

# Competition Policy for Emerging Economies When and How?

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University of Amsterdam  
Faculty of Law  
Oudemanhuispoort 4  
Amsterdam, The Netherlands



UNIVERSITEIT VAN AMSTERDAM  
*Amsterdam Center for Law & Economics*



## **Competition Policy for Emerging Economies: When and how?**

Since the turn of the century, an increasing number of countries around the world have created competition policy regimes from scratch. Noted examples are new EU Member States, China and India, but also Syria, Kenya and Ecuador have advanced in the process of implementing competition laws. Developing countries are pledging to do the same. International organizations such as UNCTAD and the OECD, as well as leading Western agencies and the ICN have advised for decades in the design of competition rules and the creation of the institutions to enforce them. Multinational corporations adapt their business strategies to these developments.

The topic of competition enforcement in emerging economies and its interrelationship to economic development has come on the academic agenda recently. Central to it is the question whether new enforcement regimes need a special set of enforcement tools and what an appropriate mix of enforcement tools and priorities should be in what stage in the country's economic life-cycle.

### **Key Questions Addressed at this Conference**

**Implementation of competition policy.** What is the right stage in the development of a country for competition policy to add to national prosperity? Should it be part of early aid packages and requirements? What adaptations to competition laws of other jurisdictions do new regimes need? How are legal transplants implemented and how do they function in divergent legal and political systems? Which tools from the rich pallet of competition law enforcement instruments that are applied, for example in the US and the European Commission, are best suited for a young agency? And which are better saved for later stages in its development?

**Initial challenges.** How to kick-start implementation of the law? How to position and staff the institutions? How to nurture proper incentives through selection, training and career prospects? How to organize advocacy? What cases to take-on initially – foreign export cartels, local collusion, domestic mergers? What challenges can agencies expect in the first years? What are the typical procedural and constitutional battles? How to pick the right seminal cases to win those battles and power and reputation? How to avoid corruption by vested interest?

**Cross-border relations.** What may be expected from international cooperation in enforcement? What can be the role of the international business community? How will multinational corporations assess new competition regimes? Will their existence affect investment decisions, and if so how? Are foreign multinational potential entrants allies of the domestic agency, or threats to their effectiveness? What quality of agency do companies prefer?

### **The 7th ACLE Competition & Regulation Meeting**

This C&R Meeting brings together renowned specialists in this area in conference to debate. We also welcome practitioners with a keen interest in this specialty subject, including new agency officials, government officials interested in competition policy as a development aid tool, competition lawyers and consultants that intend to develop a practice and young scholars working on these research topics. We will approach the topic of competition policy for emerging markets and agencies from different angles, both economic and legal. How to make emerging competition law regimes operational and effective? Seeking to be informed by scholarly learning and lessons drawn from the experiences mentioned the approach in this conference will also be practical

### **Conference Venue**

The program takes place in the Faculty of Law of the University of Amsterdam, Oudemanhuispoort 4 in Amsterdam. At this venue, the main place of assembly – for registration and refreshments – is the top plateau in the central hall. This is next to lecture theatre D1.09, where all plenary meetings will be held. The rooms for the parallel sessions are short sign-posted walk.

### **Registration**

The registration desk will be staffed by Chandra Doest and Margot de Vries during the entire conference. They will be happy to assist you with any inquiries concerning the conference, your stay in Amsterdam or onward travels.

### **Conference Ethics and Timing**

There are quite a few parallel sessions and they all have interesting papers. Therefore, ‘session-hopping’ is fine, provided it is done non-disruptively, i.e., quietly and respectfully. It is important – in general and to facilitate hopping – that each presenter keeps to his or her allotted time. Presentations of 20 minutes per paper should work, leaving 10 minutes for questions and discussion after each presentation. Chairs (see program) are asked to keep each presentation to no more than 30 minutes.

