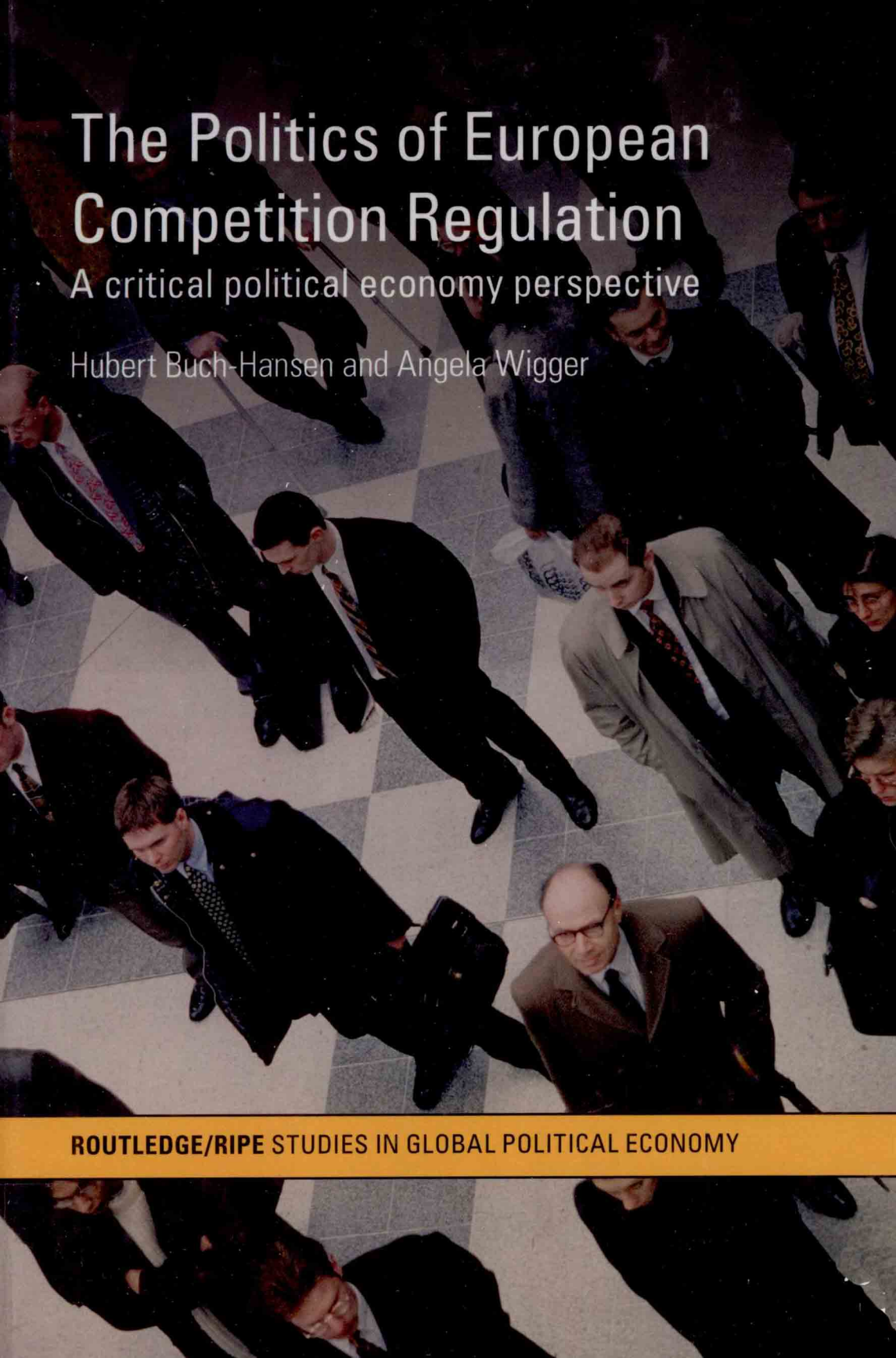




# The Politics of European Competition Regulation

A critical political economy perspective

Hubert Buch-Hansen and Angela Wigger

**ROUTLEDGE/RIPE STUDIES IN GLOBAL POLITICAL ECONOMY**

First published 2011

by Routledge,

2 Park Square, Milton Park, Abingdon, Oxon, OX14 4RN

Simultaneously published in the USA and Canada

by Routledge

711 Third Avenue, New York, NY 10017

*Routledge is an imprint of the Taylor & Francis Group, an informa business*

© 2011 Hubert Buch-Hansen and Angela Wigger

The right of Hubert Buch-Hansen and Angela Wigger to be identified as authors of this work has been asserted by them in accordance with sections 77 and 78 of the Copyright, Designs and Patents Act 1988.

