

Anti-Trust Policy for A Global Economy

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This Article deals with the controversial topic of anti-trust and competition laws. The Article provides an overview of the development of the law from the international legal arena to its passage by the United States Congress. The Article also discusses the concerns of the critics of the law, specifically that anti-trust laws are an impediment to international trade. Anti-trust laws, however, were merely designed to address monopolies and restraints of trade within the United States. Only in certain circumstances can it be claimed anti-trust laws become an impediment when more restrictive rules apply to domestic companies than to their foreign competitors. What they now seek is to create a balance between encouraging competition by limiting the restraints of trade and protecting domestic industries from unfair foreign competition.

The Article also examines the development of anti-trust laws. First, it analyzes jurisprudence involving anti-trust laws and how these have shaped the way anti-trust laws are understood and applied. Second, its later application paved the way for the development of a Merger guideline, which allowed the U.S. Justice Department to include in its analysis not only domestic firms, but also their foreign competitors, thus giving a more accurate reflection of the realities of the global markets. The Author concludes with the idea that the Merger guideline will provide businesses with a level of certainty by setting forth the manner in which prosecutors will analyze markets and competitors in those markets. Moreover, the Merger guideline will also bring anti-trust laws in touch with economic realities by defining markets in terms of actual competitors without regard to national boundaries. Domestic guidelines, however, are only part of the solution. The Author also opines that nations must cooperate to ensure that conflicting domestic laws and domestic policies do not lead to the uncertainty in international markets that domestic guidelines were designed to ameliorate. In addition to adopting domestic guidelines, nations must also continue the efforts to harmonize anti-trust laws and develop mechanisms to resolve conflicts of laws efficiently.