### **Lunch**

Lunch is served at 12.00 hours in Het Atrium, Oudezijds Achterburgwal 237 in Amsterdam. This restaurant is a short (2 minutes) walk from the conference venue.

### **Drinks and Dinner Buffet**

After closing the program towards 19.00 hours, you are invited for drinks and a dinner buffet at restaurant De Jaren at the Nieuwe Doelenstraat 20-22. This facility is a 2 minutes walk from the conference venue.

### **Internet Access**

A number of terminals with internet access are available at the registration desk. There are no printing facilities.

### **Leaving Amsterdam**

Schiphol airport is best reached by regular train service. The 15-minute train ride leaves every 10 to 15 minutes from Amsterdam Central Station, which is a 10-minute taxi ride from the conference venue (euro 7,50). A taxi from the conference venue to Schiphol airport would take about 25 minutes and costs approximately euro 40.

### **Conference Organization**

The organizing committee consists of Maarten Pieter Schinkel (chair), Rein Wesseling, Benjamin van Rooij, Jeroen van de Ven, Kati Cseres, Jo Seldeslachts, Martijn Han, Michael Frese and Margot de Vries.

## Conference Program

8.30 – 8.55 Registration with coffee (Central Hall, Faculty of Law)

### *Plenary Session I - Room D1.09*

8.55 – 9.00 Maarten Pieter Schinkel (University of Amsterdam and ACLE): Opening

9.00 – 9.45 Frédéric Jenny (ESSEC Business School): “TBA”

9.45 – 10.00 Coffee and tea – take away (Central Hall, Faculty of Law)

### 10.00 – 12.00 *Parallel Sessions I*

China	CEEC I	India	Case Studies
Room C0.23	Room C1.17	Room C1.23	Room D1.18a

12.00 – 13.30 Lunch at Het Atrium

### *Plenary Session II – Room D.109*

13.30 – 14.15 Daniel Sokol (University of Florida): “Competition after a Decade – How to Reinvigorate Developing World Competition Agencies”

14.15 – 15.00 Michal Gal (University of Haifa): “Transplant of Competition Laws – Who Benefits?”

### 15.00 – 16.30 *Parallel Sessions II*

Asia	CEEC II	Effects Measurement	Topics in Enforcement
Room C0.23	Room C1.17	Room C0.17	Room C3.17

16.30 – 17.00 Coffee/tea and pastries (Central Hall, Faculty of Law)

### *Plenary Session III – Room D1.09*

17.00 – 18.30 Roundtable, moderated by William Kovacic (FTC), with the keynote speakers, joined by: Sean Ennis (Competition Commission of Mauritius), Eleanor Fox (New York University School of Law), Andrew Gavil (Howard University), Marc Ivaldi (Toulouse School of Economics), Ioannis Lianos (UCL), Hassan Qaqaya (UNCTAD), Simon Roberts (Competition Commission South Africa) and Dina Waked (Harvard Law School).

19.00 - Drinks and diner buffet at restaurant “De Jaren”, Nieuwe Doelenstraat 20

## Workshop Program – Parallel Sessions I<sup>1</sup>

### Central and Eastern European Countries I

Chair: *Kati Cseres (University of Amsterdam and ACLE)*

**Anca Chirita** (Saarland University): *Competition law, Policy and Enforcement: The Experience of Romania*

**Rosen Marinov** (Graduate Institute of International Studies): *Competitive Pressure in Transition: A Role for Trade and Competition Policies?*

**Kati Cseres** (University of Amsterdam), *Institutional design for the enforcement of competition law and consumer law in the CEEC's*

### China

Chair: *Benjamin van Rooij (University of Amsterdam)*

**Wei Dan** (University of Macau): *China's Anti-Monopoly Law and Its Merger Enforcement: Convergence and Flexibility*

Pierrette Gaasbeek (Erasmus University) and **Peter van Bergeijk** (Erasmus University): *Chinese Competition: Do We Need a New Competition Policy Regime?*