All rights reserved. No part of this book may be reprinted or reproduced or utilised in any form or by any electronic, mechanical, or other means, now known or hereafter invented, including photocopying and recording, or in any information storage or retrieval system, without permission in writing from the publishers.

*Trademark notice:* Product or corporate names may be trademarks or registered trademarks, and are used only for identification and explanation without intent to infringe.

*British Library Cataloguing in Publication Data*

A catalogue record for this book is available from the British Library

*Library of Congress Cataloging-in-Publication Data*

Buch-Hansen, Hubert.

The politics of European competition regulation : a critical political economy perspective / Hubert Buch-Hansen and Angela Wigger.

p. cm.—(RIPE series in global political economy)

Includes bibliographical references and index.

1. Trade regulation—Europe. 2. Competition—Europe.

3. Industrial policy—Europe. 4. Europe—Commercial policy.

Wigger, Angela. II. Title.

HD3616.E853B83 2011

382'.3094—dc22

2010039440

ISBN: 978-0-415-60579-3 (hbk)

ISBN: 978-0-203-82852-6 (ebk)

Typeset in Times New Roman

by RefineCatch Limited, Bungay, Suffolk

# The Politics of European Competition Regulation

*The Politics of European Competition Regulation* provides an original and theoretically informed account of the political power struggles that have shaped the evolution of European competition regulation over the past six decades.

Applying a critical political economy perspective, this book analyses the establishment and development of competition regulation at European Community and national level since the 1950s. It puts forth the central argument that competition regulation came to reflect the broader shift towards a neoliberal order since the 1980s. Buch-Hansen and Wigger argue that this shift, which took place against the background of the gradual transnationalisation of capitalist production and the economic crisis of the late 1970s, was driven by the European Commission in alliance with the emerging transnational capitalist class.

The authors examine the political responses to the current global economic crisis in the fields of state aid, cartel prosecution and merger control and conclude that an alternative type of competition regulation, which forms part of a much broader transformation of the current socioeconomic order, is needed. This book will be of interest to students and scholars of global political economy, European integration and competition law.

**Hubert Buch-Hansen** is Assistant Professor of International Political Economy at Copenhagen Business School Denmark.

**Angela Wigger** is Assistant Professor of Global Political Economy at the Institute of Management Research at the Radboud University, The Netherlands.

## RIPE SERIES IN GLOBAL POLITICAL ECONOMY

Series Editors: Louise Amoore (*University of Durham, UK*), Jacqueline Best (*University of Ottawa, Canada*), Paul Langley (*Northumbria University, UK*) and Leonard Seabrooke (*Copenhagen Business School, Denmark*)

Formerly edited by Randall Germain (*Carleton University, Canada*), Rorden Wilkinson (*University of Manchester, UK*), Otto Holman (*University of Amsterdam*), Marianne Marchand (*Universidad de las Américas-Puebla*), Henk Overbeek (*Free University, Amsterdam*) and Marianne Franklin (*Goldsmiths, University of London, UK*)

The RIPE series editorial board are:

Mathias Albert (*Bielefeld University, Germany*), Mark Beeson (*University of Birmingham, UK*), A. Claire Cutler (*University of Victoria, Canada*), Marianne Franklin (*Goldsmiths, University of London, UK*), Randall Germain (*Carleton University, Canada*), Stephen Gill (*York University, Canada*), Jeffrey Hart (*Indiana University, USA*), Eric Helleiner (*Trent University, Canada*), Otto Holman (*University of Amsterdam, the Netherlands*), Marianne H. Marchand (*Universidad de las Américas-Puebla, Mexico*), Craig N. Murphy (*Wellesley College, USA*), Robert O'Brien (*McMaster University, Canada*), Henk Overbeek (*Vrije Universiteit, the Netherlands*), Anthony Payne (*University of Sheffield, UK*), V. Spike Peterson (*University of Arizona, USA*) and Rorden Wilkinson (*University of Manchester, UK*).

