

Preface

In February 2014, the Commissioner responsible for Taxation and Customs Union, Statistics, Audit and Anti-fraud, Algirdas Šemeta, said in his speech at the Competition Forum:¹

We are looking at various instruments that play a role in tax planning, such as tax rulings. While the Commission has no problem with tax planning or tax rulings in general, it could be possible that such practices could be considered overly generous and arbitrary.

Sometimes, there is an overlap on what is being covered by the EU tax instruments and the EU competition ones. For example, some tax measures may constitute both state aid and harmful tax competition. However, pursuing cases under competition rules can make a real difference as they can be enforced directly on the basis of the EU Treaty and should provide results in a precise timeframe.

Following from that speech, the then Vice President of the European Commission responsible for Competition Policy, Joaquin Almunia, announced in a speech in September 2014: ‘New State aid investigations have been launched before the summer break into certain tax practices in several Member States, following reports that some companies had received significant tax reductions by way of “tax rulings” issued by national tax authorities.’²

This book addresses, from a competition law perspective, the issues of the tax rulings under State aid investigation, launched by the European Commission in 2014. The research for the book covers the period up to 31 July 2018. It has not been funded by any funding body or corporation – public or private, directly or indirectly – it has solely been supported by my employer, the British Institute of International and Comparative Law. The book is written by a competition lawyer from a competition and constitutional law angle rather than a tax angle. While it would be difficult to discuss tax rulings without touching upon certain tax instruments, the book is not about tax, and the author

¹ Algirdas Šemeta, ‘EU Tax Policy and Competition Policy—A Complementary Approach to Fair Taxation’, Competition Forum of 11 February 2014, http://europa.eu/rapid/press-release_SPEECH-14-117_en.htm, accessed on 29 July 2018.

² Joaquin Almunia, ‘Some highlights from EU competition enforcement’, IBA 18th Annual Competition Conference 19 September 2014, http://europa.eu/rapid/press-release_SPEECH-14-608_en.htm, accessed on 29 July 2018.

does not purport to be a specialist in tax by any stretch of the imagination. It is a relatively short book as one of the rules of writing is to 'omit needless words' according to *The Elements of Style* by William Strunk Jr and Elwyn Brooks White. I have aimed to follow this rule throughout the book, but I apologise if there are any repetitions or rambling.