

Index

- Abbott, A 17, 480–93
- abuse of process
- bars to extradition 308–9
 - intellectual property rights 470–71
 - and market power 377–84
- ACCC v Baxter Healthcare Pty Ltd* 375
- ACCC v Boral Besser Masonry Ltd* 388–9
- Act against Restraints of Competition, Germany 446
- advocacy 14, 185–208
- competition culture, building 187–8
 - direct prohibition of anticompetitive laws, regulations and government actions 198
 - and enforcement 200
 - government, influencing 188–91
 - incremental approach 203–7
 - independent agency 196
 - limitations of traditional approach 185, 191–200
 - implications for competition
 - advocacy 196 - institutional arrangements
 - impacting on type/ effectiveness of competition advocacy 196–200 - magnitude of political challenge 192–5
 - political drivers for competition reform 195–6
- ministerial system 197
- neutral umpire 198
- NGOs 151–2
- policy approach 200–202
- Australia's National Competition Policy 201–2
- reconceptualisation of concept 207
- reforms
- making last 206–7
 - policyholder and stakeholders, reforming 205–6
 - reform scene 203–5
 - regulatory impact statement review bodies 198
 - traditional approach 186–91, 208
 - limitations of 191–200
- Advocacy and Implementation Network (AIN) 106
- Advocacy and Implementation Network Support Program (AISUP) 106
- Advocacy Working Group, ICN 102
- Africa, NGOs in 137
- Africa Competition Programme (AFRICOMP) 71–2
- African Competition Forum (ACF) 63, 82–4, 138
- Agency Effectiveness Workshop 99
- Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS) 452
- developing economies 213–14
- Ainsworth, L 413
- Akzo Nobel v Commission* 399, 402, 404
- 'Alcoa' decision (*US v Aluminium Co of America*) 23, 24, 25, 26, 31, 45, 374, 387
- Allendesalazar, R 351
- Almunia, J 169
- Amato, F 38
- American Antitrust Institute (AAI) 147, 156
- American Banana Corp v United Fruit Corp* 23, 45, 53
- American Bar Association, Section of Antitrust Law 155–6
- American Needle, Inc v National Football League* 171, 393, 396, 412
- Supreme Court opinion 416–20
- 'American rule', litigation costs 256, 264
- Andenaes, J 278
- Anderman, S 17, 451–79
- Androgel Antitrust Litigation* (No 11), *In re* 532–3

- Animal Science Products v China Minmetals* 31, 32
- Anti-Cartel Enforcement Templates 99
- Anti-Monopoly Act (AMA), Japan 495, 497, 499
- Anti-Monopoly Law (AML), China 178, 198, 494
- Article 55 513–16
- Antitrust Criminal Penalty Enhancement and Reform Act (ACPERA) 259
- antitrust goals, limited convergence on 165–7
- antitrust plaintiffs, private 249
- antitrust standards, global 89–109
- Anti-Unfair Competition Law (AUCL), China 513, 515
- ArcelorMittal Luxembourg SA v Commission* 404
- Areeda, P 23, 25, 28, 35, 224, 408, 419
- Arizona v Maricopa County Medical Soc* 411
- arrest 302–3
- Arrow, K 460, 463, 554
- Art, JY 358
- Ashworth, A 277
- Asia, patent–competition interface 17, 494–520
- whether Asian approach to 516–20
- China 513–16
- decisional practices
- Japan 500–504
- Korea 509–13
- IP Guidelines
- Japan 496–500, 507
- Korea 505–9, 518, 519
- Japan 495–504
- Korea 504–13
- Microsoft* case 503, 510
- Qualcomm* case 503, 504, 510, 511–12
- Asia Competition Forum 138
- Asia Pacific Economic Cooperation (APEC)
- APEC-OECD Checklist on Regulatory Reform 84
- Competition Policy and Law Group 61–2, 75–6
- Principles to Enhance Competition and Regulatory Reform 75–6
- Asian Competition Law and Economics Centre (ACLEC) 138
- Aspen Skiing Co v Aspen Highlands Skiing Corp* 261, 380, 381
- Association for the Protection of Competition, Egypt 137
- Association of South East Asian Nations (ASEAN) 81–2
- ASEAN-Australian development programme 81
- Expert Group on Competition 63
- Astra Zeneca v Commission* 467, 469, 472, 539–40
- athletic contests 163
- Attorney General, Guidance for Handling Criminal Cases with Concurrent Jurisdiction between the UK and the USA 294
- Australia
- Competition and Consumer Act 2010 (CCA) 268, 375, 376, 378, 383
- market power
- definitions 375–7
- interlink with abuse, categorisation 381–3
- market shares 388–9
- National Competition Council 198
- National Competition Policy 201–2
- taking advantage, concept 381–2, 383
- Australian Competition and Consumer Commission (ACCC) 125, 285, 375, 382–3
- Bailey, D 441
- Bailey, EM 331
- Baker, DI 15, 238–65, 277
- Ball, HV 278
- Bangladesh, competition law 144–5
- Barnett, TO 168
- Bartle, I 284
- Basedow, J 41
- Beaton-Wells, C 15, 266–90
- Becker, F 50

- Becker, GS 194
 'beggar-thy-neighbour' strategy 21, 51
 behavioural economics 14, 155, 156,
 171–80, 174
 yielding increased convergence
 175–80
- Beinhocker, ED 160
- Berkowitz, D 210, 217
- Berman, MA 327
- Bernitz, U 16, 426–50
- Bertrand, M 173
- Bhattacharjea, A 62, 214, 228, 229
- BIC countries (Brazil, India and China)
 342
- bilateral agreements 228, 322
- Block Exemptions/Block Exemption
 Regulations (BERs) 365, 466
- Blumenthal, W 16, 319–44, 321, 410,
 419
- Bode, M 73
- Boeing, proposed acquisition of
 McDonnell Douglas 89
- Bork, RH 218, 330
- Botta, M 87, 227
- Botti, S 173
- Bradford, A 134
- Brazilian Administrative Council of
 Economic Defense (CADE) 80
- BRIC countries (Brazil, Russia, India
 and China) 227
- Britain *see* United Kingdom (UK)
- British Horseracing Board v Office of
 Fair Trading* 422
- Briuglio, L 221
- Brogan, B 284
- Brown, G 283
- Brulotte v Thys Co* 512
- Brunell, R 437
- Brusick, P 221, 222, 361, 364
- Budsinski, O 366
- Budzinski, O 73, 128, 129
- 'but for' causation, Sherman Antitrust
 Act 1890 35
- Buttigieg, E 221
- Callery, C 450
- Campbell, AN 91
- Canada, International Development
 Research Centre *see* International
 Development Research Centre
 (IDRC), Canada
- Canpotex (Canadian Potash export
 cartel) 11
- capacity building 69, 149–50
- capture theories 192
- Cardizem CD Antitrust Litigation, In re*
 526–7
- Cardozo, B 29–30
- Carlton, DW 555
- Carrier, MA 17, 451, 521–44
- Carstensen, PC 555
- cartels *see* export cartels
- Casey, S 267
- Cassidy, J 170
- Category 1 countries, extradition
 301–2, 311
 arrest 302–3
 extradition offence 304–6
 initial hearing 303–4
- Category 2 countries, extradition 302,
 311
 arrest 303
 extradition offence 306
 initial hearing 304
- Cernat, L 119
- Chakravarthy, S 87, 194
- Cheng, TK 17, 494–520
- Chicago Professional Sports Ltd
 Partnership v NBA* 411
- Chicago School 170, 172, 431, 547
 consumer welfare model 223
- China
 absence from ICN 108
 Anti-Monopoly Law 178, 198, 494
 Article 55 513–16
 antimonopoly law 109
 Anti-Unfair Competition Law 513
 Ministry of Commerce 219, 494
 patent–competition interface 17
- China Huiyuan, Coca-Cola's
 acquisition 169, 170
- Chovanec, P 219
- Christiansen, A 176
- Christophorou, T 45