This series, published in association with the *Review of International Political Economy*, provides a forum for current and interdisciplinary debates in international political economy. The series aims to advance understanding of the key issues in the global political economy, and to present innovative analyses of emerging topics. The titles in the series focus on three broad themes:

- the structures, processes and actors of contemporary global transformations
- the changing forms taken by governance, at scales from the local and everyday to the global and systemic
- the inseparability of economic from political, social and cultural questions, including resistance, dissent and social movements.

The series comprises two strands:

The *RIPE Series in Global Political Economy* aims to address the needs of students and teachers, and the titles will be published in hardback and paperback. Titles include:

**Transnational Classes and International Relations**

*Kees van der Pijl*

**Gender and Global**

**Restructuring:**

Sightings, sites and resistances

*Edited by Marianne H Marchand and Anne Sisson Runyan*

**Global Political Economy**

Contemporary theories

*Edited by Ronen Palan*

**Ideologies of Globalization**

Contending visions of a new world order

*Mark Rupert*

**The Clash within Civilisations**

Coming to terms with cultural conflicts

*Dieter Senghaas*

**Global Unions?**

Theory and strategies of organized labour in the global political economy

*Edited by Jeffrey Harrod and Robert O'Brien*

**Political Economy of a Plural World**

Critical reflections on power, morals and civilizations

*Robert Cox with Michael Schechter*

**A Critical Rewriting of Global Political Economy**

Integrating reproductive, productive and virtual economies

*V. Spike Peterson*

**Contesting Globalization**

Space and place in the world economy

*André C. Drainville*

**Global Institutions and Development**

Framing the world?

*Edited by Morten Bøås and Desmond McNeill*

**Global Institutions, Marginalization, and Development**

*Craig N. Murphy*

**Critical Theories, International Relations and 'the Anti-Globalisation Movement'**

The politics of global resistance

*Edited by Catherine Eschle and Bice Maiguashca*

**Globalization, Governmentality, and Global Politics**

Regulation for the rest of us?

*Ronnie D. Lipschutz, with James K. Rowe*

**Critical Perspectives on Global Governance**

Rights and regulation in governing regimes

*Jean Grugel and Nicola Piper*

**Beyond States and Markets**

The challenges of social reproduction

*Edited by Isabella Bakker and Rachel Silvey*

**The Industrial Vagina**

The political economy of the global sex trade

*Sheila Jeffreys*

**Capital as Power**

A study of order and creorder  
*Jonathan Nitzan and Shimshon  
Bichler*

**The Global Political Economy of  
Intellectual Property Rights,  
Second Edition**

The new enclosures  
*Christopher May*

**Corporate Power and Ownership  
in Contemporary Capitalism**

The politics of resistance and  
domination  
*Susanne Soederberg*

**Savage Economics**

Wealth, poverty and the temporal  
walls of capitalism  
*David L. Blaney and Naeem  
Inayatullah*

**Cultural Political Economy**

*Edited by Jacqueline Best and  
Matthew Paterson*

**Gender and Global Restructuring  
Second Edition**

Sightings, sites and resistances  
*Edited by Marianne H. Marchand and  
Anne Sisson Runyan*

*Routledge/RIPE Studies in Global Political Economy* is a forum for innovative new research intended for a high-level specialist readership, and the titles will be available in hardback only. Titles include:

**1. Globalization and Governance \***

*Edited by Aseem Prakash and  
Jeffrey A. Hart*

**2. Nation-States and Money**

The past, present and future of  
national currencies  
*Edited by Emily Gilbert and  
Eric Helleiner*

**3. The Global Political Economy  
of Intellectual Property  
Rights**

The new enclosures?  
*Christopher May*

**4. Integrating Central Europe**

EU expansion and Poland,  
Hungary and the Czech Republic  
*Otto Holman*

**5. Capitalist Restructuring,  
Globalisation and the  
Third Way**

Lessons from the Swedish  
model  
*J. Magnus Ryner*

**6. Transnational Capitalism and  
the Struggle over European  
Integration**

*Bastiaan van Apeldoorn*

**7. World Financial Orders**

An historical international  
political economy  
*Paul Langley*

**8. The Changing Politics of  
Finance in Korea and Thailand**

From deregulation to debacle  
*Xiaoke Zhang*

**9. Anti-Immigrantism in Western  
Democracies**

Statecraft, desire and the politics  
of exclusion  
*Roxanne Lynn Doty*

**10. The Political Economy of  
European Employment**

European integration and the  
transnationalization of the  
(un)employment question  
*Edited by Henk Overbeek*

