

**Kseniya Smyrnova,**  
***Pravove reguluvannya konkurencii v Evropeis'komu Soyuzi: teoriya i praktuka***  
**[*Legal Regulation of Competition in European Union: theory and practice*],**  
**Odessa 2015, 432 p.**

The reviewed monograph written by Kseniya Smyrnova is entitled *Legal Regulation of Competition in the European Union: theory and practice (Pravove reguluvannya konkurencii v Evropeis'komu Soyuzi: teoriya i praktuka* – in Ukrainian). The book was published in Odessa at the beginning of 2015.

Competition policy is about applying rules to make sure companies compete fairly with each other. This encourages enterprise and efficiency, creates a wider choice for consumers and helps reduce prices and improve quality. These are the reasons why the EU fights anticompetitive behaviors, reviews mergers and encourages market liberalization. However, the author argues and proves within the reviewed book that competition has more than just a purely economic function of regulating market mechanisms. It is said that competition has also a social function, promoting benefits for consumer welfare as a result of fair pricing and high quality products.

The author proposed to consider competition in both a broad and a narrow sense. In the broad context, competition can be characterized by three main features: 1) competition is a regulator of pricing policy; 2) it is also a prerequisite for the realization of the rights of consumers and the growth in living standards and, finally; 3) competition is the lawful business conduct in the market, which aims to obtain favorable terms of sales and production of goods. Looking at competition in the narrow sense, competition is a form of legal conduct on the market (in a legal framework). In other words, competition is limited by the law. It should be emphasized that these frameworks are established by national State legislation and by international laws. It seems logical that the broad manner of understanding competition is interdisciplinary and covers economic and social as well as legal principles. The narrow concept of competition is more formalized, and therefore becomes the object of this study.

The book focuses on the systematic evolutionary stages of the origin and development of the idea of free competition, which is subjected to changes depending on the socio-economic factors of the region. The question is whether free competition involves State intervention in economic processes? How far can this State influence affect the development of fair competition? And, most importantly: is free competition justified in terms of getting more benefits to consumers?

The book contains a general introduction, plus six substantial chapters based on the main spheres of competition law: history of competition law development & main theories on competition (Chapter 1); basic principles of EU competition law (Chapter 2); anti-competitive regimes and agreements (Chapter 3); abuse of a dominant position (Chapter 4); and merger regulation (Chapter 5); impact of EU competition law on the legal framework of Ukraine due to the Association Agreement (Chapter 6).

The author presents a unique view of the history of competition law starting from Roman law (pp. 11–22) as well as the formation of international regulation of competition (pp. 22–30), including the history of EU Competition Law (pp. 63–82). The book formulates a clear thesis about the role of the EU Treaty, as interpreted by the Court of Justice, as the EU's economic constitution which draws on well-established literatures in ordoliberal economics and political liberalism. The book continues to develop this argument on the basis of case studies viewed through the potentially contradictory lenses of two very different forms of EU policy-making: competition policy (with its highly juridified enforcement systems meant to protect competitive markets) and industrial policy (an archetypal 'soft area' of policy-making meant to deal with problems of market failure where the Member States have been notably reluctant to confer competences upon EU institutions).

The analyzed doctrinal thoughts focused on the increased role of government intervention in economic processes. This is what the origin of the idea of free competition owes the principles to economic liberalism, which in theory can be traced back to the *laissez-faire* doctrine, which occurred already in the 18<sup>th</sup> century as a requirement of economic freedom on the part of the French bourgeoisie.

It was found that much of the idea of competition in a liberal market were borrowed from the works of ordoliberalists (V.Oyken, A. Müller-Armak, L. Erhar) who recognized this form of market economy in which the competition framework was actively created by the State in order to achieve the highest possible intensity of competition and, at the same time, to limit factors that distort competitive conditions. Ordoliberalists believed that the regulation of monopolies and competition automatically facilitates social justice.

The author proves that EU competition policy is not an isolated domain, and thus the reviewed monograph is heavily laced with cross-national or international comparisons. In this context, the author provides a comparative analysis of the American and the European system of competition regulation describing their main features and differences of cartel rules, merger control provisions and abuse regulations.

The value of the reviewed monograph partially results also from the fact that the analysis presented therein is supported by numerous references to jurisprudence and case-law, as well as civil and competition law doctrine.

The book's final conclusions are extremely diversified. Much of the cognitive success of the book stems from the appreciation of the interdependence of substantive and procedural rules in this organizational context. With all its methodological strictness, including bibliographical background, the book presents a harmonious combination

of theoretical economic and legal foundations of the origin and functioning of competition rules in the EU and their spreading across the world.

Special attention is paid to the analysis of the EU–Ukraine Association Agreement and especially its “competition clause” (pp. 328-349). The book leaves the reader convinced that Ukrainian competition law does indeed need a reform which should, inter alia, focus on the implementation of the transparency principle and further enforcement of harmonized competition rules.

In conclusion, I would strongly recommend the reviewed monograph to more than just the representatives of the competition law doctrine. Due to the numerous references made in the reviewed book to interdisciplinary (economic & legal) doctrines and extensive jurisprudence, the book may prove to be useful for practical lawyers as well as researchers also. Above all, it demonstrates the intensity of the interactions between those who deal with EU competition law but in their different capacities: as practitioners, as policy-makers, as enforcers, and as academic commentators. I believe therefore that this publication should be found in every legal library concerned with the role of competition in the current system of International and European Law.

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