**Jiaojiao Gao** (De Brauw Blackstone Westbroek): *Competition Law in China: From Merger Control Onwards*

**David Stallibrass** (Office of Fair Trading): *The Role of Economics in the Chinese Anti-monopoly Law*

### India

Chair: *Daniel Sokol*

**Avinash Dadhich** (Bangor University): *Evolution of Competition Law in India: Need for a Unique Approach*

**Aditi Suresh** (Gujarat National Law University): *Competition Policies and Economic Development: India's Perspective*

Paku Khan (Amarchand & Mangaldas & Suresh A. Schroff), Harman Sandhu (Amarchand & Mangaldas & Suresh A. Schroff), Ram Tamara (Nathan Economic Consulting, India) and **Rajinder Kumar** (Competition Commission of India) and Praachi Mishra (Competition Commission of India): *Imperative of a Competition Policy: Notes from India*

### Case Studies

Chair: *Andreas Stephan (University of East Anglia and CCP)*

**C.G. Hariprasad** (Competition Commission of India): *Effects of Entry Deterrent Strategies on Size Distribution of Firms in the Indian Manufacturing*

**Marco Botta** (European University Institute): *The Definition of the Relevant Market and the Degree of Market Concentration in the Emerging Economies: Case Study on Brazil and Argentina*

**Vasanth Adithya** (Nathan Economic Consulting, India): *Usage of Efficiency Tests in Assessing Competitive Effects of Joint Ventures – Case for India*

**Joseph Kieyah** (Kenya Institute for Public Policy Research and Analysis): *Study on the Petroleum Industry in Kenya*

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<sup>1</sup> Presenting authors' names in bold.

## Workshop Program – Parallel Sessions II

### Central and Eastern European Countries II

Chair: *Nina Leheyda*

**Jasminka Pecotic Kaufman** (University of Zagreb): *Some Challenges to Successful Competition Enforcement in an EU Candidate Country – Case of Croatia*

**Svetlana Avdasehva** (Higher School of Economics, Moscow) and **Andrei Shastitka** (Higher School of Economics, Moscow): *Antitrust Legislation in Russia: Recent Trends, Achievements and Threats*

**Nina Leheyda** (ZEW Centre for European Economic Research): *Economic Methods and Concepts in the Competition Analysis of the New EU Member States: Lessons from Latvia*

### Asia

Chair: *Morten Hviid (University of East Anglia and CCP)*

**Shuya Hayashi** (Nagoya University Graduate School of Law): *The Role of Competition Law and Policy in Developing Countries*

**Joseph Wilson** (Competition Commission of Pakistan): *Competition Policies for Emerging Economies: Lesson from Pakistan*

**Francisco Marco** (IE Law School): *Competition Law in Developing Countries: The Influence of Multinational Enterprises*

### Effects Measurement

Chair: *Jo Seldeslachts (University of Amsterdam and ACLE)*

**Tomaso Duso** (Heinrich-Heine University and DICE): *Measuring Competition Policy and its Economic Impact*

**John Kwoka** (Northeastern University) and **Dan Greenfield** (Northeastern University): *Merger Policy in Operation: Lessons for Emerging Economies*

**Aleksandra Khimich** (Toulouse School of Economics), **Marc Ivaldi** (Toulouse School of Economics) and **Frédéric Jenny** (ESSEC Business School): *Measuring the Economic Effects of Cartels in Developing Countries*

### Topics in Enforcement

Chair: *Jens Prüfer*

**Decourcey Eversley** (Barbados Fair Trading Commission) and **Kamisha Menns** (UNCTAD): *Optimal Design of CARICOM Competition Commission*

**Liberty Mcnube** (Competition Commission of South Africa) and **Avias Ngwenya** (Competition Commission of South Africa): *South Africa's Pioneer Settlement in Bread and Milling: An Innovative Way to Remedy Competition Law Violations in Developing Countries*