11. **Rethinking Global Political Economy**  
Emerging issues, unfolding odysseys  
*Edited by Mary Ann Tétreault, Robert A. Denemark, Kenneth P. Thomas and Kurt Burch*
12. **Rediscovering International Relations Theory**  
*Matthew Davies and Michael Niemann*
13. **International Trade and Developing Countries\***  
Bargaining coalitions in the GATT & WTO  
*Amrita Narlikar*
14. **The Southern Cone Model**  
The political economy of regional capitalist development in Latin America  
*Nicola Phillips*
15. **The Idea of Global Civil Society**  
Politics and ethics of a globalizing era  
*Edited by Randall D. Germain and Michael Kenny*
16. **Governing Financial Globalization**  
International political economy and multi-level governance  
*Edited by Andrew Baker, David Hudson and Richard Woodward*
17. **Resisting Intellectual Property**  
*Debora J. Halbert*
18. **Neoliberal Hegemony**  
A global critique  
*Edited by Dieter Plehwe, Bernhard Walpen and Gisela Neunhöffer*
19. **Global Standards of Market Civilization**  
*Edited by Brett Bowden and Leonard Seabrooke*
20. **Beyond Globalization**  
Capitalism, territoriality and the international relations of modernity  
*Hannes Lacher*
21. **Images of Gramsci**  
Connections and contentions in political theory and international relations  
*Edited by Andreas Bieler and Adam David Morton*
22. **Global Public Policy**  
Business and the countervailing powers of civil society  
*Edited by Karsten Ronit*
23. **The Transnational Politics of Corporate Governance Regulation**  
*Edited by Henk Overbeek, Bastiaan van Apeldoorn and Andreas Nölke*
24. **National Currencies and Globalization**  
Endangered specie?  
*Paul Bowles*
25. **Conflicts in Environmental Regulation and the Internationalization of the State**  
Contested terrains  
*Ulrich Brand, Christoph Görg, Joachim Hirsch and Markus Wissen*
26. **Governing International Labour Migration**  
Current issues, challenges and dilemmas  
*Edited by Christina Gabriel and Hélène Pellerin*

**27. The Child in International Political Economy**

A place at the table

*Alison M. S. Watson*

**28. Global Citizenship and the Legacy of Empire**

Marketing development

*April Biccum*

**29. Development, Sexual Rights and Global Governance \***

Resisting global power

*Amy Lind*

**30. Cosmopolitanism and Global Financial Reform**

A pragmatic approach to the

Tobin tax

*James Brassett*

**31. Variegated Neoliberalism**

EU varieties of capitalism and international political economy

*Huw Macartney*

**32. The Politics of European Competition Regulation**

A critical political economy perspective

*Hubert Buch-Hansen and Angela Wigger*

**33. The European Union, Civil Society and Conflict**

*Edited by Nathalie Tocci*

*\*Also available in paperback*



# Preface and acknowledgments

This book is not solely about competition and competition regulation. Instead, it retells the history of more than 60 years of capitalist development in Europe. It does so by locating the evolution of the content, form and scope of European competition regulation in the context of shifting social power balances within the broader political economy. Its aim is to stimulate critical and heterodox thinking about the central and often unchallenged position of competition and its regulation in the broader regulatory ensembles of advanced capitalist economies.

