emerges clearly from the analysis conducted in the various contributions. Amongst the most delicate and controversial questions, it is worth signaling, for cases concerning Art. 101 and 102 TFEU, those relating to interim protection, the locus standi of the plaintiffs and the admissibility of class actions, the quantification of harm and the burden of proof, together with important considerations on jurisdiction pursuant to

private international law, and, with reference to State aid, the availability of legal remedies for the recovery of unlawful aids and compensation, as well as the control of legality of the relevant Commission decisions.

As to the private enforcement of Art. 108(3) TFEU in Italy, the Dictionary comprehensively explores the main innovations introduced by Law 234/2012. Most notably, it delves into the division of competences between the administrative courts – with sole jurisdiction on the failure to notify the granting of state aid and the recovery orders – and the civil courts – entrusted with cease and desist orders and damages for unfair competition – with some instructive considerations on how the system worked before the recent reform.

Concerning the links between public and private enforcement, the rules on the cooperation between the national competition authorities, national judges and the Commission in antitrust and state aid cases are scrutinized, with pertinent references to the Italian experience. Moreover, there is an attentive study of the relatively new challenges posed by commitment decisions, settlement procedures and leniency programmes in the context of private actions for the implementation of Art. 101 and 102 TFEU.

In addition, the part on antitrust law deals with crucial matters such as judicial review of measures adopted by the Italian Competition Authority and the European Commission (section II.5) as well as the affirmation of antitrust legislation in third countries – strategically important commercial partners of the EU – such as Russia, Brazil, the United States and China (section II.6, in English).

Because competition law is rapidly evolving, Lorenzo F. Pace has already edited a second volume comprising updated versions of the chapters on the cooperation between national judges and the European Commission, the abuse of a dominant position – also in light of the Reg. 734/2013/UE, that recently substituted Reg. 659/99) – and the relevance of commitment decision on private antitrust enforcement. In light of the proposal for a Directive on antitrust damages actions, currently awaiting final approval from the EU Council of Ministers, another potential candidate for updating is the section on the private enforcement of Arts. 101 and 102.

Finally, it worth mentioning that the Dictionary ‘lives’ through the website www.competition-law.eu (created with the participation of the Superior Council of the Judiciary, the Superior School of the Judiciary and the National Competition Authority): on the one side, the single contributions are updated twice on a yearly basis via short posts; on the other, daily comments concerning legislation, case law and practice are uploaded by the members of the competition community at a national, supranational and international level.