

Index

- accountability *see* transparency
- Adalid, S. 129
- administrative monopoly abuse *see*
 - China, administrative monopoly abuse
- administrative monopoly abuse regulation, EU 156–61
 - mandatory requirements and proportionality principle 161, 162–3, 164
- administrative simplification to improve competition *see* EU Services Directive and pro-competitive regulation, administrative simplification to improve competition
- advertising and tracking of online users' activities, EU 201–2
- Aguado i Cudolà, V. 111, 115, 126, 127, 132
- air space supervision, EU 91
- Albrecht, J. 199
- Aldomà i Buixadé, I. 124, 129
- Allen, D. 218
- Almunia, J. 183–4, 200, 201
- Alves, D. 179
- Anderson, R. 278–9, 280, 282
- anti-competitive effects, criticism of, EU Data Protection Directive reform package 193–4
- anti-competitive regulation, EU Services Directive 108–10
- anti-pollution surveillance, EU 91
- Arbix, G. 52, 53
- Arias Martínez, M. 130
- Ariño Ortíz, G. 111
- Arowolo, O. 106
- Arrowsmith, S. 290
- Australia, cases
 - ABC Production Facilities, Investigation* 26–7
 - AIS Swim School* 25–6
 - Defence Housing Australia* 28–9
 - Meteorological Services to Aviation* 27–8
 - NBN Co* 19–25, 34–5
 - New South Wales, *State Valuation Office* 29–30
 - New South Wales v. Commonwealth* 5
 - Queensland, *Cattletrain* 30–31
 - Victoria, *City of Ballarat* (childcare services) 31–2
- Australia, competitive neutrality and government's market advantage 3–39
 - business pricing decisions 16–17
 - businesses and activities subject to competitive neutrality policy 13–15, 31–2
 - commercial rate of return 33–4
 - Commonwealth Competitive Neutrality Policy Statement 14, 25
 - community-service obligations 16–17
 - Competition and Infrastructure Reform Agreement 13, 38–9
 - competition law and policy reform 4–6
 - Competition Policy Review 35–6
 - Competition Principles Agreement 6, 10, 14, 17, 37–8
 - Council of Australian Governments (COAG) 13
 - Dawson Review 36
 - Financial Management and Accountability Act 14–15

- Government Business Enterprises (GBEs) and private-sector regulation, subject to 10–11
- Government Business Enterprises (GBEs) as significant businesses 14
- Hilmer Report 5–6, 8–9
- markets and role of government 6–7
- National Competition Council (NCC) 6, 17, 32–3
- National Competition Policy (NCP) reforms 6, 10, 15, 17, 33
- net competitive advantage, determination of 17, 25–6
- policy implementation 16–17
- population dispersal effects 7
- Productivity Commission 33–4
- public benefits of competitive neutrality policy 12–13
- reform progress measurement 32–4
- relationship with other policy objectives 15–16
- Trade Practices Act limitations 4–5
- Australia, competitive neutrality and government's market advantage, competitive neutrality complaints 18–32
- Australian Government Competitive Neutrality Complaints Office (AGCNCO) 21–4
- Civil Aviation Safety Authority (CASA) 27–8
- Commonwealth Competitive Neutrality Complaints Office (CCNCO) 25–8
- Commonwealth Competitive Neutrality Policy Statement 25, 26
- Commonwealth government businesses 19–29
- competitive advantages conferred by market position 21–2
- complaints procedures 18–19
- expected rate of return on assets and related issues 23–5
- fund commitment as shareholder loan 24–5
- licensing requirements for the provision of property sales and management services 28–9
- ministerial determinations 25
- pricing discounts 50–51
- pricing of infrastructure in greenfield developments 22–3
- public-interest test process 32, 35
- risk broadbanding and rate of return on assets 24
- sale of consumer goods and studio rentals as business activities subject to competitive neutrality 26–7
- tender process complaints 22
- Australia, competitive neutrality and government's market advantage, competitive neutrality policy as response to market distortion 7–12
- competitive advantage measurement 11–12
- competitive disadvantages arising from government ownership 8
- Hilmer Report competitive neutrality recommendations 8–9
- resource allocation distortions 7–8
- specific factors 7–8
- Badinger, H. 121
- Badura, P. 44, 45, 46
- Bailey, D. 106
- balancing approach search, administrative monopoly abuse *see under* China, administrative monopoly abuse
- Baldez de Almeida, L. 249, 251
- Baldwin, R. 107, 281
- Bandeira De Mello, C. 47
- Bansal, N. 299
- Baquero Cruz, J. 112
- Barnard, C. 116, 117, 120, 127
- Barrionuevo, Arthur 239–60
- Bassi, E. 71
- Bennett, C. 193
- Bercovici, Gilberto 40–54
- Bettencourt Nunes, Leonor 103–34
- bid-rigging prohibition, India 278–9
- Bilac Pinto, F. 46