The book builds on several years of research that we conducted as part of our PhD studies at Copenhagen Business School and the Vrije Universiteit Amsterdam. But it also moves well beyond that. It is the outcome of an intellectual journey that has proceeded through dialogues with different bodies of literature. Of these dialogues, three particularly deserve mentioning here: first, our work greatly benefited from an interchange with critical realist philosophy of science. The theoretical perspective advanced in this book is underpinned by the social ontology of critical realism, according to which history and social phenomena are the open-ended and contingent outcomes of dynamic interplays between material structures, discourses and agents. We are very much indebted to the works of scholars such as Margaret Archer, Roy Bhaskar, Andrew Sayer and Colin Wight. Second, this book draws on a dialogue with historical materialist perspectives on capitalism, its inherent contradictions and transformation, classes and class fractions, regulation and the state. Contemporary scholars whose theoretical works have inspired us include Bob Jessop, Bastiaan van Apeldoorn, Henk Overbeek, William I. Robinson, Alain Lipietz, David Harvey, Robert Cox, Magnus Ryner, Alan Cafruny and Kees van der Pijl. Third, at a lower level of abstraction, this book entered a dialogue with various empirical sources and studies on competition regulation. We have learned a lot from personal conversations with, and the work of, political scientists such as Michelle Cini, Lee McGowan, Stephen Wilks, Marie-Laure Djelic, Umut Aydin, Brigitte Leucht, Hussein Kassim, and Chad Damro. Likewise, engaging with the works of historians and legal scholars such as Laurant Warloutzet, Volker Berghahn, Tony Allan Freyer, Daniel Goyder, David J. Gerber and Giorgio Monti has enriched our understanding of competition regulation in important ways. Our gratitude moreover goes to all the people from the European

Commission, organised labour and business groups, as well as competition law experts who generously agreed to be interviewed by us.

On a more personal level, we would like to thank our friends and families for all their love and support and our esteemed colleagues for their constructive critique and advice on ongoing work. Special thanks go to the members of the Amsterdam Research Centre for International Political Economy: Henk Overbeek, Bastiaan van Apeldoorn, Andreas Nölke, Laura Horn, James Perry, Nana de Graaff, and Arjan Vliegthart, as well as to Morten Ougaard, Peter Nielsen, Susana Borrás, Robbert Maseland, Jan Orbie, Otto Holman and Duncan Wigan. We have also benefited from many conversations with our colleagues from the Politics Department at the Radboud University in Nijmegen and the Department of Intercultural Communication and Management at Copenhagen Business School. We are also grateful to the audiences at several conferences and workshops for their valuable inputs and to Richard Harvey for checking our use of the English language. Finally, we would also like to thank the editors and the anonymous reviewers for their valuable suggestions and thoughtful comments, as well as Hannah Shakespeare, Harriet Frammingham and the rest of the Routledge team for their enthusiasm and professionalism.

The central argument of this book has also been published as an article titled 'Revisiting 50 years of market-making: The neoliberal transformation of European competition policy' in the *Review of International Political Economy*. For the record, we would like to emphasise that we have contributed equally to this work and that our names appear in the alphabetical order of our surnames.

Hubert Buch-Hansen and Angela Wigger

June 2010

*Amsterdam and Copenhagen*

# Foreword

As the authors argue in this insightful and timely book, competition has become the unifying principle of the European integration process. The neoliberal myth that competition alone produces efficiency and economic growth, and that bringing ever more areas of social life under the discipline of market competition will enhance welfare for all, has cast a spell on the integration process since the 1980s. Indeed in the original, but in the end rejected (in France and the Netherlands), European constitution ‘free and undistorted competition’ had been listed as one of the Union’s fundamental objectives. However, the policy aimed at promoting free market competition – as part of a broader *marketisation* project – had already become part of the EU’s *de facto* ‘constitution’ as a result of a process that forms the central and compelling story of this book, that is, the neoliberal transformation of the European competition regime.

This first book-length analysis of European competition regulation from a critical political economy perspective, is a very welcome contribution to the understanding of not only this key policy area but also of the European project as a whole. Welcome because it presents an empirically solid, theoretically consistent, tightly argued explanation of the transformation of European competition regulation, one that throws a truly novel light on these regulatory developments and thus takes us beyond the more conventional (institutionalist) approaches. It does so by adopting a perspective that puts the regulation of competition, as its central research problem, squarely in the context of capitalism and its constituent social relations. It thus recognises that competition and competition policy cannot be abstracted from the capitalist economic system, and its contradictory dynamic of capital accumulation, of which it is part, nor from what the authors call the *ensemble of regulation* that is critical to the reproduction of that system. It is this then that allows the authors to reveal the broader social purpose served by competition regulation, showing how its content reflects underlying unequal social power relations.

Taking the dialectical interplay of structure and agency over time as an important point of departure, the authors show how the struggle over the transformation of EU competition regulation has been shaped by four contending regulatory discourses in turn shaped by rival social forces, in particular those organically linked to prevailing (transnational) fractions of the capitalist class.