- Ciprofloxacin Hydrochloride Antitrust Litigation, In re* 530
- Ciriolo, E 156
- civil law administrative systems 255
- Clark, J 199
- Clarke, JL 211, 376
- Clayton Antitrust Act 1914 40, 239, 250, 251, 321
- Clendenin, M 517
- Coase, RH 163–4, 483
- Coate, MB 327
- Coca-Cola, acquisition of China Huiyuan 169, 170
- Cole, E 292
- Coleman, M 457
- ‘comfort’ letters, discontinued proceedings 310, 311
- comity
 - limitations of 115–18
 - Sherman Antitrust Act 1890 32–4
 - tripartite test 33
- Common Market for Eastern and Southern Africa (COMESA) 61, 69
- Community of Portuguese-Speaking Countries (CPSC) 79
- Compensating Marginal-Cost Reduction (CMCR) 330
- competition, defined 163
- Competition Act 1998, UK 41, 61, 217, 446, 556
- Competition Act 2002, India 139
- competition advocacy *see* advocacy
- Competition Advocacy Toolkit, ICN 98
- Competition Advocacy Web Postings, ICN 98
- Competition and Consumer Act 2010 (CCA), Australia 268, 375, 376, 378, 383
- Competition Assessment Toolkit 201
- competition authorities, EU 78
- Competition Commission of India (CCI) 146–7
- Competition Commission, UK 556
 - Inquiry into the Supply of New Cars 558–9
- Competition Committee (OECD) 67–8, 75, 85, 323
- Competition Committee and Law Group (CPLG), APEC 61–2, 75–6
- competition culture, competition advocacy building 187–8
- competition law
 - international *see* international competition law
 - terminology 3
 - varying goals 10–11
- competitive harm theories 331–2
- concentrations, and mergers 48
- concurrent prosecution 293–301
 - Attorney-General’s Guidance on US/UK concurrent jurisdiction 294–5
 - cooperative outcomes 300–301
- Courts on jurisdiction 298–300
- European Council Framework Decision on Jurisdiction 294, 295–8
 - see also* extradition
- Condor Review 292
- Connor, JM 226, 230
- Consumer Empowerment Organisation of Nigeria 137
- consumer surplus 11
- Consumer Unity and Trust Society (CUTS) 83, 136, 138, 143, 145, 561
 - prior to Competition Act 2002, India 146–7
 - recognition as a Recognised Consumer Association 139
 - ‘7Up model’ 140–41, 142, 144, 152
 - ‘Towards a Functional Competition Policy for India’ (study) 151
- consumers and competition policy 545–64
 - case study interventions 556–61
 - innovation as bridge between consumer and total welfare 554–5
 - interface between consumer and total welfare 17, 547–54
- NMa/ICN survey 561, 562, 563

- Consumers' Association, UK 556, 557, 561
- Consumers' Union 147
- Continental TV Inc v GTE Sylvania Inc* 433, 434
- Contractor, FJ 459
- convergence 10, 14
 - adoption of consensus-based practices, promoting 105–7
 - and behavioural anti-trust gambit 155–81
 - whether behavioural economics increase 171–80
 - consensus around best practices and techniques, developing 102–5
 - and current antitrust policy 160–71
 - defined 158–9
 - greater, on antitrust legal standards 167–71
 - importance 159–60
 - of international competition law 90–92
- International Competition Network 13–14
 - activities in pursuit of convergence 101–7
 - challenges to approach of 107–9
 - forum to encourage convergence
 - on antitrust law and enforcement 93–4
 - importance of convergence 157–8
 - persuasion, pursuing convergence by 94–6
 - practical pursuit by 93–6
 - strategy and operations 96–107
 - vision of 90–93
- learning from experience of ICN
 - Member agencies and NGAs 101–2
- limited
 - on antitrust goals 165–7
 - on a theory of competition 161–5
- not seeking homogenization of international antitrust law 92–3
- see also* divergence
- Cooke, JD 288
- cooperation, international 11, 14, 110–35
 - binding commitments neither feasible nor helpful 118–21
 - comity insufficient 115–18
 - global gap/problems 114–15
 - national competition regimes, limited reach 115
 - networks 121–5
 - future 130–34
 - problems
 - whether lack of efficiency 126
 - whether lack of inclusiveness 128
 - whether lack of legitimacy 126–7
 - whether reduced policy innovation 128–30
- Copperweld Corporation v Independence Tube Corporation* 393, 398, 399, 408, 411, 418, 424
 - extension of 400–401
- Coppola, M 89, 105, 121–2, 125, 127
- Cornish, W 454
- cost/price test (Areeda and Turner) 224
- Court of Justice of the European Union (CJEU), and extraterritoriality 42, 43, 45, 53
- Crane, D 357, 358
- Credit Suisse Sec (USA) LLC v Billing* 262
- criminal sanctions, cartels 15, 266–90, 291, 292
 - discontinued proceedings 310–11
- Cseres, KJ 242
- Curriculum Project (ICN) 100
- Cy Pres rulings, US 563
- Dabbah, MM 209
- Damien, K 209
- Dayagi-Epstein, O 560
- de Streel, A 364
- DECOM (NGO) 138
- Department for International Development (DFID), UK 82, 136
- Department of Justice (DOJ), US 117, 244

- Antitrust Division 94
- International Competition Advisory Committee 89, 90
- Merger Guidelines 1982 93
- private and public enforcement 241
- developed countries 7, 228–31
- developing countries 15, 209–37
 - competition law model 223–5
 - economics as a universalising critique 219–20
 - extraterritorial power, exercise by 226–8
 - in global economy 226–35
 - international competition law 7
 - international competition network 231–5
 - legal transplants 214–17
 - legislative form and economic interpretation 217–19
 - market context 221–3
 - and other transnational initiatives 362–4
 - situating competition law within 212–14
 - state monopolies 361–2
 - unilateral conduct 360–64
- Dexian Corp v Sony Corp* 513, 514, 515
- Dick, AR 328, 333
- direct effects test, Sherman Antitrust Act 1890 28–32
- Directorates General, Brussels 243, 246
- discontinued proceedings, bars to extradition 309–11
- divergence
 - whether behavioural economics increase 171–80
 - informed 104–5, 130, 211
 - merger control 326
 - unilateral conduct 355–7
 - see also* convergence
- Djelic, ML 348
- Dobson, PW 431
- domestic perspective on competition law 4–5
- Doron, D 291
- double jeopardy, bars to extradition 308
- Dr Miles Medical Co v John D Park & Sons Co* 432, 434
- Draft for International Antitrust Code, Munich Group 96
- Drahos, M 267
- Drex1, J 353, 459, 460
- Drug Price Competition Act 2009, US 534
- Durham, AM 268
- Dutz, MA 347
- Easterbrook, FH 453, 457
- Eastman Kodak v Image Technical Services Inc* 374
- Economic & Social Research Council Centre for Competition Policy, UK 268
- Economic & Social Research Foundation (ESRF), Tanzania 137
- Economic Advisory Group on Competition Policy 379
- economic constitution, ideal of 224
- effective competitive process concept, and Sherman Antitrust Act 1890 162
- effects-based legal analysis 178
- Egypt, Association for the Protection of Competition 137
- Elhauge, E 213, 369, 374
- Elzinga, K 335
- Emmert, F 210
- Empagran case see F Hoffmann-La Roche v Empagran*
- enforcement
 - and advocacy 200
 - altruistic 21
 - amnesty programme of enforcement agency 258–60
 - antitrust plaintiffs, private 249
 - changing historical scene 243–6
 - Clayton Antitrust Act 1914 40, 239, 250, 321
 - complementary outcomes where law clear 257–8
 - costs and risks 256–7
 - evidence, discovering 253–4

