

## PREFACE

The post-cold war era will be dominated by economic issues rather than by ideological ones. After years of negotiation, the Uruguay Round of GATT talks were concluded in 1994. As one result, competition laws and policies --- and their harmonization --- have received increased attention. Countries world-wide, especially eastern European countries, Russia and the Republic of China in Taiwan are beginning to revise and adapt their competition laws. But the enforcement and development of national competition laws require coordination and cooperation at the international level. Through this way may competition laws be harmonized.

Competition laws and policies are formed by inconsistent --- social, political and economic thoughts. As such, they are fraught with ideological predilections and susceptible to intellectual debates. Unavoidably, in examining market failures such as monopolies and cartel behavior, a student of competition law is often struck by the extent of government intervention in market activities which leads to, fosters or sustains such market distortion.

From a comparative law perspective, there are two competing dominant regimes of competition laws enforcement: the United States and western Europe. A more cultural or institutional perspective on the models of competition laws would point to the confrontational/adversarial and corporatist/moralsuasion approaches of enforcing these laws. Moreover, jurisdictions which have adopted competition laws recently are transforming themselves from centrally planned or mixed economies to a market-driven economy. Competition laws and policies have therefore become vital component in this process.

These developments increase the momentum towards harmonization --- or convergence --- of competition laws and policies. Naturally, the task will not be easy. The compendium that follows is an effort to understand the idiosyncracies of competition rules in leading jurisdictions, the policies that inform the formulation of these rules, the broader regulatory environment and their enforcement mechanism.

These proceedings also encompass a wide range of topics: monopolies, monopolization, cartels, vertical restraints, mergers and strategic alliances, unfair competition, the antitrust aspects of intellectual property rights, exceptions from competition laws, and international cooperation in enforcement. Hopefully, the papers would serve to excite further debate and action in this fascinating area of law.

Some papers illustrate the brief experience of Taiwan in enforcing its Fair Trade Law of 1992. As Taiwan attempts to upgrade its economy and integrate it fully into the global trading system, competition policies --- through the manifestation of the Fair Trade Law or otherwise --- have begun to occupy the center stage of the policy-making process. Without any doubt, Taiwan may provide a valuable experience of how a developing country may overcome its problems of balancing of competition and economic efficiency.

No conclusions were drawn from the Symposium proceedings as to the likelihood, time table or process of harmonizing competition laws and policies. However, a consensus was reached, in principle at least, that harmonization of competition law is desirable. Certainly, what model of competition laws will emerge eventually is unclear, if indeed harmonization is a feasible enterprise. Intuitively, the papers and discussions in the Symposium suggest

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that procedural harmonization appears to be more feasible than substantive harmonization. We hope that all participants will take away from this Symposium a much better understanding of the different models of competition laws of the great families of the world, and the intricacy of issues concerning harmonization.

Now turning last, we should not forget the organizers of this Symposium. We give our gratitude to the Fair Trade Commission of the Republic of China and to its Chairman Chih-Kang Wang as well as to its Vice Chairman Yih-Nan Liaw for providing financial support and organizational assistance.

A debt of gratitude is also owed to the moderators of the different working sessions and speakers. We looked forward to scholarly, imaginative and sometimes provocative interventions from them and our expectations were not disappointed.

It must be clear that organizing a Symposium of such magnitude was a major task. It was Professor Lawrence S. Liu who coordinated with the ROC Fair Trade Commission and foreign speakers. His enthusiasm, efficiency and dedicated labour have made the Symposium a splendid success.

In the past two years, Graduate School of Law, Soochow University, have been working diligently to make arrangements and coordinations. A special word of thanks must go to Miss C. L. Wang, Secretary of the Graduate School of Law and Miss Y. A. Yu, from Lee and Li Law Office, Taipei, for their patience and labor.

In conclusion, the Secretarial skills of Miss Y. L. Chen have made this book complete in a practical sense and whose conscientiousness and help went well beyond the bounds of duty.

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