This sophisticated analysis – taking agency as well as the mediating power of ideas seriously without lapsing into voluntarism or idealism, and taking (economic) structures seriously without succumbing to an unwarranted determinism or economism – thus produces an historically and empirically rich narrative that reveals how competition regulation in the EU has been undergoing a neoliberal transformation that has clearly served the interests of transnational capital more than that of other social groups. From this critical perspective, then, the social costs of competition that remain hidden in the orthodox neoclassical account come sharply into focus.

This study is all the more welcome because of its timeliness. It comes at a moment in which the whole European project, of which competition regulation has been and still is such an important part, has arguably entered its most serious crisis yet. This crisis, and the new constraints it imposes as well as the new opportunities it offers, makes it all the more important to understand how we got here, as well as, on that basis, to gain insight into both the potential for, as well as limits to, the transformation of the current socio-economic order.

Arguably, the neoliberal model of European governance is now near collapsing under the weight of its own contradictions, or at least has been entering into a multi-level legitimacy crisis. The unravelling of neoliberal hegemony started with the aforementioned popular rejections of the Constitution in 2005 in the context of a heightening Euro-scepticism. Since then, the neoliberal policy orthodoxy, including the quasi-religious dogma of competition, has naturally come under heavy fire in the wake of the near total collapse of the global economy that for more than two decades had been premised on the precepts of neoliberal governance and neoclassical economics. The current crisis presents real dilemmas for Europe's ruling elite. From the perspective of Europe's capitalist class the whole *raison d'être* of the European integration process is that it promotes marketisation and commodification through applying the principle of competition above everything else. Yet it is precisely this which also is most damaging to the legitimacy of the whole project. This then hints at some of the deepening social contradictions of the prevailing paradigm of competition regulation and of the neoliberal project more widely. This comes on top of a contradiction that is in fact inherent in all types of capitalist competition regulation and of which the authors display an astute awareness, which is that although competition is the lifeblood of capitalism as well as an opportunity to individual firms seeking to enter new markets, those same firms will always strive for monopoly. As is evidenced by the analysis of this book, calls for increased (free) competition are thus often accompanied by calls for policies that facilitate greater concentration and protection against outsiders (maybe increasingly from East Asia as the current economic power balance is shifting away from the West?).

Reading this book will contribute greatly to understanding these contradictions and resultant regulatory dilemmas. As regards the neoliberal project, the EU appears to be at a crossroads. Although the legitimacy of neoliberal governance has been seriously weakened by the crisis, and although its underlying

growth model has turned out to be a (near fatal) failure, there are also signs that neoliberalism within the EU is Phoenix-like arising from the ashes. Thus for instance, Europe's successor strategy to the Lisbon agenda called 'Europe 2020' entails much of the same old neoliberal content. In the case of competition regulation this book shows how, thus far, the neoliberal discourse, despite waning societal legitimacy, continues to inform the policies of the authorities in Brussels. However, taking a somewhat longer-term view, the contradictions of the neoliberal finance-led growth model that now have become manifest appear to run so deep as to present insurmountable limits – that is, this model has proven to be unsustainable. Yet, as the authors correctly point out, to move beyond protracted crisis management and restore growth on a different basis, an alternative model first has to be presented as well as supported by a new configuration of social forces. This is not yet in the offing: instead of a counter-project to neoliberalism that departs from a critique of the social destruction wrought by 'undistorted competition', much of the current social discontent seems to find its expression above all in the rise of (radical) right-wing populist forces. But inasmuch as politics is also a battle of ideas, one pre-condition is that indeed ideas that contain genuine alternatives to neoliberalism are available for social forces to draw upon. The authors must be commended for ending their book with such a set of ideas, presenting an outline in which they make a forceful case for a new competition regulation that would form part of a more ecologically balanced, more democratic and more just social order.

Let me thus conclude by congratulating the authors with this important book that, representing critical scholarship in the field of European political economy at its best, deserves to be widely read. I have no doubt that its readers will be enriched by the novel insights this book offers into what is, and is likely to remain, one of the crucial areas of European supranational socio-economic regulation at a moment in which the European project is at such a critical juncture, economically, socially and politically.