- Federal Trade Commission (FTC)
 Act 1914 39, 138
 follow-on private damage actions,
 allowing 258–60
 government enforcement agencies
 247–9
 international community of enforcers
 12–13
 jurisdiction 54–6
 ‘loser pays’ cost rule 256, 258
 national competition authorities 241,
 242, 252
 net reckoning 265
 NGOs, role in 136–54
 over-enforcement 6, 56–7
 overlaps and over-enforcement 23,
 56–7
 private and public 15, 238–65
 amnesty programme of
 enforcement agency 258–60
 complementary outcomes where
 law clear 257–8
 core purposes, differences 246–52
 export cartels 244–5, 257–8
 follow-on private damage actions,
 allowing 258–60
 private litigation in cases where
 law unclear and/or decisions
 specific 260–64
 processes and procedures,
 importance 253–7
 treble damages 245
 private antitrust cases seeking only
 injunctions 249–50
 processes and procedures,
 importance 253–7
 proving a case 254–6
 Sherman Antitrust Act 1890 37
 territorial perspective 4–5
 US State Attorney Generals (State
 AGs) 250–52
 under-enforcement 6, 210–11
see also criminal sanctions, cartels
- Enterprise Act 2000, UK 556
 Enterprise Act 2002, UK 41, 138, 145,
 268, 283, 292, 306
 environment friction 12
- Epstein, R 328
 EU Merger Regulation (EUMR) 47–8,
 49, 405–6
 application 49
 ‘domestic’ turnover thresholds
 (Article 1) 48
 Eurojust Guidelines 297
 European Arrest Warrant (EAW) 302
 European Commission
 Competition Directorate 77
 Guidance on Enforcement Priorities
 478
 Guidelines on Vertical Restraints 441,
 443, 444
 Horizontal Co-operation Guidelines
 405, 480, 492
 sector inquiry report, pharmaceutical
 industry 541
 European Competition Network (ECN)
 63, 76–8, 242
 European Convention on Human Rights
 and Fundamental Freedoms
 (ECHR) 1950 312
 European Council
 Framework Decision on Jurisdiction
 294, 295–8
 Framework Decision on the
 European arrest warrant 302
 European Union (EU)
 competition authorities 78
 Computer Program Directive 461
 export cartels 49–51
 extraterritorial reach of competition
 law 42–9
Béguelin Decision 42
Commercial Solvents Decision 43
Dyestuffs Decision 42, 47
*Europemballage and Continental
 Can* Decision 43
Gencor, and foreseeable,
 immediate and substantial
 effects 47, 48–9, 54
IBM and Microsoft Decisions 47
 mergers 47–9
 whether single economic unit,
 implementation or effects
 42–6

- Wood Pulp I* Decision 42, 43, 44, 46, 47, 48
- joint ventures
 - whether association of undertaking can also be an undertaking 423–4
 - cooperation arrangements between parents and JVs 420–23
 - decisions by associations of undertakings 420–23
- on limited convergence on antitrust goals 165–6
- market power
 - definitions 370–73
 - interlink with abuse, categorisation 379–80
 - market shares 386–7
- Merger Regulation (EUMR) 47–8, 49, 405–6
- national competition authorities 241, 242, 252
- pharmaceutical industry
 - product hopping 539–41
 - settlements 535–7
- resale price maintenance, legal position
 - application of TFEU 101(3) to fixed and minimum prices 441–4
 - application of TFEU 101(3) to maximum and recommended resale prices 444–5
 - in EU Member states 445–7
 - general prohibition 438–41
- state involvement 52–4
- undertaking in EU law, notion and boundaries 399–400
- unique nature 8
- see also* Treaty on the Functioning of the European Union (TFEU)
- Europemballage Corp and Continental Can Co Inc v Commission* 380
- Evans, P 17, 545–64
- Evenett, S 151, 209, 211, 221, 222, 232, 361, 364
- evidence, discovering 253–4
- Ewald, C 176
- excessive pricing concept 103
- exclusionary behaviour 396
- export cartels 13, 49–51
- criminal sanctions 15, 266–90, 291, 292
 - discontinued proceedings 310–11
- extradition and concurrent criminal prosecution 291–316
- extraterritoriality and competition law 49–51, 59
- international competition law 5, 11
- legalised 51
- private and public enforcement 244–5, 257–8
- public opinion on conduct 269–76
- behavioural implications 278–81
- enforcement implications 285–9
- philosophical implications 276–8
- political implications 284–5
- sociological implications 282–4
- wealth transfers 5
- Export Trading Company Act 1982, US 49
- extradition 301–16
 - arrest 302–3
 - bars to 306–16
 - abuse of process 308–9
 - discontinued proceedings 309–11
 - double jeopardy 308
 - human rights and extraneous considerations 312–14
 - passage of time 315–16
 - physical and mental conditions 314
 - specialty 307–8
- Category 1 countries 301–2, 311
 - arrest 302–3
 - extradition offence 304–6
 - initial hearing 303–4
- Category 2 countries 302, 311
 - arrest 303
 - extradition offence 306
 - initial hearing 304
- Extradition Act 2003 15, 302, 304, 314
- Extradition Treaty 2003 309–10
- initial hearing 303–4
- offence 304–6

- process 302–6
- see also* concurrent prosecution
- extraterritoriality and competition law
 - 13, 21–59
 - ‘Alcoa’ decision 23, 24, 25, 26, 31, 45
 - developed and developing economies 7
 - Empagran* case 27, 31, 33, 34, 35, 36, 59, 227
 - enforcement jurisdiction 54–6
 - EU law, extraterritorial reach 42–9
 - exercise of extraterritorial power
 - by developed countries 228–31
 - by developing countries 226–8
 - Federal Trade Commission (FTC) Act 1914 39
 - Foreign Trade Antitrust Improvement Act (FTAIA), 1982 27, 28, 31, 32, 35
 - home jurisdiction 21–2
 - implementation doctrine 41, 44, 45, 48
 - inbound commerce 37
 - international competition law 6
 - outbound export cases 37–9
 - overlaps and over-enforcement 23, 56–7
 - Sherman Act *see* Sherman Antitrust Act, 1890
 - whether single economic unit, implementation or effects 42–6
 - state involvement in US and EU 52–4
 - conduct permitted in one, but prohibited in another jurisdiction 52
 - liability for anticompetitive conduct 54
 - petitioning the state to adopt anticompetitive measures 53–4
 - ‘true conflict’ cases 52–3
 - US law, international reactions to extraterritorial reach of 40–41
- Ezrachi, A 3–17, 48, 96, 267
- F Hoffmann-La Roche v Empagran* 27, 31, 33, 34, 35, 36, 59, 227, 258
- FA Premier League v QC Leisure* 423
- Facebook 147
- Farber, DA 218
- Farrell, J 328
- Federal Cartel Office, Germany 350
- Federal Trade Commission (FTC) 454
 - ‘IP rights in standard selling’ project 488–92
 - advisability of antitrust review 489
 - alternatives to duty to search/good faith expectation 490
 - consumers’ interests 491–2
 - costs and benefits of patient search requirement 489–90
 - patient commitments 490
 - prevalence of patent hold-up problems 488–9
 - RAND licensing terms 491
 - standard-setting organisations’ ability to solve hold-up problems 489
- IP3 Report (Evolving IP Marketplace: Aligning Patent Notice and Remedies with Competition) 481–8
 - background 481–2
 - damage remedies and hold-up 485–6
 - improving notice 482–3
 - patent remedies 483–4
 - policy perspective on assessment of patent remedies 486–8
- in Korea 69, 509–13
- and pharmaceutical industry 524, 534, 535
- private and public enforcement 241, 247
- and Unilateral Conduct Working Group, ICN 350
- Federal Trade Commission (FTC) Act, 1914 39, 138
- Fels, A 14, 128, 185–208
- Fingleton, J 92, 113, 122, 124, 125, 127, 129, 130
- Finkelstein, K von 123–4
- Fipra (Finsbury International Policy & Regulatory Advisers) 562