- Blakemore, M. 65
- Blume, P. 190
- 'Bolkestein' Proposal, EU Services Directive 115–17
- Bolton, P. 177
- Boner, R. 143
- Borges Barbosa, D. 53
- Braga, O. 46–7
- Brazil, investment targets in pay-TV market 239–60
- capital expenditure 249–50
 - economically attractive municipalities, parameters for identifying 247–51
 - inhabitants without access to service 248
 - monopolistic regime of exclusivity comparison with competition 246
 - National Communication Agency (ANATEL), regulatory power 253–5
 - new operators with compulsory coverage in the pay-TV market, entry of 248–51
 - regulatory agencies, and technical expertise 241–2, 243–4
- Brazil, investment targets in pay-TV market, Law on Conditional Access Services (SeAC Law) 255–9
- authorization granted by ANATEL 257
 - compulsory coverage of geographical areas, absence of 258–9
 - and free competition 256
 - licence conversion provisions from previous regime, absence of 257
 - non-compulsory nature of 256–7
 - universal services obligation 256, 259
- Brazil, investment targets in pay-TV market, National Communication Agency (ANATEL) Questionnaire 239–55
- economic effects of proposal 244–7
 - and freedom of initiative rule 253
 - inappropriate consultation 241–3
 - investment incentives compromised 244–5, 254–5
 - lack of conformity with the law 251–3
 - and non-compliance with General Telecommunications Law (LGT) 242, 243, 255
 - power asserted by ANATEL, and broadband coverage 240–41, 243, 255
 - proposal contained in 243–4, 255
 - public consultation 239–40
 - technological neutrality compromised 244
 - violation of the law and universal service obligation 252–3
- Brazil, oil policy and Petrobrás 40–54
- competition policy 50–52
 - constitutional concept of monopoly 43–5
 - cross-subsidies 49
 - deepwater oil production development (PROCAP) 53–4
 - equalization costs to match the prices of oil by-products 49
 - Freight for Uniform Costs levy 49
 - fuel adulteration and tax evasion problems 49
 - fuel market formation 40–42
 - fuel supply market and administered prices 48–50
 - importation of oil by-products (1997) 49
 - innovation and competition, relationship between 52–3
 - liberalization of fuel prices 49–50
 - National Extended Consumer Price Index 49–50
 - national fuel supply system as public utility 46–8
 - National Oil Agency, oil product sales, regulation of 47–8, 49
 - National Oil Council control and Decree-Law No. 3.236/1941 41–2
 - Ninth Amendment to Constitution and abolition of state monopoly 45

- oil imports and balance of trade (1940s) 41–2
- Petrobrás, indirect price control powers 50
- Petrobrás, and industrial and innovation policies 53–4
- Petrobrás monopoly in imports of oil and oil by-products 42
- Petrobrás, Office of Distribution of Oil By-Products (EDIPE) 42–3
- Petrobrás purchasing power 50–54
- state intervention and capital reproduction 43
- state monopoly and fuel supply 42–6
- state monopoly with a ‘reservation to breach’ (current situation) 46
- system of direct public activity 45
- Brazil, water and sanitation services 166–80
- big client segments 178–9
- competition aspects, agency risk 176–7
- economic crisis effects 174
- efficiency levels 171–2, 179
- illegality of alternative sources 178
- individual incentives format 176
- long-term financing, shortage of 171
- non revenue water (NRW) 169
- R&D research levels 172
- regulation requirements 173–5
- Sanitation Law 173–5, 178
- sanitation situation and coverage 167–70
- service provision competition 176–9
- tax structure and inefficiencies 179
- unfair competition 178
- universalization investment 170–73
- water loss level 169
- yardstick competition 176, 177
- Bresnahan, T. 247
- Brill, J. 185
- Brockhoff, J. 200
- Bryson, J. 181
- Bucheb, J. 46, 47
- Buendia Sierra, J. 302
- business
 - activity (state) and subsidiarity principle *see* Peru, state business activity and subsidiarity principle
 - Government Business Enterprises (GBEs), Australia 10–11, 14
 - operations costs, increase in, Venezuelan over-regulation 218–19
 - pricing decisions, Australian competitive neutrality 16–17
 - subject to competitive neutrality policy, Australia 13–15, 31–2
 - transaction costs, increase in, Venezuelan over-regulation 217–18, 222–4
- Butts, C. 203
- Caglia, M. 65
- Campbell, J. 201
- Capobianco, A. 3
- Carvalho, G. 42, 43
- certificate-trading schemes, EU 308–9
- Céspedes Zavaleta, A. 58
- Chabaud, L. 120
- Chakravarthy, S. 277–95
- Chemerinsky, E. 154, 156
- Cheng, Thomas K. 135–65
- Chianale, G. 297
- China, administrative monopoly abuse 135–65
 - Administration of Quality Supervision, Inspection and Quarantine (AQSIQ), case against 149
 - Anti-Monopoly Law 135, 139
 - ‘AQSIQ’ 143
 - balancing approach search 151–65
 - balancing approach search, EU comparison 156–61, 162–3, 164
 - balancing approach search, free movement of goods 157
 - balancing approach search, non-discriminatory administrative measures that hinder internal trade 151–2, 162
 - balancing approach search, US comparison 152–6, 163
 - Chongqing City mineral water promotion 138

- decline 139
- examples 136–9
- Heyuan municipal government and GPS transportation tracking 146–8
- ‘hukou’ system and free movement of persons, lack of 157
- internal trade barriers 139
- overview 136–40
- regional border checkpoints 138–9
- regional protectionist measures, problem with focus on 150–51, 164
- Shanghai discriminatory car licensing policy 136–7
- Shanxi Joint Transport Group and Taiyuan Railway Bureau 148, 150
- Shuchen County protective measures 137–8
- soft regional protectionism, rise in 140, 151
- Taiyuan Railway Bureau case 148, 150, 164
- China, administrative monopoly abuse, laws, relevant 140–51
 - abuse of administrative monopoly, inclusion of 142–4
 - administrative inaction or omission cases 150
 - Anti-Monopoly Law 142–4
 - Anti-Monopoly Law, implementation 144–51
 - Anti-Unfair Competition Law 140–42, 144
 - early laws and regulations 140–42
 - enforcement cases 146–51
 - National Development and Reform Commission (NDRC) responsibilities 145, 148, 152
 - penalty provisions 141–2, 143–4, 147
 - price-related monopolistic agreements 145
 - private abuse-of-administrative-monopoly cases 149–50
 - public-safety defense 147–8
 - purchases of goods or services from designated undertakings, government’s prohibition of 143, 144–5, 146–8
 - State Administration for Industry and Commerce (SAIC) responsibilities 144, 145, 147–8, 152
 - CHP (combined heat-and-power) technology subsidization, EU 307–9
 - Christiansen, H. 3–4
 - Cintioli, F. 110
 - Clarke, J. 278
 - cloud computing providers and data transfer, EU 197–8
 - Coase, R. 218
 - Cohn, G. 41
 - Coleman, C. 219
 - Coma, M. 45
 - commercial rate of return, Australia, and competitive neutrality 33–4
 - commercial re-use of public sector data *see* EU, regulation of public sector information, commercial re-use of data and national law
 - community-service obligations, Australia 16–17
 - competition law and data protection regulation, interface between *see* EU, personal data protection, interface between competition law and data protection regulation
 - competitive neutrality and government’s market advantage *see* Australia, competitive neutrality and government’s market advantage
 - constitution
 - constitutional concept of monopoly, Brazil 43–5
 - formula restricting state business activity, Peru 59–60
 - patent and copyright as constitutional rights, US 265
 - Venezuelan National Constitution, and suppression of competition

