

INTERNATIONAL COMPETITION LAW SERIES

Antitrust Law in Brazil

Fighting Cartels

Eduardo Molan Gaban
Juliana Oliveira Domingues



Wolters Kluwer
Law & Business

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Wolters Kluwer
Law & Business

Published by:

Kluwer Law International
PO Box 316
2400 AH Alphen aan den Rijn
The Netherlands
Website: www.kluwerlaw.com

Sold and distributed in North, Central and South America by:

Aspen Publishers, Inc.
7201 McKinney Circle
Frederick, MD 21704
United States of America
Email: customer.service@aspenpublishers.com

Sold and distributed in all other countries by:

Turpin Distribution Services Ltd.
Stratton Business Park
Pegasus Drive, Biggleswade
Bedfordshire SG18 8TQ
United Kingdom
Email: kluwerlaw@turpin-distribution.com

Printed on acid-free paper.

ISBN 978-90-411-3670-1

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Printed and Bound by CPI Group (UK) Ltd, Croydon, CR0 4YY.

Antitrust Law in Brazil

International Competition Law Series

VOLUME 49

Editor-in-Chief

Alastair Sutton,

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London

The titles published in this series are listed at the end of this volume.

‘Judge not according to the appearance, but judge righteous judgment.’

Jesus Christ, as per John 7:24

Foreword

The star of Brazil is rising. Four years ago, Juan de Onis wrote an article in *Foreign Affairs*, *Brazil's Big Moment – A South American Giant Wakes Up*. 'Brazil today,' he wrote, 'seems poised to finally fulfil its long-unrealised potential as a global player.' (*Foreign Affairs*, November/December 2008)

Brazil stands among the BRICS (with Russia, India, China, and more recently South Africa) as the rapidly rising developing nations.

The antitrust community of the world has taken note. The Brazil competition system is well regarded among its peers. Its anti-cartel system, especially, is praised. The Brazilian enforcement authorities are well represented on international competition programs and events, which proliferate around the world. The Brazilian authorities are known to the world, and Brazil is often regarded as a model for newer competition agencies.

This thorough and informative volume on antitrust law in Brazil by Eduardo Molan Gaban, Ph.D. in Law (Visiting Fulbright Fellow at New York University School of Law / Pontifical Catholic University of São Paulo), and Juliana Oliveira Domingues, Ph.D. in Law (Pontifical Catholic University of São Paulo), is therefore an especially welcome addition to the literature. Gaban and Domingues place the Brazilian law on competition into three contexts, all of which enhance an understanding of the law. The first context is the Brazilian Constitution, which guarantees the free exercise of economic opportunity and the protection against abuse of economic power. The second is comparative, especially US antitrust and EU competition policy. The third is global, including the world institutions that have an antitrust dimension. The authors also bring to bear the economics of antitrust, the several schools of thought on antitrust-economic paradigms, and analysis of antitrust economics fit for Brazil. The heart of the book is the Brazilian system of enforcement itself, with particular attention to cartels.

Foreword

The book is an unusual combination of theory, concept, doctrine, facts and figures. It should be of value to practitioners and scholars alike.

Eleanor M. Fox
Walter J. Derenberg Professor of Trade Regulation
New York University School of Law
October 2011

List of Abbreviations¹

AGU	Brazilian General Attorney's Office
ANATEL	National Telecommunications Agency
APEC	Asia-Pacific Economic Cooperation
CADE	Administrative Council for Economic Defence
CCM	MERCOSUR Trade Commission
CDPC	Competition Law and Policy Committee
CF	1998 Brazilian Federal Constitution
CLP	Competition Law and Policy
CPR	UN Commercial Code of Practice
DNPM	National Department of Mineral Research
DPDC	Consumer Protection Department
DPDE	Department of Economic Protection and Defence
EC	European Community
EU	European Union
FBI	Federal Bureau of Investigation
FTC	Federal Trade Commission
FURP	<i>Fundação para o Remédio Popular</i> (Popular Drug Foundation)
GATT	General Agreement on Tariffs and Trade
IAEAA	International Antitrust Enforcement Assistance Act
IBRAC	Brazilian Institute of Competition and Consumer Relations Studies
ICN	International Competition Network
MERCOSUR	Common Market of the South
MPF	Federal Public Prosecutor's Office

1. The Brazilian acronyms remain unchanged.

List of Abbreviations

MPF/DF	Federal Public Prosecutor's Office in the Federal District and Territories
MPF/GO	Federal Public Prosecutor's Office in Goiás State
MPF/MG	Federal Public Prosecutor's Office in Minas Gerais State
MPF/RJ	Federal Public Prosecutor's Office in Rio de Janeiro State
MPF/RS	Federal Public Prosecutor's Office in Rio Grande do Sul State
MPF/SP	Federal Public Prosecutor's Office in São Paulo State
MP	State Prosecutor's Office
MP/DF	State Prosecutor's Office of the Federal District and Territories
MP/GO	State Prosecutor's Office of the State of Goiânia
MP/MG	State Prosecutor's Office of the State of Minas Gerais
MP/RJ	State Prosecutor's Office of the State of Rio de Janeiro
MP/RS	State Prosecutor's Office of the State of Rio Grande do Sul
MP/SP	State Prosecutor's Office of the State of São Paulo
NBAL	New Brazilian Antitrust Law (passed on 5 October 2011 and enforced in 2012)
NGO	Non-Governmental Organisation
NGA	Non-Governmental Advisors in the ICN
OCTG	Oil Country Tubular Goods
OECD	Organisation for Economic Cooperation and Development
PROCON	Brazilian Unit for Consumer Protection
SBDC	Brazilian Competition Defence System
SDE/MJ	Secretariat for Economic Law of the Ministry of Justice
SEAE/MF	Secretariat for Economic Monitoring of the Ministry of Finance
SNDE	Secretariat of National Economic Law
STJ	The Brazilian Superior Court of Justice
STF	The Brazilian Supreme Court
TCC	Cease and Desist Agreement
UFIR	<i>Unidades Fiscais de Referência</i>
UN	United Nations
UNCTAD	United Nations Conference on Trade and Development
US	United States of America
USDoJ	United States Department of Justice
WGTC	Working Group on the Interaction between Trade and Competition Policy
WTO	World Trade Organisation

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