- Fisse, B 267
 Fletcher, G 281
 Foer, A. 139
 Food Sovereignty Campaign (NGO) 148
 Foot, R 348
 Foreign Direct Investment (FDI) 210
 Foreign Sovereign Compulsion Doctrine, US 52
 Foreign Sovereign Immunities Act (FSIA) 1976, US 53
 Foreign Trade Antitrust Improvement Act (FTAIA), 1982 27, 28, 31, 32, 35, 230
 Foros, O 337
 Fox, EM 91, 94, 95, 102, 116, 123, 124, 209, 210, 223
France Télécom SA v Commission 371
 FRAND ('Fair, Reasonable and Non-Discriminatory') commitments 468, 469
 hold-ups 492, 493
 Frank, RG 523
 Fraser, EM 161
 Friedman, LM 278
 Froeb, L 327, 330
Fuji Electric System Co Ltd v Commission 397, 408, 415

 Gal, MS 214, 215, 216, 226, 227, 229, 320, 336, 347
 Gambia (The), Pro-Poor Advocacy Group 137
 General Agreement on Tariffs and Trade (GATT) 96
General Electric/Honeywell Decision 62, 74, 168, 220, 346
 Geradin, D 116, 213, 369
 Gerber, DJ 22, 41, 74, 164, 195, 212, 224, 357
 Germany, Act against Restraints of Competition 446
 Ghana, competition law 144
 Ghidini, G 452
 Gidley, JM 326
 Gilo, D 337
 Ginsburg, DH 159, 161, 169

 Global Forum on Competition (GFC) 68–9, 86
Gomes and Goodyer v Government of Trinidad & Tobago 315
Gøttrup-Klim ea Grovvarforeninger v Dansk Landbrugs Grovvarereselskab AmbA 386
 government
 advocate inside 197–8
 agency inside 197
 competition advocacy influencing 188–91
 enforcement agencies 247–9
 government departments 198
 Government of India 143
 Green, S 279
 Greenhalgh, C 451
 Grunes, AP 180
 Guiding Principles for Merger Notification and Review 99
 Guzman, AT 119, 215, 229

 Haas, PM 322
 Habermas, J 283
 Haines, F 269
 Hale, T 121, 126
 Hammond, A 281
 Hammond, S 288
 Harding, C 266, 277, 280
 Hart, HM 277
Hartford Fire Insurance v California 26, 27, 29, 31, 34, 52, 261
 Hart-Scott-Rodino Antitrust Improvements Act 1976 (HSR) 40
 Hatch-Waxman Act, US 525, 526
 Havana Charter 8, 95
 Heather, S 118, 119
 Heimert, AJ 102, 104, 106
 Heinrich, J 174
 Heller, M 452
 Hellström, P 359
 Helmers, CG 226
 Henneberry, T 292
 Hijzen, A 232
 Hindustan Lever Ltd, CUTS complaint against takeover of TOMCO Ltd 146

- Hoffmann-La Roche & Co AG v Commission* 371, 373, 380, 512
- Hollman, HM 13–14, 85, 86, 89–109, 366
- Holstrom, B 320
- home jurisdiction 21–2, 50
- Horizontal Merger Guidelines, US 326, 327
- Hosoda, K 76
- Hovenkamp, H 23, 25, 28, 35, 321, 396, 419, 427
- human rights, bars to extradition 312–14
- Ibanez Colomo, P 358
- Ibero-American Competition Forum 63, 79
- Imperial Chemical Industries v Commission* 401, 403
- implementation doctrine 41, 44, 48
versus effects doctrine 45
- IMS Health GmbH & Co OHG v NDC Health GmbH & Co* 475
- IMS v Commission* 507
- India
Competition Commission 146–7
competition policy for 143, 150–51
National Competition Policy 151
NGOs in 139
- Indonesia
competition law in (1999) 144
and IMF 210
- information technology (IT) industries 482
- informed divergence 104–5, 130, 211
- innovation 17, 451–79
as bridge between consumer and total welfare 554–5
‘follow-on’ innovators 478
intellectual property rights, actual treatment under competition rules 464–5
and internal balance in intellectual property rules 459–62
lessening innovation litigation defence strategy 456
‘limiting innovation’ contention, use of 455–9
oversimplified assertions 453–5
‘pioneer’ inventors 478
theory of in competition rules 462–4
- Institute for Economic Affairs, Kenya 137
- Intel v AMD* 56
- intellectual property
FTC antitrust–IP interface developments, US 480–93
internal balance in rules, and innovation 459–62
IP Guidelines
Japan 496–500, 507
Korea 505–9
- intellectual property rights (IPRs) 17, 451, 452, 453
actual treatment under competition rules 464–5
TFEU (Article 101), modernisation 465–7
TFEU (Article 102) 467–77
‘exceptional circumstances’ test (Art 102(b)) 471–3
interpretation 470–71
objective justification 475–7
per se rules and effects 473–5
strategic commercial conduct 467–70
- interbrand versus intrabrand competition 431–2
- interest group theories 192
- Intergovernmental Group of Experts on Competition Law and Policy (IGE) 61, 70, 138
- International Antitrust Enforcement Assistance Act (IAEAA) 1994 118
- International Association of Machinists and Aerospace Workers (IAM) v Organization of Petroleum Exporting Countries (OPEC)* 54
- International Competition Advisory Committee (ICPAC), Department of Justice 89, 90
- international competition law convergence 90–92

- convergence, limits 10
- developed and developing economies 7
- domestic perspective 4–5
- environment friction 12
- extraterritoriality 6
- networks *see* networks
- non-state players 9–10
- obstacles to binding wide membership frameworks 7–8
- scope and limits 3–17
- voluntary frameworks, rise of 8–9, 96
- wealth transfers 5–6, 7
- International Competition Network (ICN) 60, 73–5, 89–109, 111
 - China, absence from 108
 - commitments, formalisation issues 133–4
 - competition advocacy, defined 186
 - consumers and competition policy 548
 - on convergence in competition law 13–14
 - activities in pursuit of 101–7
 - challenges to ICN approach 107–9
 - developing consensus around best practices and techniques 102–5
 - forum 93–4
 - importance of convergence 157–8
 - learning from experience of ICN Member Agencies and NGAs 101–2
 - persuasion rather than rule-making approach 94–6
 - practical pursuit of 93–6
 - promoting adoption of consensus-based practices 105–7
 - vision 90–93
 - Eight Guiding Principles for Merger Notification and Review Procedures 324
 - and extraterritoriality 57, 58
 - formation (2001) 89, 232
 - Member agencies and NGAs 101–2, 232, 323–4
 - Merger Working Group 105, 232
 - Analytical Framework Subgroup 332
 - Merger Working Group Survey 2010 123
 - Merger Workshop 99–100
 - operational framework 96–7
 - Recommended Practices for Merger Notification and Review Procedures 105, 232, 233, 324, 334
 - Recommended Practices on Dominance/Substantial Market Power 100, 123, 349
 - soft law initiatives 8, 322, 323, 324, 325
 - Steering Group 97, 106, 107, 158
 - strategy and operations 96–107
 - unilateral conduct 348, 349–50
 - work product 97–100
 - Working Groups *see* Unilateral Conduct Working Group, ICN; Working Groups, ICN
- International Development Research Centre (IDRC), Canada 82, 136–7, 156
- International Monetary Fund (IMF) 143
- investigations, pharmaceutical industry 542–3
- Iyengar, SS 173
- Jacobs, SH 197
- Jakobsson, M 327
- James, C 95
- Janow, ME 62
- Japan
 - Anti-Monopoly Act 1947 495, 497, 499
 - decisional practices 500–504
 - Fair Trade Commission 346
 - IP Guidelines 496–500, 507
 - keiretsu* (vertical and conglomerate agreements) 38
 - non-assertion of patents (NAP) provisions 501, 503
 - patent–competition interface in 17, 495–504

