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Editors

Competition Law Enforcement in the BRICS and in Developing Countries

Legal and Economic Aspects

 Springer

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Introduction

The Competition and Regulation European Summer School and Conference (*CRESSE*) is an informal network of academics and professionals with an interest in Competition Policy and Sectoral Regulation. It was initiated by **Yannis Katsoulacos** (Athens University of Economics and Business) in 2005. The annual Conference organised by CRESSE has since grown to become one of the most important annual events worldwide in the competition and regulation conferences' calendar with the support of a Scientific Committee that, apart from Yannis Katsoulacos, is also composed of **Joe Harrington** (Business Economics and Public Policy Department, The Wharton School, University of Pennsylvania), **Massimo Motta** (Barcelona Graduate School of Economics, member from 2006 to 2010), **Pierre Regibeau** (Charles River Associates), **Patrick Rey** (University of Toulouse), **Tom Ross** (Sauder School of Business, University of British Columbia), and **David Ulph** (University of St. Andrews). The objective is to provide a forum in which the latest research in the areas of competition and regulation is presented and discussed. Presentations in the 3-day annual Conference include about five invited speakers and a limited number of papers selected from those submitted following a Call in the major IO journals and the Conference website (www.cresse.info).¹ The annual CRESSE Conference is organised in the first weekend of July in Greece, the institution responsible for the organisation being the Athens University of Economics and Business.

CRESSE also organises an annual Summer School and a Lawyers' Course in which Visiting Faculty from a large number of European and US Universities provide high-quality training to practitioners of competition policy and sectoral regulation who wish to be acquainted with the most recent economic and legal

¹ In the ninth (2014) and tenth (2015) CRESSE Annual Conferences, the Keynote Lectures were given, in 2014, by Professor Michael Riordan (Columbia University) and Professor Luis Cabral (Leonard N. Stern School of Business) and in 2015 by Professor Jean Tirole (Toulouse of Economics, 2014 Nobel laureate), Professor Ariel Pakes (Harvard University), and Professor Hal Varian (University of California at Berkeley).

developments. It is also active in disseminating research in the areas of competition policy and regulation and in contributing through the organisation of special policy sessions and round tables that deliver public debates on topical policy issues.

Since the 2014 Conference, recognising the increasingly important role that Competition Law enforcement plays in the BRICS and developing countries, CRESSE has been organising special sessions and policy panels in which contributors (academics and policymakers) from these countries as well as from the countries with mature jurisdictions discuss the distinct issues and challenges in implementing competition policy faced in the non-Western world. Indeed, the growth in the legislative and institutional framework for implementing and enforcing competition law has been extremely impressive in many developing countries and the BRICS. An appreciation of how significant this growth has been and the prominence currently assigned to competition policy can be obtained by deliberating the presentations on competition policy developments in each of the five BRICS countries, made in the recent 4th BRICS International Conference, where it was recognised that “Competition policy enforcement has a very important role to play in the developmental trajectory of BRICS economies and the attainment of inclusive economic growth”.²

This volume contains papers, which are based on presentations at the 2014 and 2015 CRESSE Conferences, related to developments in competition policy enforcement in BRICS. The papers were selected from a number of submissions for inclusion in the volume. For the vast majority of cases, the papers present original research, rather than being review papers, and contain important new insights into policy developments and/or empirical results.

The papers can be split into two broad categories. The first category contains papers that deal with various broad and more specific issues of enforcement. Apart from the presentation of the new (2013) OECD indicators of Competition Law and Policy with evidence about how Brazil, India, Russia, and South Africa perform relatively to OECD countries, these issues include those of institutional design, the incorporation of public interest concerns in Competition Authority objectives, procedural fairness, procurement procedures, and compulsory licensing. The second category of papers focuses on a distinct theme and this concerns developments in the application of economic analysis and evidence in Competition Law enforcement in the BRICS. Economic analysis is thought to improve the overall welfare effects of Competition Law enforcement by reducing the decision errors of the agencies and by improving the deterrence effects on welfare of the enforcement procedures. It has been extensively applied for many years in competition law enforcement in the developed economies in order to provide analytical tools and models for understanding cartel behaviour, types of monopolisation, the impact of vertical and horizontal mergers, as well as playing, more recently, an increasingly important role in the assessment of legal standards and the shaping of tools of enforcement, such as leniency programmes, detection, determination of fines and

² <http://brics2015.co.za/bricsprogramme2.pdf>

settlements, and alternative sanctions. The importance of the role of economic evidence and of relying on the predictions of sound economic analysis in competition law enforcement has been stressed by international organisation such as the OECD not just in the context of developed countries but equally and perhaps more importantly in developing ones.

January 2016

Frederic Jenny
Yannis Katsoulacos

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