Preface

Interest in European competition policy has never been higher and the literature has never been richer. In the last decade the European Commission has initiated a thorough review of all areas of its activities stretching from cartels and mergers to state aids and abusive monopolies. Competition policy can certainly be said to have ‘come of age’, and its recognition in the Lisbon Treaty as one of the few exclusive EU competences has enhanced its prestige and significance for students and researchers outside the two disciplines that have overwhelmingly dominated this policy area, namely economics and law. Yet beyond these disciplines, competition policy is little understood or often appreciated. Political scientists rarely study this area; even those working in the field of European Studies have also tended to underplay or overlook its importance as a European policy in the integration process. The absence of politics has long represented a major gap in the competition literature, and especially when the evolution of competition policy provides us with a great example of the European integration process. Over the last fifteen years, however, a small but growing band of historians and political scientists have finally begun to explore competition policy, stress its significance in the European integration process and shed new light onto the origins and actors as well as analysing the impact of competing economic philosophies and the appropriateness of rival theoretical approaches to understanding developments in this field.

This particular work comes at competition policy from a politics/public policy perspective and its focus on actors, ideas and policy developments aims both to complement and add to the existing economics and legal based literatures. This book explores the European Commission’s cartel policy. Cartels have very rarely attracted the attention of political science, and yet cartel-busting has always been one of the foremost activities of the Commission and one that has consumed much of this regulator’s time and resources. Cartel policy provides for a truly fascinating account of supranational governance in action as the Commission looks for ever more imaginative means to detect, unearth and penalise cartel offenders. The recent reform of the Commission’s anti-trust provisions (through Regulation 1/2003) forms part of this modernisation agenda. It was a significant move and marked the first major overhaul of the Commission’s cartel-busting activities since its inception nearly fifty years ago.
Some commentators claim the recent reform package constitutes a ‘revolution’ (Wilks, 2005), while others have opted to regard it instead as the latest development in a regime that has been continually marked by the neo-liberal turn of the 1980s (Wigger, 2008). Whichever reflects better the recent transformation of the policy, there is no doubt that for those of us interested in the area of competition policy (and cartel policy) we are living in interesting times and especially as we wait to see how the credit crunch and worst recession since the 1930s impacts on the competition arena.

Before commencing, however, there are a few stylistic points that need to be addressed at the outset. First, with regard to the numbering of treaty articles, this book uses the post-Amsterdam (post-1999) numbering only. Thus, Article 81 is referred to when cartel/restrictive practices policy is discussed (rather than its former incarnation as Article 85). This book avoids using both to prevent any unnecessary confusion although technically it should refer to Article 85 from 1958–1999. Another word of caution is needed on the numbering of treaty articles: at the time of writing the Treaty of Lisbon had still not been ratified by all 27 EU member states, with the Czech Republic, Germany and Poland still to approve the document. The treaty was ratified by Ireland at the second referendum attempt in October 2009 and approval came shortly thereafter from both Poland and the Czech Republic. The treaty finally came into force on 1 December 2009 and renumbered the treaty provisions. Under the Lisbon Treaty the competition articles now run from Articles 101–110.

The Lisbon Treaty will also adopt the term European Union throughout the entire treaty base. This book uses EU when referring to competition policy although it is currently technically correct to speak of European Community (EC) competition law. On a similar point it should be noted that in 1999, DGIV (Directorate-General Four) of the European Commission became DG Competition (or DG COMP). DGIV may be mentioned in Chapters 4 and 5 as the historical evolution of the policy is explored, but otherwise, DG Competition is used throughout.

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Lee McGowan, May 2009