- Japan Fair Trade Commission (JFTC)
494, 495, 496, 498, 499, 500,
502–3, 520
- Jenny, F 69, 195
- joint ventures (JVs) 16, 408–24
*American Needle, Inc v National
Football League* 171, 393, 396
Supreme Court opinion 416–20
antitrust scrutiny under Sherman Act
section 1 or TFEU, Article 101
416–24
cooperation arrangements with
parents 420–23
decisions by associations of
undertakings 420–23
- EU law
whether association of undertaking
can also be an undertaking
423–4
cooperation arrangements between
parents and JVs 420–23
decisions by associations of
undertakings 420–23
full function, and notion of an
undertaking 412–15
judging as single firm conduct
408–15
lawful, whether should be regarded as
a single entity 408–9
Texaco Inc v Dagher, Supreme Court
opinion 171, 409–12, 418
- Jones, A 16, 393–425
- Joshua, J 292
- Kahan, D 278
Kakis v Government of Cyprus 315
- Kallaugher, J 466
- Kallay, D 17, 480–93
- Kaplan, S 320
- Kaplow, L 225, 331
- Karlan, D 173
K-Dur Antitrust Litigation, In re 533
- Kennedy, D 210, 453, 457
- Kenyan Institute for Economic Affairs
137
- Kerber, W 176
- Kevatin, M 151
- KFTC (Korea Fair Trade Commission)
507, 520
decisional practices 509–13
- Khemani, RS 187, 195
- Kind, HJ 337
- Kitch, E 457
- Klevatorick, AK 229, 231
- Kneepkens, M 426
- Kolasky, WJ 331, 333
- Korea
Fair Trade Commission (KFTC) 507,
509–13, 520
and fairness 507
Federal Trade Commission 69,
509–13
IP Guidelines 505–9, 518, 519
Monopoly Regulation and Fair Trade
Act 1980 504–5, 550
patent–competition interface in 17,
504–513
unfair transaction substance concept
506–7
- Kovacic, WE 13–14, 85, 86, 89–109,
128, 133, 158, 196, 278, 327, 328,
366
- Kroes, N 241
- Kronthaler, F 87, 210, 213, 222
- Kugler, M 279
- La Porta, R 337
- Lagdameo, CL 102, 104, 105, 106
- Laker Airways v Sabena* 33, 40
- Latin American and Caribbean
Economic System (SELA) 72
- Latin American Competition Forum
(LACF) 68
- Leegin Creative Leather Products Inc v
PSKS Inc* 427, 434–6, 447, 448,
449, 450
post-*Leegin* development 437–8, 447
- Leniency Guidance 292
- Leonard, GK 331
- Leslie, CR 396
- Levenstein, MC 50, 226
- Levy, N 358
- Llewellyn, D 454
- Lobrano, G 118, 119

- 'locked in' firms 17
 Lockyer, V 292
 Lopez-De-Silanes, F 337
 'loser pays' cost rule 256, 258
 Lovallo, D 155
 Luchtman, M 296
 Lugard, P 113
 Lusophone Competition Network (LCN) 63, 79–81, 84, 88
- MacCulloch, A 281, 283
 MacFarlane, SN 348
 Machlup, F 454
 Maher, I 13, 60–88, 129, 282
 Maier-Rigaud, F 359
malum prohibition (trivial) offences 278
 Maness, R 469
 Mansfield, E 522
 market power 16, 369–92
 assessment, use of market shares in 384–91
 Australia 388–9
 defining relevant market 384–6
 European Union 386–7
 United States 387–8
 definitions 370–77
 Australia 375–7
 United States 373–5
 interlink with abuse, categorisation 377–84
 Australia 381–3
 European Union 379–80
 United States 380–81
 small but significant and non-transitory increase in price (SSNIP) test 330, 385
 market studies 189–90
 Market Studies Good Practice Handbook, IC 98
 Marsden, P 14, 38, 39, 110–35
 Marshall, F 73, 74–5
 Marshall, R 328
 Marx, L 328
 Marxist theories 192
 Massey, P 288
 Masson, A 524
 Mastanduno, M 348
 matchboxes, under-filling practice 146
Matsushita Electric Ind Co Ltd v Zenith Radio Corp 263
Maxwell King v United States of America 309, 315–16
 May, R 175–6
 McAdams, RH 341
 McCarten, T 410, 419
 McDonald, JB 348
 McDonnell, BH 218
 McDonnell Douglas, proposed acquisition by Boeing 89
 McGraw, K 279
 McGuire Act 1952, US 433
MCI Communications Corp v AT&T 261
 McKinsey & Company 155
 McMahan, K 15, 209–37
 Mehta, P 14, 136–54, 194
 Melamed, AD 120
Melway Publishing Pty Ltd v Robert Hicks Pty Ltd 376, 381, 388
 Memoranda of Understanding (MOUs) 84, 122
 MERCOSUR 61
 Mereand-Sinha, K 238
 merger control 16, 319–44
 competitive harm theories 331–2
 control or smaller holdings 336–7
 convergence on antitrust legal standards 168–9
 effects on competitors, analysis 328–9
 efficiencies, measuring 332–3
 Eight Guiding Principles for Merger Notification and Review Procedures (ICN) 324
 EU Merger Regulation (EUMR) 47–8, 49, 405–6
 EU–US clashes 168
 financial weakness of a merging firm 333
 foreseeable, immediate and substantial effects 47–9
 informational requirements 338–9
 international, institutional structure 341–3

- justifications and implementation
 - 319–22
- ‘market definition’, use in substantive analysis 330–31
- market dynamics 332
- Merger Workbook 350
- NGOs and competition law
 - enforcement 146, 147–9
- patchwork of divergence 326
- procedural norms and differences
 - 334–40
 - approval or notice 335
 - whether coextensive with substantive statute 339
 - whether conclusive determination
 - as against agency or subsequent challenge allowed 339
 - whether control or smaller holdings 336–7
 - whether informational requirements 338–9
 - mandatory or voluntary 335
 - whether nexus to jurisdiction 336
 - whether or not conclusive against private parties 339
 - whether or not suspensive 335
 - whether procedural phases 338
 - procedural rights, nature 340
 - triggering event 337–8
- procedural rights, nature 340
- remedies used 333–4
- safe harbours 334
- soft law, use for 322–5
- structure (substances and process) 325–41
- substance and process 340–41
- substantive norms and differences
 - 326–34
 - analysis of effects on competitors 328–9
 - competitive harm theories 331–2
 - efficiencies, measuring 332–3
 - financial weakness of a merging firm 333
 - ‘market definition’, use in substantive analysis 330–31
 - market dynamics 332
 - remedies used 333–4
 - safe harbours 334
 - welfare standard used in analysing effects on society 329–30
 - triggering event 337–8
 - US Horizontal Merger Guidelines 326, 327
 - welfare standard used in analysing effects on society 329–30
- Merger Streamlining Group 233
- Merger Working Group, ICN 105, 232
- Merges, R 460, 461, 462
- Microsoft v Commission* 455, 473, 474, 475, 476
- Mifflin, H 460
- Millennium Development Goals (MDGs) 212
- Miller-Tydings Fair Trade Act 1937, US 433
- Mills, DE 427
- Ministry of Commerce (MOFCOM), China 219, 494
- Mises, L von 164
- Mohr, P 267
- Monaghan, MJ 524
- Monaghan, MS 524
- Monetary and Economic Union of Central Africa (CEMAC) 61
- monopolies 193
 - developing countries 361–2
 - monopolisation law versus merger law 319
- Monopolies and Restrictive Trade Practices Act (MRTPA) 1969, India 139, 143
- Monopolies and Restrictive Trade Practices Commission (MRTPC) 146
- Monopoly Regulation and Fair Trade Act (MRFTA) 1980, Korea 504–5, 550
- Monti, G 16, 345–8, 473
- Moore, DW 159, 169
- Möschel, W 224
- Moshe, Y 337
- Motta, M 364