- policy agenda 215–16, 229, 233–4
- consumer access to usage data, benefits of, EU Data Protection Directive reform package 198
- consumer goods, sale of, as business activity subject to competitive neutrality, Australia 26–7
- consumer protection, EU, personal data protection 185–6, 204
- corruption
 - as barrier to efficient and sustainable development, India 279–80, 282
 - fuel adulteration and tax evasion problems, Brazil 49
- country-of-origin principle, EU Services Directive 116–17, 124
- Craig, P. 158
- Crespy, A. 115
- cross-border situations
 - EU Data Protection Directive 186, 188
 - regional border checkpoints, China 138–9
- cross-subsidies
 - Brazil, oil policy and Petrobrás 49
 - protection, EU, regulation of public sector information 76
- Curiel Leidenz, Claudia 213–38
- Cutts, M. 131

- Da Rocha Viana, C. 42
- Dalla Costa, A. 53, 54
- Davies, G. 117
- Dawar, K. 278, 279, 286, 288, 290, 291
- De Anhaia Mello, L. 46
- De Burca, G. 158
- De Mattos Dias, J. 43, 53
- De Moraes, A. 46
- De Waele, H. 119
- Del Carmen Alveal Contreras, E. 42, 43
- Delgado, J. 121
- Derenne, J. 301
- Dewatripont, M. 177
- Diez Sánchez, J. 130
- digital content
 - information markets, emergence of, EU 79–80
 - libraries and digitised content, EU 93, 97
 - public-private partnerships for digitisation of data, EU 95–6
 - see also* online services
- discrimination
 - car licensing policy, China 136–7
 - preferences, discriminatory nature and hierarchy of, India 285–6
 - see also* non-discrimination
- dispute resolution mechanism, India 299–300
- dominant position abuse, EU, personal data protection 202, 205–6, 209
- Domingues, M. 131
- Drexl, Josef 64–100, 206
- Dutra, Pedro 239–60

- economic crisis effects, Brazil 174
- economic effects, Brazil, investment targets in pay-TV market 244–7
- economic incentive rationale for patents and copyrights, US 265–7, 271
- economic reforms and Washington Consensus, Peru 56
- educational, research and cultural establishments, EU, regulation of public sector information 72–3, 76, 83–4
- Edwards, E. 200
- efficiency
 - inefficiency of state-owned enterprises, justification for, Peru, state business activity and subsidiarity principle 60
 - market efficiency concerns, Venezuela, over-regulation, and suppression of competition policy agenda 220
- efficiency levels, Brazil, water and sanitation services 171–2, 179
- EFTA, *Creditinfo Lánstraust v. Registers Iceland* 75
- Eifert, M. 53
- Elliot, K. 279
- entry barriers

- EU Services Directive and pro-competitive regulation 105–6
- Venezuelan SMEs, over-regulation, and suppression of competition policy agenda 218, 226, 227–8
- EU
 - administrative monopoly abuse regulation 156–61
 - administrative monopoly abuse regulation, mandatory requirements and proportionality principle 161, 162–3, 164
 - administrative monopoly abuse regulation, TFEU Article 34, quantitative restrictions on imports and measures having equivalent effect (MEQR) 157–60, 162, 163
 - balancing approach search, EU comparison with China 156–61, 162–3, 164
 - bonus/malus system for milk levies according to quality 307
 - certificate-trading schemes 308–9
 - CHP (combined heat-and-power) technology subsidization 307–9
 - functionalist approach 303–4, 307
 - innovation and standards-essential-patents (SEPs) 273–4
 - state aid definition 303–4
 - subsidies, enforcement power and sanctions 301
 - subsidies and public control of decision to grant and finance aid 304–5
 - subsidy loopholes, granting aid without assuming control over the resources 305–7
 - subsidy rules 300–301, 302–3
 - TFEU and open internal market 156–7, 160–61
- EU, cases
 - Aéroports de Paris v. Commission* 92
 - Bond van Adverteeders* 118
 - Cassis de Dijon* 105, 116, 118, 158–9, 161
 - Commission v. Austria* 185
 - Commission v. Denmark* 119
 - Commission v. Germany* 185
 - Commission v. Ireland* 157, 158
 - Commission v. Italy* 88, 105, 157, 160
 - Commission v. UK* 157–8
 - Compass* 66, 88–91, 92–3, 100
 - Consorzio Industrie Fiammiferi* 208, 209
 - Consten and Grundig* 113
 - Corsten* 119
 - Dassonville* 105, 113, 118, 157, 158
 - Deutsche Telekom* 208–9
 - Diego Cali* 91
 - FAPL and Murphy* 113
 - FENIN* 87–8
 - GB-Inno* 208
 - Gebhard* 119
 - Google/DoubleClick* 200–201, 203
 - Gouda* 118
 - Höfner* 87, 88, 92
 - In Re Google Inc. (Buzz feature)* 208–9
 - Keck and Mithouard* 159–60
 - Les Verts v. European Parliament* 206
 - Magill* 67–8, 86, 92, 93
 - Nungesser and Eisele v. Commission ('maize seeds')* 82
 - Parliament v. Council* 186
 - Säger* 116
 - SAT91*
 - van Binsbergen* 118
 - Van Eycke* 208
- EU, personal data protection 181–210
 - consumer protection 185–6
 - legal framework evolution 185–91
 - regulatory approach 192–9
 - regulatory impact 182–4
- EU, personal data protection, Data Protection Directive (1995) 182, 185–8
 - collection and processing of personal data 187
 - cross-border trade considerations 186
 - implementation reports and unresolved problems 189

