

---

## Foreword

---

This is a major and highly relevant work. It is not a mere practitioners' handbook, though every practitioner active in the field of competition law should have a copy near at hand, and be familiar with its contents. Nor is it an academic treatise, even though the authors of each of its chapters will lead the reader on a sure path through the sometimes tangled web of academic literature and the ever-growing thickets of the case law of EU and national courts.

The two principal editors have brought together a distinguished panel of contributors who clearly understand not just the detail of the particular fields covered by their contributions, but also the wider context of competition law. As the Preface points out, competition law has come a long way in the 50 years since EEC Council Regulation 17 of 6 February 1962 came into force. For the first three decades, application of competition law was dominated by two complementary tenets of belief – that allegedly anti-competitive conduct could be accurately identified by an analysis that was essentially legal in nature, and that the Commission's application of Article 85(3) (now Article 101(3) TFEU) was characterised by an administrative assessment of detriment/benefit that was largely discretionary, and subject to marginal control by the courts.

Both these tenets were shaken at the end of the 1990s and early 2000s. First, with Commissioner Monti's wholehearted adoption of a 'more economic approach' both to legislation (for example, the first vertical restraints block exemption) and to enforcement policy in individual cases (the need for a clear 'theory of harm'). Second, with Regulation 1/2003 and its acknowledgement that national courts could safely be entrusted with the task not only of identifying anti-competitive behaviour, often using economic evidence, but also of determining whether or not such behaviour could be justified under Article 101(3).

What we do not perhaps sufficiently recognise is how far, as a result of the 'immense success of the competition law enterprise in Europe' – to adopt the editors' phrase – the perceptions of ordinary citizens have changed as to how businesses should behave, and the importance of competition policy in their everyday lives. Price-fixing or manipulation – whether of oil prices, LIBOR or auction house commissions – are now headline news in a way they were not before, even 20 years ago. Businesses and their advisers need as ever to keep ahead of the game, and in this work

they will find a sure guide to the current thinking and best practice on the key legal and economic aspects of competition law: cartels and restrictive agreements, abuse of dominant position and mergers.

I commend it without hesitation.

*Nicholas Forwood  
Judge and Chamber President of the General Court  
Court of Justice of the EU  
Luxembourg – June 2013*