- Mozambique, Competition Policy and Law 138
- Mullainathan, S 173
- Munich Draft International Antitrust Code, international competition law 8
- Munich Group, Draft for International Antitrust Code 96
- Muris, TJ 101, 102
- Nader, R 194
- National Association of Attorneys General (NAAG) 250
- national competition authorities (NCAs) 241, 242, 252
- National Competition Council, Australia 198
- National Competition Policy (NCP), India 151
- National Development and Reform Commission (NDRC), China 514, 516
- National Directorate for Commerce of Mozambique 80
- National Drug Data File (NDDF) 537
- 'Natwest Three', UK 294
- Nelson, R 457, 461, 462
- neoclassical economic theory 171, 175
- Nesbitt, N 266
- network effects 91
- networks 60–88
- African Competition Forum 63, 82–4, 138
 - APEC Competition Policy and Law Group 61–2, 75–6
 - ASEAN *see* Association of South East Asian Nations (ASEAN)
 - European competition authorities 78
 - European Competition Network 63, 76–8, 242
 - future 130–34
 - Ibero-American Competition Forum 63, 79
 - ICN *see* International Competition Network (ICN)
 - international competition 231–5
 - whether lack of inclusiveness 128
 - linkage areas 132–5
 - Lusophone Competition Network 63, 79–81, 84
 - NORDC cooperation 78–9
 - OECD *see* Organisation for Economic Cooperation and Development (OECD)
 - outline of 64–6
 - overlapping 84–6
 - overview 61–84, 64–6
 - problems 125–30
 - whether lack of efficiency 126
 - whether lack of legitimacy 126–7
 - whether reduced policy innovation 128–30
 - proliferation 9, 13
 - transgovernmental 121, 125
 - UNCTAD *see* United Nations Conference on Trade and Development (UNCTAD)
- Neven, DJ 358
- Ng, W 14, 185–208
- NGAs (non-governmental advisors) 85, 94, 122, 127
- and ICN 101–2, 232, 323
 - international competition law 9, 10
- NGOs (non-government organisations) 9, 14
- adoption stage 143–5
 - advocacy 151–2
 - collaborative philosophy 152–4
 - enforcement stage 145–9
 - India, competition policy for 150–51
 - overarching and flanking activities 149–52
 - pre-adoption stage 140–43
 - research and capacity building 149–50
 - rising significance 137–40
 - role in competition law enforcement 136–54
- Nicholson, MW 217
- Nigeria
- competition law 144
 - Consumer Empowerment Organisation 137

- 'no action' letters, discontinued proceedings 310–11
 Noerr-Pennington doctrine, and extraterritoriality 54
 non-governmental advisors *see* NGAs (non-governmental advisors)
 non-state players 9–10
 Nordic cooperation 78–9
 Nordic Council of Parliamentarians 78
Norris v United States of America 312, 313, 314
 North, D 164
 Northern Irish banking sector 146
 Norwegian Agency for Development Cooperation (NORAD) 137
 Nowag, J 426
 Ntambirweki, B 145

 O Parsons, D 320
 O'Brien, DP 336
 Office Depot, merger with Staples, 1996 147
 Office of Fair Trading (OFT) 138, 145, 146, 156, 190, 556
 failings 284–5
 sanctions by 292, 293
 Ohara, Y 38
 O'Kane, M 15, 291–316
 O'Keefe, E 179
 Olley, GS 331
 Olympic Air and Aegean Airlines of Greece, merger prohibited between 169
Onwuzulike v United States of America ('*Onswuzulike*') 299
 Orbach, BY 330
 ordoliberalism 224
 Ordovery, J 331, 457
 Organisation for Economic Cooperation and Development (OECD) 61, 67–9, 83, 89, 94, 112, 155, 201
 APEC-OECD Checklist on Regulatory Reform 84
 Budapest regional centre 69
 capacity building 69
 Competition Committee 67–8, 75, 85, 323
 Journal of Competition Law and Policy 67
 Seoul regional centre 69
 and soft law for merger control 322, 323, 324, 325
 Ornstein, S 430
 Osaka Action Agenda 75
 over-enforcement
 extraterritoriality 6
 and overlaps 23, 56–7

pacta sunt servanda doctrine 119
 Padilla, JA 215, 216, 347
 Papadopoulos, A 13, 60–88
 parent–subsidiary relationships 16
 EU law, undertaking in 399–400
 extension of *Copperweld Corporation v Independence Tube Corporation* 400–401
 imputation of liability for infringements 401–8
 parents and partially owned subsidiaries and 'sister' corporations 400–408
 parents and wholly owned subsidiaries 398–400
 single economic entities 16, 398–408
 substantive rules, applicability 401–8
 undertaking
 in EU law 399–400
 expanding concept of 401–8
 US antitrust system, logic underlying 398–9
 Parisi, JJ 122
 Parker, C 269, 279, 280
 Patent and Trademark Office (PTO), US 481
 patents
 advisability of antitrust review 489
 alternatives to duty to search/good faith expectation 490
 durability commitments 490
 FTC IP3 Report 481–8
 hold-up problems 17

- FRAND ('Fair, Reasonable and Non-Discriminatory') commitments 492, 493
horizontal guidelines, EC 492–3
prevalence 488–9
standard-setting organisations' ability to solve 489
Japan, patent–competition interface in 495–504
pharmaceutical industry 522
search requirement, costs and benefits 489–90
transfers, surviving 490
Patterson, PM 428
Paul, GL 326
Peel, M 279
Peltzman, S 193, 194
Penrose, R 281
Peretz, G 61
pharmaceutical industry 17, 521–44
 anticompetitive toolbox 541–2
 authorised generics 534–5
 background 521–6
 EU law
 Gaviscon 540–41
 Losac capsule marketing 539–40
 miscellaneous activity 541–4
 product hopping 539–41
 sector inquiry report 541
 settlements 535–7
 generic entry 522–3
 industry structure 524–5
 investigations 542–3
 patents 522
 pending cases 530–33
 product hopping 537–9, 537–41
 Provigil case 531
 regulation 525–6
 reverse payments 533–4
 settlements 526–37
 Europe 535–7
 potential settlement legislation 533–5
 shared exclusivity 534
 Solvay 532–3
Picciotto, S 126
Picker, RC 434
Pioneer Hi-Bred International 147
Pistor, K 234
Pittman, R 222
Platania-Phung, C 269, 280
Police and Justice Act 2006 314
Portuguese Competition Authority 80, 84
Posner, R 161, 193, 426, 435
predatory pricing 224, 357, 378
preliminary information report (PIR) 146–7
Preserve Access to Affordable Generics Act 2011, US 533
price theory, and convergence 161, 165, 169–70, 172, 179
Prilosec and Nexium 538–9
private class action litigation, private and public enforcement 249
Pro-Poor Advocacy Group, The Gambia 137
'proximate' causation, Sherman Antitrust Act 1890 35
public interest advocacy groups 194
public interest theories 192
Qaqaya, H 72
Queensland Co-operative Milling Association Limited and Defiance Holdings Limited (QCMA) 376, 377
Queensland Wire Industries Pty Ltd v The Broken Hill Proprietary Company Limited and Anor 375, 381–2, 388–9
R (HH) v Deputy Prosecutor of the Italian Republic 313
Rahnasto, I 453
RAND ('Reasonable and Non-discriminatory') licensing terms 485, 491
Rasmussen, E 341
Raustiala, K 91, 124, 126, 127, 131, 133
Ray, EJ 320
Reckit Benckiser (RB) 540, 541
Recommended Practices for Merger Notification and Review