- personal data, control over 186–7
- personal data definition 186
- sensitive personal data 187
- EU, personal data protection, Data Protection Directive reform package (2012) 182, 184, 188–91
- anti-competitive effects and growth restrictions, criticism of 193–4
- cloud computing providers and data transfer 197–8
- Commission's 'consistency mechanism' 191
- consent requirements 190
- consumer access to usage data, benefits of 198
- cooperation among the supervisory authorities, reinforcement of 191
- cross-border data processing and international transfers, increase in 188
- data misuse concerns 204–5
- data portability right 196–9, 205
- data portability right, standardization of data formats 199
- data protection in law enforcement sector 189–90
- and e-Privacy Directive 195
- European Data Protection Board role 191
- exporting of personal data to another service 196–7
- harmonization benefits 192
- legal fragmentation costs 189–90
- mandatory administrative sanctions for intentional or negligent infringements, criticism of 193
- national supervisory authorities, reinforcement of role and powers 191
- and networked society 188
- notification fatigue and de-sensitization, avoidance of 195
- organizational burdens 192, 195, 197–8
- personal data access and transfer right 196–7
- personal data breaches, requirement to notify 194–5
- remedies and sanctions, improvements in 190–91, 193
- right to be forgotten 190, 192–3
- EU, personal data protection, interface between competition law and data protection regulation 183–4, 200–210
- advertising and tracking of online users' activities 201–2
- Article 102 TFEU market definition enforcement and data-driven practices 203–6, 208
- automatic data transfer concerns 209–10
- behavioural advertising 202
- competition dimension of personal data 200–202
- conflict potential between data protection and competition policies 205–10
- consumer harm assessment 204
- data misuse concerns 204–5
- dominant position abuse 202, 205–6, 209
- fundamental rights 207
- human-rights dimension 206–7
- knowledge sets, different types of 203–4
- merger control 200–201
- personal data from online social interactions 204
- personal data-related issues and dominant position abuse 202
- private entities' liability 208–9
- Treaty commitment to 'undistorted competition' 206–7
- Treaty loyalty clause 207–8
- Web 2.0 technologies 188, 202, 206
- EU, regulation of public sector information (PSI) 64–100
- competition dimension 67–8
- future monitoring, need for 99–100
- history of 96–8
- industrial policy approach 66, 97, 98
- personal data protection 71
- public sector bodies, definition of 70

- public sector information, definition of 70–71
- Public Sector Information (PSI) Directive 64–5
- Public Sector Information (PSI) Directive, EU competition law overlap 66, 100
- re-use of PSI, recognition of obligation to allow 69
- scope of application 69–73
- sector-specific regulation 69–77
- TV programme listings 67–8, 86, 92
- EU, regulation of public sector information (PSI), commercial re-use of data and national law 69–74
- charging policy, exclusive rights' restrictions 76–7, 100
- charging policy, marginal costs 75–6, 78, 88
- commercial re-users producing substitutable information 78–9
- cross-subsidisation protection 76
- documents falling within public task, exceptions for 73, 97–8
- educational, research and cultural establishments 72–3, 76
- format decisions 73–4, 76–7
- legal reasons for limiting access 71
- media archives of public broadcasters, sub-licensing 72
- non-discrimination for comparable categories of re-use 74, 97
- non-discrimination for public sector body acting as competitor of private re-users 75, 78
- third parties holding IP rights 71–2, 82
- EU, regulation of public sector information (PSI), competition policy evaluation 77–86
- commercial re-users producing substitutable information 78–9
- digital information markets, emergence of 79–80
- educational, research and cultural establishments, PSI exemption 83–4
- exclusive rights, effects on competition 81–3
- free-riding protection 82
- Google business strategy 78, 79
- harmonisation requirements 85
- libraries and digitised content 93, 97
- marginal-cost pricing strategy effects 78, 79, 84
- marginal-cost standard, anti-competitive effect 90–91
- marginal-cost standard and production of PSI 80–81
- prevention of competition in upstream market where information is produced 78–80
- public broadcasting, PSI exemption 84, 100
- sector-specific exemptions 83–4
- EU, regulation of public sector information (PSI), public sector bodies as undertakings 86–96
- air space supervision 91
- anti-pollution surveillance 91
- application of PSI Directive to undertakings, uncertainties in 94–6
- competition restraint in downstream information market 93
- exercise of public powers not of an economic nature 89–91
- holder of PSI as undertaking 87–94
- limitations 87–8
- public-private partnerships for digitisation of data 95–6
- re-use of publicly held data 89–91
- statutory obligation to provide certain information 90–92
- Transparency Directive and use of public undertaking term 95, 96
- undertakings and general economic interest, differences between 94
- EU Services Directive and pro-competitive regulation 103–34
- anti-competitive regulation 108–10
- barriers concerning the liberal professions 109
- 'Bolkestein' Proposal 115–17