**Scott Masten** (University of Michigan) and **Jens Prüfer** (Tilburg University and TILEC): *On the Evolution of Collective Enforcement Institutions: Communities and Courts*

## Keynote Speakers

**Michal Gal** is Vice Dean, Director of Graduate Studies and Co-Director of the Forum on Law and Markets at the Faculty of Law, Haifa University, Israel. She was a Visiting Professor at NYU, Georgetown, Melbourne, Singapore, and Lisbon. She is the author of *Competition Policy for Small Market Economies* (Harvard University Press, 2003) and the main author and co-editor of *The Law and Economics of Israeli Competition Law* (Nevo, 2008). She also published scholarly articles on competition law issues and has won prizes for her research and for her teaching. Prof. Gal served as a consultant to several international organizations (including OECD, UNCTAD) on issues of competition law in small and developing economies and is a non-governmental advisor of the International Competition Network (ICN). She also advised several small economies on the framing of their competition laws. She is a board member of several international antitrust organizations, including the American Antitrust Institute (AAI) and the Asian Competition Law and Economics Center (ACLEC).

**Frédéric Jenny** is a Professor of Economics at ESSEC Business School in Paris. He is currently Conseiller en Service Extraordinaire, Cour de Cassation (Member of the French Supreme Court) and Chairman of the OECD Competition Law and Policy Committee. Professor Jenny was closely involved in the establishment of what is now Conseil de la Concurrence (Competition Council) in France and latterly became its Vice-President. He is widely published and has an internationally recognized reputation for his work in the competition field.

**Daniel Sokol** teaches at the University of Florida Levin College of Law. He has written a number of articles on competition law and policy in a developing world context. He is series co-editor of Stanford University Press' Competition Law and Economics. He is co-editor of *Latin American Competition Law and Policy* (Hart 2009 with Eleanor Fox), *The Global Limits of Competition* (Stanford University Press 2012 with Ioannis Lianos), *Competition Law and Development* (Stanford University Press 2013 with Ioannis Lianos and Thomas Cheng), and the *Oxford Handbook on International Antitrust Economics* (Oxford University Press 2013 with Roger Blair).

## Roundtable Speakers

**Sean Ennis** is the Executive Director of the Competition Commission of Mauritius. As the Executive Director he heads the staff of the Commission and is responsible for day-to-day management of the CCM as an institution, reporting to the Board of the Commission. Following a BA Hons degree in Economics from Cambridge University and a PhD in Economics from the University of California at Berkeley, Sean Ennis worked for the U.S. Department of Justice's Antitrust Division and later worked for the European Commission's Directorate General Competition, developing economic analyses for competition law investigations. In 2003 he began serving as a senior economist in the Competition Division of the Organisation for Economic Co-operation and Development (OECD), where he led the OECD's competition assessment project, an international effort to develop and foster best practice for identifying and removing the anticompetitive effects of regulation. He also performed OECD work on competition and reform in regulated industries. His scholarly writings focus on topics in competition and regulation, with published research on telecommunications and health care.

**Eleanor M. Fox** is the Walter J. Derenberg Professor of Trade Regulation at New York University School of Law. Her scholarship is in the area of competition, economic development, and global governance. She was a partner and is of counsel at the New York law firm Simpson Thacher & Bartlett. She served as a member of the International Competition Policy Advisory Committee to the Attorney General and the Assistant Attorney General for Antitrust of the United States Department of Justice (1997-2000) (President Clinton) and as a Commissioner on President Carter's National Commission for the Review of Antitrust Laws and Procedures (1978-79). She has advised numerous younger antitrust jurisdictions, including South Africa, Indonesia, Egypt, Tanzania, Russia, Poland, and Hungary. Fox received an honorary doctorate degree from the University of Paris-Dauphine. She was one of 10 individuals awarded an inaugural Lifetime Achievement award by the Global Competition Review for "substantial, lasting and transformational impact on competition policy and/or practice." Her books include *The Competition Law and the European Union in Comparative Perspective* (West 2009), *Global Issues in Antitrust and Competition Law* with Dan Crane (West 2010), *Economic Development: The Critical Role of Competition Law and Policy* with Abel Mateus (Elgar 2011), and casebooks on US Antitrust law and European law.

