

Key Points

***Competition Laws in Conflict:
Antitrust Jurisdiction in the Global Economy***
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- Globalization has produced massive antitrust policy proliferation. Close to one hundred countries (and some international bodies, such as the European Union) now enforce overlapping and conflicting antitrust laws.
- Within the United States, the law enforcement function is uneasily divided between the federal government, increasingly aggressive states, and private parties, acting under a mix of federal and state law.
- A system under which each jurisdiction applies its own competition rules to global transactions will produce grave political conflicts, while raising compliance costs to intolerable levels. 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 burgeoning difficulties.
- Policymakers should first concentrate on remedying incontrovertible institutional errors such as antidumping laws, certain sectoral arrangements (such as telecommunications), and export cartel exemptions.
- Internationally, an antitrust non-discrimination rule, akin to the World Trade Organization’s “national treatment” rule, may merit cautious support.
- Domestically, an effort to distinguish federal and state responsibilities may require restrictions on the states’ antitrust immunity and their *parens patriae* enforcement powers (which grant authority to act on behalf of citizens), and an end to federal antitrust jurisdiction over purely in-state activities.