- case-law, inspiration from 118–19
- CJEU ‘state action doctrine’ 106
- CJEU’s market-access approach 105
- competition in market of services 114–23
- convergence between regulation and competition aims 110–11, 112–14
- country-of-origin principle 116–17
- delegated regulation 107
- entry barriers 105–6
- free market access and market integration 104–7, 112–13
- freedom of establishment 118–19
- freedom of services 113–14
- fundamental freedoms, regulation and implementation of 111, 112–14
- gambling and healthcare exclusions 120
- intellectual property rights, protection of 113–14
- invisible administrative barriers 109–10
- legal barriers to free movement of services 122–3
- liberalisation of network industries 111
- mutual recognition principle and free movement of services 116–17
- natural monopolies 110–11
- non-discrimination and proportionality principles 118, 119
- original version, criticism of 115–17
- prohibited requirements 119
- quota and distance restrictions 109
- regulation, reasons for 106–9
- regulation as tool to eliminate barriers 106–7
- regulatory barriers 108–9
- scope of application 119–21
- sector-specific exclusions 120
- ‘single market imperative’ in competition policy 112–13
- technical reasons for regulation 107–8
- trade-enhancing effects 121–2
- EU Services Directive and pro-competitive regulation, administrative simplification to improve competition 123–32
- administrative burdens as legal barrier 123–5
- authorisation schemes and requirements, elimination consideration 127
- elimination of country-of-origin principle in favour of country-of-destination principle 124
- freedom of establishment 126
- necessity and proportionality 126–8
- plain language use 130–31
- points of single contact 128–30, 132
- principles and guidelines 125–32
- swiftness, transparency and predictability requirements 131–2
- Evenett, S. 278, 283
- exclusive rights, EU, regulation of public sector information 76–7, 81–3, 100
- exports
 - growth, India and public procurement 282–3
 - software services, India 282–3
- expropriation motivations, Venezuela 223, 230, 234–6
- federal regulatory framework, India 286
- federalist systems and subsidy competition 298, 299
- Fels, A. 148
- Fichtner, N. 116–17
- Fikentscher, W. 51
- Finn, P. 7
- Flett, J. 299
- Forgioni, P. 50–51
- forgotten, right to be, EU Data Protection Directive reform package 190, 192–3
- Fox, E. 165
- free competition
 - investment targets in pay-TV market, Brazil 256

- meaning of 263–4
- re-introduction of, US 267–8
- and social market economy 56–9
- free market
 - access and market integration, EU 104–7, 112–13
 - balancing approach search, China 157
 - legal barriers to free movement of services, EU 122–3
 - liberalization of fuel prices, Brazil 49–50
 - mutual recognition principle and free movement of services, EU 116–17
- freedom of initiative rule, investment targets in pay-TV market, Brazil 253
- Frison-Roche, M. 107
- Fukuyama, F. 219
- fundamental rights, EU 111, 112–14, 207

- Galbraith, J. 50
- Galgano, F. 43
- Gamero Casado, E. 129, 130
- Gergen, M. 270
- Germany
 - “Germany’s Gold” 72, 84
 - Hesse Data Protection Act 181
- Gómez Sigala, E. 217
- Google business strategy 78, 79
 - see also under* EU, cases for *Google* cases
- Gordon, D. 290
- Gorjão-Henriques, M. 125
- governance impact, public procurement, India 278–80
- government market advantage and competitive neutrality *see* Australia, competitive neutrality and government’s market advantage
- GPS transportation tracking, China 146–8
- Graham, R. 116
- Grau, E. 43, 44
- green electricity surcharges 306
- greenfield developments, infrastructure pricing 22–3
- Greenleaf, G. 182
- Grossman, E. 115
- Guan, B. 138, 139, 140
- Gurría, A. 182

- Hancher, L. 300, 301
- Hanrahan, I. 14, 16
- harmonization benefits, EU Data Protection Directive reform package 192
- harmonization requirements, EU, regulation of public sector information 85
- Harris, H. 142
- Hatje, A. 117
- Hatzopoulos, V. 114, 124, 126
- Hauptkorn, B. 48, 50
- Healey, Deborah 3–39
- Hoda, A. 286, 292, 293
- Hoppmann, E. 51
- Hovenkamp, H. 53
- Huang, J. 146
- Huang, Y. 136, 142

- imports
 - oil by-products, Brazil (1997) 49
 - oil imports and balance of trade (1940s), Brazil 41–2
 - state as importer, effects of, Venezuela 226, 227
- India, public procurement and benefits of competition policy 277–95
 - accountability and transparency requirements 286–7, 291, 292–3
 - bid-rigging prohibition 278–9
 - corruption as barrier to efficient and sustainable development 279–80, 282
 - discriminatory nature and hierarchy of preferences 285–6
 - dispute resolution mechanism 299–300
 - export growth 282–3
 - federal regulatory framework 286
 - General Financial Rules (GFR) 286–7

- governance impact 278–80
- improvement suggestions 291–3
- integrity in administrative process of procurement 279
- legal instruments, need for 280–81
- legal instruments, requirements 281–2
- negotiated rate contracts 287
- non-discrimination provisions 281
- open tendering 287
- petty purchase of goods or works 288
- price preferences and social responsibility 286, 288–9, 291, 292
- railways, postal, telecommunication and defence sectors and global tendering 288
- redress mechanism for unsuccessful and disappointed bidders 300–301
- rent-seeking concerns 279–80, 282
- software services exports 282–3
- transparency framework 281–2, 283
- unsuccessful bidders, lack of transparency for 299
- India, public procurement and benefits of competition policy, WTO Agreement on Government Procurement (GPA) 277, 280–81, 282–4
 - accession considerations 291–3
 - developing countries, key elements of interest 283–4
 - membership and access to procurement markets of other countries 282–3
- innovation
 - and competition, relationship between 52–3
 - and intellectual property rights, US 271, 272–4
 - policies, Brazil 53–4
 - and standards-essential-patents (SEPs), EU 273–4
- intellectual property rights
 - protection of, EU Services Directive 113–14
 - as state-initiated restraints of competition *see* US, intellectual property rights as state-initiated restraints of competition
 - third parties holding, EU regulation of public sector information 71–2, 82
 - investment targets in pay-TV market *see* Brazil, investment targets in pay-TV market
 - Italy, *Ribes* (re-use of public service information) 90
- Jaeger, Thomas 296–311
- Janssen, K. 86
- Jenny, F. 278
- Jones, A. 105, 106
- judicial bodies, inclusion in competition principles, Venezuela 215
- Kaercher Loureiro, L. 47
- Karpenschif, M. 128
- Kelly, S. 199
- Kliksberg, B. 219
- Klocker, P. 72
- Knorr, A. 297
- Konder Comparato, F. 43, 45
- Kovacic, W. 185
- Kox, H. 121
- Kresalja, B. 56, 57, 58, 59, 61
- labour relationships' regulation, Venezuela 219
- labour solvency and job security, Venezuela 226, 227–8
- Laffont, J.-J. 176, 177
- Lagos, Y. 197, 199
- Landes, W. 267
- language, plain language use, EU Services Directive 130–31
- Leitão Marques, M. 124, 125, 126, 128, 129, 131
- Lianos, I. 207
- liberalization *see* free market
- libraries and digitised content, EU 93, 97
 - see also* digital content
- Lima Sathler, M. 49