**Andrew Gavil** is a member of the faculty of the Howard University School of Law, where he has taught courses on antitrust law, civil procedure, complex litigation, federal courts, and federal regulation since 1989. He has written, lectured, and commented extensively in the U.S. and abroad on various aspects of antitrust law, jurisdiction, and procedure. Particular areas of interest include the role of the U.S. Supreme Court in formulating antitrust rules, antitrust litigation, exclusionary conduct by dominant firms, indirect purchaser rights, expert economic testimony and economic evidence, and comparative and international perspectives on competition policy. With William E. Kovacic and Jonathan B. Baker, he is the author of *Antitrust Law in Perspective: Cases, Concepts and Problems in Competition Policy* (2d ed. 2008). He is also currently at work with co-author Professor Harry First on *Microsoft and the Globalization of Antitrust Law: Competition Policy for the Twenty-first Century*, which will be published by MIT Press.

**Marc Ivaldi** is professor of Economics at the Toulouse School of Economics (TSE) and at the Ecole des Hautes Etudes en Sciences Sociales (EHESS), Research Fellow at the Institut D'Economie Industrielle (IDEI), Industrial Organization Programme Director at the Center for Economic Policy Research (CEPR), and a member of the Economic Advisory Group on Competition Policy at the Directorate General for Competition (European Commission). He holds a PhD in Economics from the University of Pennsylvania. He has served as Scientific Director of the Division of Social Sciences and Humanities at the French Ministry of Higher Education and Research. He is specialized in Applied Industrial Organization, applying econometric methods to evaluate firms' conduct, designing business models, testing theoretical predictions on market equilibrium, and contractual

arrangements and regulatory schemes. He has studied different industries, and in particular network industries: transport, energy, telecommunications, banking, and software. He is one of the European experts on empirical methods for competition policy. He has advised competition authorities and firms in cases of merger, collective dominance and arbitrage. He has published many articles in prominent academic journals.

**Ioannis Lianos** is a Reader in European Union Law and Competition Law and Economics at the Faculty of Laws, University College London (UCL), the Director of the Centre for Law and Economics (Competition, Regulation and Public Policy) and the co-director of the Institute of Global Law, the Centre for Law and Governance in Europe and the Jevons Institute of Competition Law and Economics at UCL. He is also the co-founder and chairman of IMEDIPA, a NGO in competition law established in Athens, Greece. Ioannis is co-editor of the *Global Competition Law & Economics Series* published by Stanford University Press. He is currently co-authoring a book on *Private Enforcement - A Global perspective* (forthcoming Oxford University Press, 2011), a book on *Competition Law Remedies in Europe* (forthcoming Hart Pub, Oxford, 2011), a casebook in EU and UK competition law (forthcoming Hart Pub., 2011) and has published widely in European law and competition law, including five edited volumes (including the forthcoming *Research Handbook in EU Competition Law*, Edward Elgar and *The EU After the Treaty of Lisbon*, Cambridge Univ. Press), a number of chapters in collected volumes and articles in generalist and specialized in competition legal journals. His recent research focuses on the impact of the emergence of forensic economics and economists on the evolution of economic thought and on the assessment of economic evidence in courts.

