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***Competition Laws in Conflict:  
Antitrust Jurisdiction in the Global Economy***  
Edited By Richard A. Epstein and Michael S. Greve

High-profile antitrust disputes—from the prosecution of Microsoft in state, national, and international forums to the transatlantic disagreement over the European Union’s merger policy—illustrate the serious difficulties of seemingly arcane jurisdictional questions in antitrust law. In a world of multiple antitrust authorities, whose laws should govern any given case—and under what rules of engagement?

In *Competition Laws in Conflict: Antitrust Jurisdiction in the Global Economy* (May 2004, AEI Press), edited by University of Chicago law professor Richard A. Epstein and American Enterprise Institute resident scholar Michael S. Greve, leading experts provide an understanding of these basic jurisdictional problems as well as current global antitrust cases and recommendations on how to improve international as well as domestic antitrust laws.

Close to one hundred countries (and some international bodies, such as the European Union) now enforce overlapping and often conflicting antitrust laws. Within the United States, these enforcement responsibilities are uneasily divided between federal agencies, increasingly aggressive state governments, and private parties, acting under a mix of federal and state law.

When corporate transactions routinely cross borders, anti-competitive practices will often affect consumers and producers in many jurisdictions. States have powerful incentives to tolerate—or even encourage—domestic industries that exploit outsiders. Even setting aside the issue of protectionism, allowing each authority to apply its own competition rules to global transactions will produce grave political conflicts, while needlessly raising compliance costs for businesses.

On the domestic front, the authors of *Competition Laws in Conflict* strongly suggest a clear division of federal and state responsibilities. That implies, on the one hand, restrictions on the states’ antitrust immunity and *parens patriae* enforcement powers (which grant authority to act on behalf of citizens) and, on the other hand, an end to federal antitrust jurisdiction over purely in-state activities.

Internationally, the authors argue that an antitrust non-discrimination rule—akin to the World Trade Organization’s “national treatment” rule—may merit cautious support. Foremost, however, policymakers should concentrate on remedying incontrovertible institutional errors. The international arena offers opportunities for the low-cost elimination of inefficiencies and exploitation. Anti-dumping laws, agricultural policy, and certain sectoral arrangements (such as telecommunications)

are prime candidates. In some instances, unilateral action may remedy inefficiencies and exploitation. For example, the United States invented export cartel exemptions, a clearly inefficient and odious practice. America does not need the World Trade Organization or the European Union to banish that practice; it should renounce it unilaterally.

Finally, *Competition Laws in Conflict* makes a strong case for sustained efforts to build a consensus on which practices should be legal and which ones should not. “Soft” harmonization (that is, without hard and fast international rules) of trade laws may help to reduce friction between nations and, perhaps, the range of substantive disagreement.

Contributors to *Competition Laws in Conflict* include **William F. Adkinson Jr.**, The Progress and Freedom Foundation; **Oliver Budzinski**, University of Marburg, Germany; **Michael DeBow**, Samford University, Cumberland School of Law; **the Honorable Frank H. Easterbrook**, U.S. Court of Appeals for the Seventh Circuit; **Richard A. Epstein**, University of Chicago Law School; **Michael S. Greve**, American Enterprise Institute; **Andrew T. Guzman**, University of California at Berkeley, Boalt Hall School of Law; **Edward M. Iacobucci**, University of Toronto Faculty of Law; **D. Bruce Johnsen**, George Mason University School of Law; **Wolfgang Kerber**, University of Marburg, Germany; **William E. Kovacic**, Federal Trade Commission; **John O. McGinnis**, Northwestern University School of Law; **the Honorable Richard A. Posner**, U.S. Court of Appeals for the Seventh Circuit; **Paul B. Stephan**, University of Virginia School of Law; **Michael J. Trebilcock**, University of Toronto Faculty of Law; **the Honorable Diane P. Wood**, U.S. Court of Appeals for the Seventh Circuit; and **Moin A. Yahya**, University of Alberta, Canada.

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