- Lindh, P. 113
- long-term financing, shortage of, Brazil
water and sanitation services 171
- Lucinda, C. 245, 247
- Lundqvist, B. 65, 69, 88, 91, 92, 93, 94
- McAfee, R. 106
- Machlup, F. 44
- Mangabeira, F. 43
- Manuel Leitão Marques, Maria 103–34
- marginal-cost pricing strategy effects,
EU, regulation of public sector
information, competition policy
evaluation 78, 79, 84
- marginal-cost standard, EU, regulation
of public sector information
80–81, 90–91
- market advantage and competitive
neutrality *see* Australia,
competitive neutrality and
government's market advantage
- market concentration bias, Venezuela
218–19
- market distortion, and competitive
neutrality *see* Australia,
competitive neutrality and
government's market advantage,
competitive neutrality policy as
response to market distortion
- market efficiency concerns, Venezuela
220
- Martimort, D. 177
- Martínez Gutiérrez, R. 130
- Martins, L. 41
- Maydel, N. 123
- Mayer, H. 44
- Means, G. 48
- media
archives of public broadcasters,
sub-licensing, EU 72
investment targets in pay-TV market
see Brazil, investment targets in
pay-TV market
public broadcasting, public sector
information exemption, EU 84,
100
TV programme listings, EU 67–8, 86,
92
- merger control, EU personal data
protection 200–201
- Michel, V. 120
- Miklin, E. 115
- monopoly
abolition of state monopoly, Brazil 45
administrative monopoly abuse *see*
China, administrative monopoly
abuse
natural monopolies, EU Services
Directive 110–11
regime of exclusivity, Brazil,
investment targets in pay-TV
market 246
state monopoly and fuel supply,
Brazil 42–6
- Monteagudo, J. 122
- Morgan, B. 107, 108
- Motta, M. 51
- Moura e Silva, M. 52
- mutual recognition principle and free
movement of services, EU 116–17
- negotiated rate contracts, India 287
- networked society, and EU Data
Protection Directive 188
- Ning, S. 146
- non-discrimination
EU regulation of public sector
information 74, 75, 78, 97
and proportionality principles, EU
Services Directive 118, 119
public procurement, India 281
see also discrimination
- Ochoa, C. 56, 57, 59, 61
- Ohlhausen, M. 201
- oil policy *see* Brazil, oil policy and
Petrobrás
- Oliveira, Gesner 166–80
- online services
advertising and tracking of online
users' activities, EU 201–2
personal data from online social
interactions, EU 204
Web 2.0 technologies, EU, personal
data protection 188, 202, 206
see also digital content

- open tendering, public procurement,
India 287
- O'Reilly, T. 202
- organizational burdens, EU Data
Protection Directive reform
package 192, 195, 197–8
- Ortiz Neto, J. 53, 54
- Osei-Lah, K. 282
- over-regulation, and suppression of
competition policy agenda *see*
Venezuela, over-regulation, and
suppression of competition policy
agenda
- Owen, B. 136
- Pardo, J. 127
- Pariso, V. 127, 132
- patents *see* intellectual property rights
- Paterson, I. 109
- pay-TV market, investment targets *see*
Brazil, investment targets in
pay-TV market
- penalty provisions, China,
administrative monopoly abuse
141–2, 143–4, 147
- Pérez Fernández, J. 128
- Peritz, Rudolph J.R. 261–74
- personal data protection
EU *see* EU, personal data protection
public sector information 71
- Peru, state business activity and
subsidiarity principle 55–63
constitutional formula restricting
state business activity 59–60
economic reforms and Washington
Consensus 56
free competition principle of social
market economy 56–9
inefficiency of state-owned
enterprises, justification for 60
- Law on the Repression of Unfair
Competition 60
- parliamentary authorization of
exercise of state business activity
61
- private offer, lack of real or potential
62–3
- public interest or national interest,
justified 61–2
- restrictive role 59–62
- state business activity restrictions and
competition rules 60–61
- state as guarantor 57–8
- subsidiarity principle, essential
content 61–2
- supply and demand relationship 62–3
- welfare benefit provision 60
- Petit, N. 110
- Philip, G. 53
- Picker, R. 184
- Pollock, R. 65
- population dispersal effects, Australia 7
- Portugal, zero licensing and EU
Services Directive 125, 127
- Posner, R. 267
- Possas, S. 52
- Potter, A. 149
- prices and pricing
control, Brazil, oil policy and
Petrobrás 50
- discounts, competitive neutrality
complaints, Australia 50–51
- fuel supply market and administered
prices, Brazil, oil policy and
Petrobrás 48–50
- infrastructure in greenfield
developments, Australia 22–3
- marginal-cost pricing strategy
effects, EU, regulation of public
sector information 78, 79, 84
- preferences and social responsibility,
India 286, 288–9, 291, 292
- price-related monopolistic
agreements, China 145
- private abuse-of-administrative-
monopoly cases, China 149–50
- private actors, distortion of competition
to prejudice of, Venezuela 225–8
- private entities' liability, EU personal
data protection 208–9
- private property guarantee, corrosion of,
Venezuela 233–6
- private re-users, EU regulation of public
sector information 75, 78