**Hassan Qaqaya** is the Head of United Nations Competition law and Consumer Policies program. He holds an MSc, in Economics from LSE, UK and an LL.M from the University of Lausanne. He has been with UNCTAD since 1981, first as the Chief of UNCTAD's Competition law and policy advisory services for two decades, then as the Head of the UN Competition law and Consumer policies. He has advised developing countries on the formulation and enforcement of national Consumer protection and competition laws, setting up competition and Consumer protection agencies, institutional building, application guidelines and training of trainers for case handlers and adjudicators. In this capacity he worked over the last thirty years in Africa, Asia, Middle East and Latin America. He has written extensively on competition law and Consumer Policies, particularly on the development dimension of consumer protection and competition laws. This work includes drafting consumer protection laws, competition laws, commentaries on revisions of existing laws, application guidelines and institutional arrangements for the enforcement of consumer protection and competition laws; reports and studies for the UNCTAD Annual Intergovernmental Group of Experts Competition law and Policy; prepared training material for trainers in this area ; advise on handling consumer protection and competition law cases; lectures in international conferences. For over a decade, Hassan Qaqaya was the team leader of the advisory services and capacity building work program which UNCTAD extended to developing countries during the WTO negotiations on Singapore issues.

**Simon Roberts** joined the Competition Commission of South Africa in November 2006 as Chief Economist and Manager of the Policy & Research Division. Prior to this appointment he was Associate Professor in economics at the University of the Witwatersrand. At Wits he also directed the Corporate Strategy and Industrial Development research programme, and previously held positions as lecturer and senior lecturer. He holds a PhD from University of London (Birkbeck College), MA from University of East Anglia, and BA (Hons) from Oxford University. Simon Roberts has undertaken research on a wide range of areas including competition policy, industrial policy, economic development, and international trade. This includes research and advisory work with, and for, many organizations in South, focused on questions of economic policy and economic development. He has published in a range of academic journals including the *Journal of African Economies*, *Industrial and Corporate Change*, *Journal of International Development*, *Development*

Southern Africa, South African Journal of Economics, Telecommunications Policy, International Review of Applied Economics, and Transformation.

**Dina Waked** is an S.J.D. (Doctor of Judicial Science) candidate at Harvard Law School. The title of her dissertation is *Antitrust Laws in Developing Countries: An Empirical Analysis of the Reasons and Effects of Enforcement and Non-enforcement*. Her work investigates the application of antitrust laws in 50 developing countries to assess the environment necessary to accompany enforcement and to investigate what makes enforcement efficient. Her work is supervised by Professor Einer Elhauge at Harvard Law School. Waked obtained an LL.M. (Master of Laws) from Harvard Law School in 2006, a Licence en Droit from Cairo University Faculty of Law in 2005, and a B.A. in Economics from the American University in Cairo (AUC) in 2004. She is currently based in France as a visiting fellow at SciencesPo. Paris Law School. Waked also taught at SKEMA Business School (Sophia Antipolis, France) in 2010 and Global Competition Law and Development at the master's program of AUC's Law Department in 2007 and 2008.

### **The Amsterdam Center for Law and Economics**

The Amsterdam Center for Law & Economics (ACLE) is a joint initiative of the economics and law faculties of the Universiteit van Amsterdam. The objective of the ACLE is to promote high-quality academic research in fields at the interface of law and economics. The ACLE combines the research expertise of some twenty-five scholars in both disciplines, ranging from full professors to PhD students. The Center's main focus areas are: Competition & Regulation, Corporate Governance & Law, and Foundations of Law & Economics. In these three areas, the ACLE seeks to advance understanding, through both research and teaching.

### **The ACLE C&R Meetings**

The ACLE Competition & Regulation meetings are a series of annual workshops that focus on topics in competition law enforcement and regulation. Around a program of key-note speakers, scholars discuss submitted academic papers in parallel sessions. The leading idea is to inform European competition policy. The aim is to attract roughly 100 specialized participants from academia, government antitrust agencies, law and consulting firms to create the optimal conditions for a high level exchange of views.

For more information, see: <http://crmeetings.acle.nl>

### **ACLE Office**

FEB, Roetersstraat 11, room E 7.34

Phone: +31 (0)20-525 7162

Email: [acle@uva.nl](mailto:acle@uva.nl)

Web: [www.acle.nl](http://www.acle.nl)



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