- Procedures (ICN) 105, 232, 233, 324, 334
 Recommended Practices on
 Dominance/Substantial Market Power (ICN) 100, 123, 349
 Reeves, AP 155
 regulation
 economic theory (Stigler) 192–3
 pharmaceutical industry 525–6
 regulatory impact statement review bodies 198
 resale price maintenance 16
 comparative perspective 426–50
 fixed resale prices and minimum resale prices 428
 general prohibition 438–41
 horizontal price fixing 430
 interbrand versus intrabrand competition 431–2, 435
 law on in EU Member states 445–7
 legal position of in EU competition law 438–45
 fixed and minimum prices, application of TFEU Article 101(3) to 441–4
 general prohibition 438–41
 maximum and recommended resale prices, application of TFEU Art 101(3) to 444–5
 legal position of in US antitrust law 432–8
 American legal development 432–4
 Leegin decision 427, 434–6, 447, 448, 449, 450
 post-*Leegin* development 437–8
 maximum resale prices and recommended resale prices 428, 429
 minimum 428, 429
 Leegin decision *see above*
 price floor 428
 Regulation on Vertical Agreements 442–3, 444
 Rule of Reason 433, 434, 436, 442
 types 428–30
 vertical relationships 429–30
 Reynolds, RJ 331
 Richards, TJ 428
 Rill, JF 62, 117
Rio Tinto v Westinghouse 40
 Roberts, B 291
 Roberts, JV 287
 Robertson, AS 13–14, 89–109
 Rockwell, DB 45
 Rogers, EM 179
 Rogers, M 451
 Rosch, JT 155, 156
 Rosseger, G 451
 Rousseva, E 365, 372, 378
 Rowley, JW 91
RTE & ITP v Commission (Magill) 456, 475, 507, 508
 Rubinfeld, D 328, 469
 Rungien, S 369
Rural Press Limited v ACCC 382

 Salinger, MA 331
 Salkever, DS 523
 Salop, SC 336
 Samuel, G 125
 Schäfer, A 322
 Schaub, A 117
Schering-Plough Corp v FTC 527–8
 Schmalensee, R 457
 Schmidt, H 16, 369–92
 Scholz, J 279
 Schulenberg, S 328
 Schumpeter, J 457, 462
 Schwalbe, U 327
 Schwartz, B 173
 Scott Morton, FM 523
 S-curve life-cycle 160, 161
 Sector Regulators 153, 154
 Sen, A 225
 Sengupta, R 141
 Serious Fraud Office (SFO), UK 294
 Serious Organised Crime Agency (SOCA), UK 302
 ‘7Up model’ (CUTS) 140–41, 142, 144, 152
 Shaffer, G 266, 337
 Shafir, E 173

- Shanda Interactive Entertainment v Beijing Sursen Electronic Technology* 515
- Shapiro, C 328, 468
- shares, market
- Australia 388–9
 - defining relevant market 384–6
 - European Union 386–7
 - United States 387–8
 - use in market power assessment 384–91
- Sherman Antitrust Act 1890 218, 321
- basic effects test 23–6
 - causation 35
 - comity 32–4
 - criminal enforcement 37, 246
 - damage recovery rule 239
 - direct, substantial and reasonably foreseeable effects 28–32, 58
 - and effective competitive process concept 162
 - extradition 305
 - extraterritorial application in US 23–39
 - government enforcement agencies 247
 - ‘ignorance of the consequences of one’s actions’ 28
 - whether intended and/or actual effects 26–8
 - ‘linked’ domestic and foreign harm, remedies for 35–6
 - outbound export cases 37–9
- Section 1
- antitrust scrutiny under 416–24
 - joint and unilateral conduct 394, 395
- Section 2 225, 548
- innovation and IPRs 455, 479
 - market power 373, 374, 380, 381, 387, 389, 390, 394, 397
 - private and public enforcement 247, 248, 261, 262, 263
 - unilateral conduct 346, 351, 355, 394–5
 - unilateral conduct 351
- Shleifer, A 337
- Sibony, O 155
- Silberstone, Z 459
- Silver v NYSE* 261
- Silvey, J 276
- Singapore, competition law in (2005) 144
- Sjöblom, D 78, 108
- Slaughter, A-M 91, 94, 121, 126, 211, 234, 348, 366
- small but significant and non-transitory increase in price (SSNIP) test 330, 385
- Small States Network for Economic Development (SSNED) 138
- soft law norms
- and ICN 231–5
 - merger control 322–5
 - networks 63, 233
 - voluntary frameworks, rise of 8
- Sokol, DD 16, 61, 67, 74, 110, 211, 319–44
- South Africa, competition authority 147, 225
- South Asia Watch on Trade, Economics & Environment (SAW-TEE) 137
- Southern African Development Community (SADC) 61, 83
- specialty, bars to extradition 307–8
- Spiegel, Y 337
- standard-setting organisations (SSOs) 489, 490
- Staples, merger with Office Depot, 1996 147
- State Administration of Industry and Commerce (SAIC), China 514, 516
- state involvement in competition law
- conduct permitted in one, but prohibited in another jurisdiction 52
 - liability for anticompetitive conduct 54
 - petitioning the state to adopt anticompetitive measures 53–4
 - ‘true conflict’ cases 52–3
- Statute of Monopolies 1623 240
- Steering Group, ICN 97, 106, 107, 158

- Steiner, RL 431, 524
 Stephan, A 268, 284
 Stephan, J 87, 210
 Stewart, T 213
 Stigler, GJ 192
 StopCartel (Greek NGO) 149
 strategic commercial conduct, and
 TFEU (Article 102) 467–70
 Structural Adjustment Programmes,
 World Bank 143
 Stucke, ME 14, 155–81, 280
 Stylianou, S 274
 subsidiaries
 partially owned 400–408
 single economic entities 16, 398–408
 wholly owned 398–400
 super-dominance 372
 Supreme Court, US 162
 *American Needle, Inc v National
 Football League* 171, 393,
 416–20
 Texaco Inc v Dagher 171, 409–12,
 418
 Surplus People Project (NGO) 148
 Suslow, VY 50, 226
 Suttmeier, RP 517
 Svetiev, Y 345
 Svetlicinii, A 430
 Swedish Competition Authority 350
 Sweeney, B 93
 Sykes, AO 229, 231
Symeou v Greece 313–14

 Tait, N 291
*Tamoxifen Citrate Antitrust Litigation,
 In re* 528–9
 Tanzania
 Competition Authority 83
 Economic & Social Research
 Foundation 137
 Tarullo, DK 67, 95, 120
 Tasch, W 367
 Taylor, C 459
 Technology Transfer Block Exception
 Regulation (TTBER) 466, 467
 Teece, D 457
 Telecommunications Act 1996 262

 Teleseminar on Competition Advocacy
 with Lawmakers 98–9
 Telser, LG 431
 Temurshoev, U 337
 territorial perspective, enforcement 4–5
*Tetra Pak International SA v
 Commission (Tetra Pak II)* 379,
 380
Texaco Inc v Dagher, Supreme Court
 opinion 171, 409–12, 418
 TFEU *see* Treaty on the Functioning of
 the European Union (TFEU)
*Timberlane Lumber Co v Bank of
 America* 23, 26, 29, 32, 33
 TOMCO Ltd, CUTS complaint against
 takeover of by Hindustan Lever
 Ltd 146
 Tompson, W 203
 Tondino, M 348
 total welfare
 Chicago School, economic efficiency
 goal 223
 and consumer
 innovation as bridge between
 554–5
 interface between 547–54
 total welfare and consumer, interface
 between 17
 Trade Law Centre (TRALAC), South
 Africa 137
 Trade Policy Review Mechanism, WTO
 143–4
 transaction costs 216
 transgovernmental networks 121, 125
 Treaty of Lisbon 2007 295–6
 Treaty on the Functioning of the
 European Union (TFEU)
 Article 101
 antitrust scrutiny under 416–24
 extraterritorial reach of
 competition law 42–6
 joint and unilateral conduct 394,
 395, 407
 legislative form and economic
 interpretation 218
 modernisation, and IPRs 465–7
 and NCAs in Europe 252