- private sector, regulation, Government Business Enterprises (GBEs), Australia 10–11
- privatization of state-owned monopolies, Venezuela 215
- privileges for political reasons, effects of, Venezuela 220, 226, 227–8
- property
 - intellectual *see* intellectual property rights
 - licensing requirements for provision of property sales, Australia 28–9
- proportionality principle
 - administrative monopoly abuse regulation, EU 161, 162–3, 164
 - EU Services Directive 118, 119, 126–8
- protectionism, regional measures, China 140, 150–51, 164
- public activity, system of direct public activity, Brazil 45
- public benefits of competitive neutrality policy, Australia 12–13
- public broadcasting, public sector information exemption, EU 84, 100
- public control of decision to grant and finance aid, EU 304–5
- public procurement policy *see* India, public procurement and benefits of competition policy
- public sector information regulation *see* EU, regulation of public sector information
- public utility, national fuel supply system as, Brazil 46–8
- public-interest test process, Australia 32, 35
- public-private partnerships for digitisation of data, EU 95–6
- public-safety defense, China, administrative monopoly abuse 147–8
- purchases of goods or services from designated undertakings, China 143, 144–5, 146–8
- purchasing power, Petrobrás and Brazil oil policy 50–54
- Quaglino, M. 43, 53
- R&D research levels, Brazil 172
- Raghavan, C. 291
- Randall, L. 43, 49, 54
- Reding, V. 181
- regional border checkpoints, China, administrative monopoly abuse 138–9
- regional economic integration zones, lack of subsidy rules 299
- regional protectionism, China 140, 150–51, 164
- regulation of public sector information *see* EU, regulation of public sector information
- regulation, reasons for, EU Services Directive 106–9
- regulation requirements, Brazil, water and sanitation services 173–5
- regulatory agencies and technical expertise, Brazil, investment targets in pay-TV market 241–2, 243–4
- regulatory approach and impact, EU, personal data protection 182–4, 192–9
- Reich, N. 51, 119
- Reiss, P. 247
- Rentrop, T. 115
- resource allocation distortions, Australia 7–8
- Richardson, J. 281
- Ricolfi, M. 75, 95
- Rodríguez Font, M. 127
- Rosch, J. 201, 206
- Rosen, J. 193
- Rovati, A. 71
- Rubini, L. 296, 298, 300, 301, 302, 303
- Ruy Barbosa, A. 46
- Säcker, F. 301
- Salomão Filho, C. 53
- Sampson, A. 40
- sanctions
 - EU Data Protection Directive reform package 190–91, 193

- and incorporation of precautionary measures, Venezuela 218–19, 222–4, 230, 235–6
- sanitation services *see* Brazil, water and sanitation services
- Santiago Iglesias, D. 132
- Sauron, J.-L. 130
- Sawkins, J. 177, 178
- Schellmann, G. 298, 299
- Schumpeter, J. 52, 53
- Semmelmann, C. 112
- sensitive personal data, EU Data Protection Directive 187
- Services Directive, EU *see* EU Services Directive and pro-competitive regulation
- Shleifer, A. 176, 177
- Smulders, B. 302
- social responsibility, and price preferences, India 286, 288–9, 291, 292
- software services exports, India 282–3
- Sokol, D. 3
- Song, B. 165
- Srivastava, V. 286, 292
- state aid definitions 303–4, 307
- state business activity and subsidiarity principle *see* Peru, state business activity and subsidiarity principle
- state as importer, effects of, Venezuela 226, 227
- state intervention and capital reproduction, Brazil 43
- state intervention effects, Venezuela 220, 234
- state monopoly and fuel supply, Brazil, oil policy and Petrobrás 42–6
- state and private subsidies and state character test 296–311
 - bonus/malus system for milk levies according to quality (EU) 307
 - certificate-trading schemes (EU) 308–9
 - combined heat-and-power (CHP) technology subsidization (EU) 307–9
 - federalist systems and subsidy competition 298, 299
 - functionalist approach (EU) 303–4, 307
 - green electricity surcharges 306
 - loopholes, granting aid without assuming control over the resources (EU) 305–7
 - parafiscal charges 305, 306–7
 - parafiscal charges, public body with no discretion on how money is spent 307
 - public control of decision to grant and finance aid (EU) 304–5
 - rationale behind subsidy control 297
 - regional economic integration zones, lack of subsidy rules 299
 - state aid definitions 303–4, 307
 - state preference of certain undertakings, problem of 298
 - state-initiated restraints of competition by means of subsidies 302–9
 - WTO subsidy rules 299–300, 301, 302, 303, 307
 - WTO subsidy rules, rudimentary enforcement 301–2
- Stelkens, U. 125, 128
- subsidiarity principle and state business activity *see* Peru, state business activity and subsidiarity principle
- subsidies and state character test *see* state and private subsidies and state character test
- Suchi, B. 286, 292, 293
- Sufrin, B. 105, 106
- surpluses, community reinvestment proposal, Venezuela 231
- Swire, P. 197, 199, 205
- Tácito, C. 44
- Tavares Guerreiro, J. 50
- taxation
 - fuel adulteration and tax evasion problems, Brazil 49
 - tax structure and inefficiencies, Brazil 179
- television