Bastiaan van Apeldoorn  
September 2010  
*Vrije Universiteit Amsterdam*

# Contents

|                                                                                        |     |
|----------------------------------------------------------------------------------------|-----|
| <i>Preface and acknowledgments</i>                                                     | xii |
| <i>Foreword</i>                                                                        | xiv |
| <b>Introduction</b>                                                                    | 1   |
| <i>How this book differs ...</i>                                                       | 4   |
| <i>The structure of the book</i>                                                       | 7   |
| <b>1 Theorising competition regulation: a critical political economy perspective</b>   | 10  |
| <i>1.1 Ontological reflections</i>                                                     | 10  |
| <i>1.2 Capitalism and competition</i>                                                  | 12  |
| <i>1.3 Theorising competition regulation</i>                                           | 15  |
| <i>1.4 Classes and class fractions</i>                                                 | 18  |
| <i>1.5 Social forces and discourses of competition regulation</i>                      | 20  |
| <i>1.6 Conceptualising the state and supranational institutions</i>                    | 23  |
| <i>Conclusion</i>                                                                      | 25  |
| <b>2 The origins of European competition regulation I: national level developments</b> | 27  |
| <i>2.1 The US antitrust movement and the 1890 Sherman Act</i>                          | 27  |
| <i>2.2 Cartels and economic concentration in industrialising Europe</i>                | 30  |
| <i>2.3 The political role of cartels in the rise of Nazi Germany</i>                   | 31  |
| <i>2.4 The influence of US antitrust architects on rebuilding post-war Germany</i>     | 31  |
| <i>2.5 The German cartel regulation and the question of ordoliberal influence</i>      | 34  |
| <i>2.6 Competition regulation in France</i>                                            | 37  |
| <i>2.7 Competition regulation in the UK</i>                                            | 38  |
| <i>Conclusion</i>                                                                      | 40  |

|                                                                                              |    |
|----------------------------------------------------------------------------------------------|----|
| <b>3 The origins of European competition regulation II: the supranational level</b>          | 41 |
| 3.1 <i>The Schuman Declaration</i>                                                           | 41 |
| 3.2 <i>Establishing the ECSC competition unit of regulation</i>                              | 42 |
| 3.3 <i>The content, form and scope of the ECSC competition unit</i>                          | 47 |
| 3.4 <i>Establishing the EC competition unit of regulation</i>                                | 49 |
| 3.5 <i>The content, form and scope of the EC competition unit</i>                            | 52 |
| 3.6 <i>The adoption of Regulation 17/62</i>                                                  | 54 |
| <i>Conclusion</i>                                                                            | 56 |
| <b>4 European competition regulation in the era of embedded liberalism</b>                   | 57 |
| 4.1 <i>The era of the embedded liberalism compromise</i>                                     | 57 |
| 4.2 <i>Responding to the American Challenge</i>                                              | 59 |
| 4.3 <i>National competition regulation and the introduction of merger control</i>            | 62 |
| 4.4 <i>The development and enforcement of EC competition policy in the 1960s</i>             | 65 |
| 4.5 <i>EC Competition regulation and crisis management in the 1970s</i>                      | 68 |
| 4.6 <i>The 1973 proposal for an EC merger regulation</i>                                     | 70 |
| <i>Conclusion</i>                                                                            | 72 |
| <b>5 The neoliberalisation of European competition regulation</b>                            | 73 |
| 5.1 <i>The crisis of embedded liberalism and the ascendancy of neoliberalism</i>             | 73 |
| 5.2 <i>The transformation of national competition regulation in the 1980s</i>                | 76 |
| 5.3 <i>EC competition regulation in the transition phase</i>                                 | 77 |
| 5.4 <i>Transnational capital and the re-launch of the European integration project</i>       | 78 |
| 5.5 <i>The neoliberal turn in EC competition regulation</i>                                  | 80 |
| 5.6 <i>Transnational capital and the question of EC merger control</i>                       | 81 |
| 5.7 <i>The adoption of the 1989 merger control regulation</i>                                | 85 |
| <i>Conclusion</i>                                                                            | 87 |
| <b>6 Consolidating neoliberalism: European competition regulation from the 1990s onwards</b> | 88 |
| 6.1 <i>The transnationalisation of capitalism</i>                                            | 88 |
| 6.2 <i>The neoliberal hegemony of the 1990s</i>                                              | 91 |