- Article 101(1)
 - resale price maintenance 438, 439, 440, 441
- Article 101(3)
 - application to fixed and minimum prices 441–4
 - application to maximum and recommended resale prices 444–5
- Article 102
 - competition law model for developing countries 224
 - extraterritorial reach of competition law 46–7
 - innovation and IPRs 463, 467–77
 - joint and unilateral conduct 394
 - legislative form and economic interpretation 218
 - market power 370–73
 - and NCAs in Europe 252
 - objective justification 475–7
 - per se rules and effects 473–5
 - strategic commercial conduct 467–70
 - unilateral conduct 345, 351
- Article 102(b), ‘exceptional circumstances’ test under 471–3
- Trebilcock, MJ 38
- TriCor* decision, pharmaceutical industry 537–8
- TRIPS Agreement *see* Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPS)
- Trust for Community Outreach (NGO) 148
- Tschantz, S 330
- Turner, DF 224
- Twining, W 216
- Uganda, competition law 144, 145
- Ulrick, SW 327
- under-enforcement, extraterritoriality 6
- undertaking
 - whether association of undertaking can also be an undertaking 423–4
 - concept 406–7
 - expanding 401–8
 - and full function joint ventures 412–15
 - decisions by associations of undertakings 420–23
 - in EU law, notion and boundaries 399–400
 - unilateral conduct 345–68
 - and concerted action, boundary 16
 - decision-makers 357–9
 - developing countries 360–64
 - divergence, resulting 355–7
 - extraterritoriality and competition law 22–3
 - institutional capacities 359–60
 - institutions 357–60
 - International Competition Network, methods of 349–50
 - and joint conduct, boundaries 393–425
 - joint ventures *see* joint ventures (JVs)
 - objectives 351–7
 - parent–subsidiary relationships *see* parent–subsidiary relationships
 - survey evidence 351–4
- Unilateral Conduct Recommended Practices 100
- Unilateral Conduct Working Group, ICN 103, 104, 105, 106, 108, 162, 349–50, 351, 361
 - chair 350
 - objectives 352, 353, 354
 - Unilateral Conduct Workbook 350, 354, 360
- United Brands Corp v Commission* 370, 371, 372, 373
- United Kingdom (UK)
 - Competition Act 1998 41, 61, 217, 446, 556
 - Competition Authority 556
 - Competition Commission 556, 558–9
 - Consumers’ Association 556, 557, 561
 - Department for International Development 82, 136

- Economic & Social Research Council
Centre for Competition Policy
268
- Enterprise Act 2000 556
- Enterprise Act 2002 41, 138, 145,
268, 283, 292, 306
- Office of Fair Trading *see* Office of
Fair Trading (OFT)
- Statute of Monopolies 1623 240
- Trade and Industry Select Committee
of the House of Commons 557,
559
- ‘Which?’ (NGO) 145
- United Nations (UN)
Conference on Trade and
Development *see* United
Nations Conference on Trade
and Development (UNCTAD)
- Millennium Development Goals 212
- United Nations Conference on Trade
and Development (UNCTAD)
70–72, 83, 94, 112, 228
- Intergovernmental Group of Experts
on Competition Law and Policy
61, 70, 138
- model competition law (1980) 85
- Model Law on Competition 2003,
Chapter IV 362, 363
- MOU with Portuguese Competition
Authority 84
- Set of Multilaterally Agreed
Equitable Principles and Rules
for the Control of Restrictive
Business Practices 362
- unilateral conduct 349
- United States (US)
American Antitrust Institute 147, 156
antitrust system, logic underlying
398–9
- Clayton Antitrust Act 1914 40, 239,
250, 251
- Cy Pres rulings 563
- Department of Justice *see*
Department of Justice (DOJ),
US
- export cartels 49–51
- Export Trading Company Act 1982
49
- extraterritorial application of
Sherman Antitrust Act 23–39
see also Sherman Antitrust Act,
1890
- Foreign Sovereign Compulsion
Doctrine 52
- Foreign Sovereign Immunities Act
(FSIA) 1976 53
- Foreign Trade Antitrust Improvement
Act (FTAIA), 1982 27, 28, 31,
32, 35
- Horizontal Merger Guidelines 326,
327
- international reactions to
extraterritorial reach of US law
40–41
- market power
definitions 373–5
interlink with abuse, categorisation
380–81
market shares 387–8
- pharmaceutical industry 537–9
- resale price maintenance, legal
position in antitrust law
American legal development
432–4
Leegin decision 427, 434–6, 447,
448, 449, 450
post-*Leegin* development 437–8,
447
- Sentencing Guidelines 288, 289
- State Attorney Generals (State AGs)
250–52
- state involvement 52–4
- Supreme Court *see* Supreme Court,
US
- Webb-Pomerene Act 1918 49
- United States v Colgate & Co* 433
- United States v Grinnell Corp* 373
- United States v LSL Biotechnologies*
29–30
- United States v Microsoft Corp* 381
- United States v Pilkington* 39
- United States of America v Cotroni*
(‘*Cotroni*’) 299

- Upward Pricing Pressure (UPP) 330, 331
Uruguay Round 61
- Vagliasindi, M 347
Varney, CA 160, 355
Verdier, P-H 95
Verizon Communications Inc v Law Offices of Curtis v Trinko 262
Vickers, J 365
Vietnam, competition law in (2005) 144
Viho Europe BV v Commission 400, 403, 404
Vogelenzang 377, 378, 383
VOICE (consumer group) 146
- Waarden, F van 267
Wagner-von Papp, F 13, 21–59
Walker Process Equipment Inc v Food Machinery & Chemical Corp 261, 507
Waller, SW 155
Warman, M 291
Washington Consensus 210
Wassmer, IF 320
Waterson, M 431
Watson, A 214
wealth transfers 5–6, 7
Wearden, G 525
Webb-Pomerene Act 1918, US 49
Weber-Waller, S 367
Wenzel Bulst, F 359
Werden, G 327, 330, 331, 395
West African Economic and Monetary Union (WAEMU) 61, 69, 72, 362
Weyerhaeuser Co v Ross-Simmons Hardwood Lumber Co 263
Whish, R 197, 441
White, A 291
Widegren, M. 78, 108
- Wilcox, C 8
Wilks, S 77, 282, 284, 285
Williamson, J 210
Williamson, OE 332
Willig, R 457
Wils, W 406
Wilson, JQ 194
Winter, S 457
Wise, M 203
Wood, D 45
Working Group on the Interaction between Trade and Competition Policy (WGTCPP), WTO 213
Working Groups, ICN 97, 100, 101–2
Advocacy 102
Unilateral Conduct *see* Unilateral Conduct Working Group, ICN
World Bank 83, 143
World Trade Organisation (WTO) 8, 89, 94, 209
Ministerial Conference, Doha (2001) 96
non-discrimination principle 214
Trade Policy Review Mechanism 143–4
Working Group on the Interaction between Trade and Competition Policy 213
- Wu, L 331
- Yao, X 517
Yassine, M 137
- Zambia, Competition and Consumer Protection Authority 148
Zanettin, B 37
Zedner, L 277
Zimmer, D 327
Zinman, J 173