- investment targets in pay-TV market
 - see* Brazil, investment targets in pay-TV market
 - programme listings, EU 67–8, 86, 92
 - see also* media
- third parties holding IP rights, EU 71–2, 82
- Timburg, C. 193
- Tiomno Tolmasquim, M. 49
- Tirole, J. 176
- trade
 - barriers, internal, China 139
 - trade-enhancing effects, EU Services Directive 121–2
 - WTO *see* WTO (World Trade Organization)
- transparency
 - EU Transparency Directive 95, 96
 - requirements, EU Services Directive 131–2
 - requirements, India, public procurement 281–2, 283, 286–7, 291, 292–3
- Trembath, A. 13, 14, 15, 17
- trust issues regarding policy, Venezuela 219, 222–4
- Tucker, C. 182–3
- UK, Water Act and yardstick competition 177–8
- undertakings, public sector bodies as
 - see* EU, regulation of public sector information, public sector bodies as undertakings
- unfair competition
 - Anti-Unfair Competition Law, China 140–42, 144
 - Brazil, water and sanitation services 178
- universal service obligation, Brazil 252–3, 256, 259
- universalization investment, Brazil, water and sanitation services 170–73
- US
 - anti-monopoly law, lack of 153
 - commerce clause 299
 - Constitution, interstate commerce clause 153–5, 162, 163
 - merger control 200–201
 - non-discriminatory state laws 155–6
 - public utility, understanding of 46–7
 - regional protectionism 152–6
 - state action doctrine 145
- US, cases
 - Bibb v. Navajo Freight Lines* 155–6
 - California Liquor Dealers v. Midcal Aluminum* 106
 - CTS Corp. v. Dynamics Corp. of America* 155
 - eBay* 268, 269, 270, 271, 273
 - Gibbons v. Ogden* 153–4, 155
 - Kodak* 268–9
 - Maine v. Taylor* 155
 - Minnesota v. Clover Leaf Creamery* 155
 - Munn v. Illinois* 47
 - Parker v. Brown* 106, 145
 - Pike v. Bruce Church* 154, 155, 162
 - Southern Pacific Co. v. Arizona* 154
 - Xerox* 268–9, 270–72
- US, intellectual property rights as
 - state-initiated restraints of competition 261–74
 - antitrust decline and expansion of IPRs, explanation for 263–6
 - damages as compensation 270
 - economic incentive rationale for patents and copyrights 265–7, 271
 - free competition, meaning of 263–4
 - free competition, re-introduction of 267–8
 - innovation impact and opportunity costs 271
 - innovation and standards-essential-patents (SEPs) 272–4
 - IPRs and antitrust regulation, history of 262–3
 - IPRs as natural property rights 264–5, 266
 - patent competition policy 267–8
 - patent and copyright as constitutional rights 265

- patent infringement liability and remedy 279
- patent infringements and equitable balancing approach 270
- patent infringements and requirement to deal 271
- patent ownership, competitive effects 268–72
- repair and replacement parts market competition 271–2

- Van de Gronden, J. 119
- Van der Sloot, B. 71
- Van Vliet, H. 302
- Venezuela, over-regulation, and suppression of competition policy agenda 213–38
 - academic infrastructure, lack of 215
 - business operations costs, increase in 218–19
 - business transaction costs, increase in 217–18, 222–4
 - Communal Council fiscal supervision role 231
 - Communal Power Commission 229, 230–31
 - competition advocacy agenda 214–15
 - Constitutional Reform proposal (2007) 233–4
 - displacement of economic agents and imposition of restrictions 221–8
 - distortion of competition to the prejudice of private actors 225–8
 - Enabling laws 216
 - entry barriers for SMEs 218, 226, 227–8
 - expropriation motivations 223, 230, 234–6
 - fiscal supervision actors, increase in number of 230
 - High Authority for the People’s Defence Economy 236
 - institutional components 217–21, 222–4
 - institutional learning process 215–16
 - institutional risks, increase in 217, 222–4
 - inter-institutional policy consultation 215
 - judicial bodies, inclusion in competition principles 215
 - labour relationships’ regulation 219
 - labour solvency and job security 226, 227–8
 - Law of Costs and Fair Prices (LCFP) 221, 222, 230–31, 236
 - Law for the Defence of the Consumer in the Access to Goods and Services (INDEPABIS) 218, 222, 234–5
 - Law for the Promotion and Protection of Free Competition 213–15
 - market concentration bias 218–19
 - market efficiency concerns 220
 - National Constitution 215–16, 229, 234
 - parallel control of economic activity through social organizations 229–33
 - policy initiatives and policy grading of 221, 222–4
 - private property guarantee, corrosion of 233–6
 - privatization of state-owned monopolies, Superintendence function 215
 - privileges for political reasons, effects of 220, 226, 227–8
 - sanctions and incorporation of precautionary measures 218–19, 222–4, 230, 235–6
 - ‘siege of private economic activity’ 216–36
 - state as importer, effects of 226, 227
 - state intervention effects 220, 234
 - Superintendence for the Promotion and Protection of Free Competition 214, 215
 - surpluses, community reinvestment proposal 231
 - trust issues regarding policy 219, 222–4
- Vezzoso, Simonetta 181–210
- Wade, R. 277

- Waller, S. 203
Walmott Borges, A. 46
water and sanitation services *see* Brazil,
 water and sanitation services
Wathlet, M. 117
Web 2.0 technologies
 EU, personal data protection 188,
 202, 206
 see also online services
Weichert, T. 200
Weiss, P. 65
welfare benefit provision, Peru 60
Whish, R. 106
Williamson, J. 56
Williamson, O. 218
Wirth, J. 41
Woll, C. 115
Wolswinkel, J. 108
WTO (World Trade Organization)
 GPA *see* India, public procurement
 and benefits of competition
 policy, WTO Agreement on
 Government Procurement
 (GPA)
 state aid definition 303
 subsidy rules 299–300, 301–2, 303,
 307
yardstick competition, Brazil, water and
 sanitation services 176, 177
Yeung, K. 107, 108
Yoo, C. 205, 206
Yu, L. and D. 139, 151
Zheng, W. 139
Zúñiga-Fernández, Tania 55–63