|          |                                                                                                     |            |
|----------|-----------------------------------------------------------------------------------------------------|------------|
| 6.3      | <i>Transnational capital and the 'ayatollahs' of neoliberal competition regulation</i>              | 94         |
| 6.4      | <i>Cartel prosecution, privatisation and state aid in neoliberal times</i>                          | 96         |
| 6.5      | <i>Neoliberal enforcement practices in EC merger control</i>                                        | 98         |
| 6.6      | <i>National competition regulation</i>                                                              | 100        |
|          | <i>Conclusion</i>                                                                                   | 102        |
| <b>7</b> | <b>EC competition regulation at the dawn of the century: modernisation, contestation and crisis</b> | <b>103</b> |
| 7.1      | <i>The privatisation and (de)centralisation of EC competition regulation</i>                        | 103        |
| 7.2      | <i>The 'microeconomisation' of EC competition regulation</i>                                        | 107        |
| 7.3      | <i>The driving forces behind Regulation 1/2003</i>                                                  | 109        |
| 7.4      | <i>The politics of reforming EC merger control</i>                                                  | 111        |
| 7.5      | <i>A renewed moment of contestation to neoliberal EC competition regulation</i>                     | 114        |
| 7.6      | <i>European competition regulation in the wake of the global financial crisis</i>                   | 117        |
|          | <i>Conclusion</i>                                                                                   | 118        |
| <b>8</b> | <b>The neoliberal crusade for bilateral and multilateral competition rules</b>                      | <b>119</b> |
| 8.1      | <i>Conflict and cooperation across the Atlantic</i>                                                 | 119        |
| 8.2      | <i>United corporate agenda setting for more and faster liberalisation</i>                           | 122        |
| 8.3      | <i>Towards transatlantic convergence of competition rules</i>                                       | 125        |
| 8.4      | <i>Multilateralising competition rules: the vanguard role of the European Commission</i>            | 127        |
| 8.5      | <i>Political contestation and the end of the multilateral competition project</i>                   | 131        |
| 8.6      | <i>The International Competition Network and the Commission's reinvigorated bilateralism</i>        | 133        |
|          | <i>Conclusion</i>                                                                                   | 135        |
|          | <b>Concluding remarks</b>                                                                           | <b>136</b> |
|          | <i>The transformation of European competition regulation</i>                                        | 136        |
|          | <i>Towards a paradigm shift?</i>                                                                    | 141        |
|          | <i>Outline of an alternative vision for competition regulation</i>                                  | 142        |
|          | <i>Notes</i>                                                                                        | 147        |
|          | <i>References</i>                                                                                   | 150        |
|          | <i>Index</i>                                                                                        | 175        |



# Introduction

The assumption that competition is good and more competition is even better has reached the status of a mantra among policy-makers, businesspeople and academics alike. Never before in the history of mankind has faith in competition enjoyed such an exalted, almost religious, standing and never before have more dimensions of social reality been immersed with its logic. With the ascendancy of neoliberal doctrines in the 1980s, previously shielded public utility sectors, such as energy, water, transportation, postal services and telecommunications were privatised and exposed to the necessity to compete. The imperative of competitiveness is not only limited to the domain of private companies competing for profits and markets however. A sweeping marketisation has embraced ever more public service sectors, ranging from social welfare, health care, housing and increasingly also education. Universities compete for students and funding for research projects, hospitals compete for patients and local townships, cities, regions and even entire countries compete for mobile taxpayers, tourists and corporate investments. At the same time, the unemployed compete for jobs, whilst the employed vie to keep their jobs and further their career opportunities. The vast prominence of disciplinary policy tools, such as performance indexes, scoreboards and benchmarking 'best practices' are a tangible manifestation of competition as a totalising and all-pervasive logic. Exposed to continuous comparative evaluation, contemporary capitalist societies have transformed into true competition societies.

The European Union (EU) is at the forefront of promoting competition as inherently positive. Competition is featured as a panacea for almost everything: it is believed to boost economic competitiveness, enhance social welfare, produce sustainable economic growth and currently even to cure the global economic crisis. The idea that more competition automatically leads to more competitiveness was first endorsed in the European Commission's *White Paper on Competitiveness, Growth and Employment* in 1993. In the Lisbon Agenda of 2000, the goal to outcompete the rest of the world by becoming the world's most competitive and knowledge-based economy in 2010 was declared official EU policy (European Council 2000). In the same vein, the recently published follow up, the *Europe 2020 Strategy*, also centre-staged the 'competition for competitiveness' spirit in its headline targets. Somewhat paradoxically, the new strategy