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978-1-107-02742-8 - Asian Capitalism and the Regulation of Competition: Towards a Regulatory Geography of Global Competition Law

Edited by Michael W. Dowdle, John Gillespie and Imelda Maher

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ASIAN CAPITALISM AND THE
REGULATION OF COMPETITION:
TOWARDS A REGULATORY GEOGRAPHY
OF GLOBAL COMPETITION LAW

Asian Capitalism and the Regulation of Competition explores the implications Asian forms of capitalism and their regulation of competition have for the emerging global competition law regime. Expert contributors from a variety of backgrounds explore the topic through the lenses of formal law, soft law, and transnational regulation, and make extensive comparisons with Euro-American and global models. Case studies include Japan, China, and Vietnam, and thematic studies include examinations of competition law's relationship with other regulatory terrains such as public law, market culture, regulatory geography, and transnational production networks.

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The subject of this book was not born of our own imagination. We stole it.

In spring 2008, Michael Dowdle ran a graduate seminar on ‘Asian Regulation’ at Sciences Po in Paris. As with many graduate seminars, or at least the better ones, he was as much student as facilitator, meandering his way through an idea that he was never completely certain was really a topic worth the name. All that changed when he received a term paper from one of the students in that seminar, Soojin Nam. Working out of the variety of capitalisms literature, and tying it together with John Haley’s work on Japanese competition law and regulation and Kanishka Jayasuriya’s work on Asian styles of law, she offered an extremely compelling demonstration that the best and most fruitful lens for exploring for an Asian regulation would likely be found in its regulation of market competition – that is, competition law. In this case, the student ended up teaching the teacher, as the good ones often do.

Since he works primarily in public law regulation, Dowdle could not go about stealing Nam’s idea immediately. But opportunity came knocking in summer 2009, when the Asia-Pacific Business Regulation Group (APBRG) of what is now the Department of Business Law at Monash University, where he was at the time a Visiting Professorial Fellow, offered him a sizeable grant to organize an international workshop on some aspect of Asian regulation. He immediately recalled Nam’s paper, and recognized this as a unique chance to explore her thesis further. Monash agreed, and he and the director of the APBRG, Professor John Gillespie, set about organizing the workshop.

The first issue that needed to be decided was where to hold the workshop. For this, Dowdle and Gillespie decided to approach Professor Imelda Maher at the Law School of University College Dublin (UCD). Competition law at UCD is not only renowned throughout Europe, but its pronouncedly comparative focus meshed particularly well with the unique expertise of the APBRG in the diverse practices of

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business regulation found in the Asian region. UCD agreed to host the workshop under the auspices of its newly formed Centre for Regulation and Governance, and also agreed to provide additional funding.

The workshop, entitled 'The Regulation of Competition: The Case of Asian Capitalism', ran from 30 September to 2 October 2010. A nice write-up, complete with photo, can be found at www.ucd.ie/reggov/newsevents/body,71121,en.html. In addition to the contributors to this volume, other participants in that workshop included Dr Michele Ford of the Department of Indonesian Studies at the University of Sydney, Dr Niamh Hardiman of the UCD School of Politics and International Relations, Professor David Levi-Faur of the Department of Political Science at the Hebrew University of Jerusalem, Professor Ian McEwin of the Faculty of Law at the National University of Singapore, and Professor Colin Scott of the UCD School of Law. Soojin Nam – then completing her JD at the Harvard Law School, now an associate at Axinn, Veltrop & Harkrider LLP in New York – also participated and, in addition, served as the workshop's rapporteur.

The workshop would not have been a success were it not for the support and contributions of a number of others. These include the then dean of the UCD Law School, Professor John Jackson, research assistants John Biggins, Marek Martyniszyn, Yichen Yang, Justyna Cudo, and especially Dan Hayden, through whose immense competence Imelda secured considerable competitive advantage (as is only appropriate for a workshop dealing with capitalism). On the administrative side, the talents of Angela Ennis and Sinead Hennessy proved invaluable. We are also very grateful to the National University of Ireland – especially its registrar, Dr Attracta Halpin, and its staff – for allowing us to hold the workshop in its wonderful Merrion Square house.

In March 2012 the APBRG held a follow-up seminar on the findings of the workshop, whose participants have greatly helped us to understand the possibilities and implications of the studies we had collected. Particularly deserving of mention in this regard are Professor Brandon Sweeney of the Department of Business Law at Monash (also a member of the APBRG group) and Professor Walter Stoffel of the Department of International Law and Company Law at the University of Fribourg and a former president of the Swiss Competition Commission.

Finally, we would like to express our deepest appreciation to Philippa Youngman and her editorial team at Cambridge University Press. Being able to work with her on this project was an unqualified privilege, and the book is inestimably better thanks to her efforts.

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Chapter 12, 'Addressing the development deficit of competition policy: the role of economic networks', by Frederic C. Deyo, was adapted from Chapter 11 of his book, *Reforming Asian Labor Systems*, published by Cornell University Press in 2012. We are grateful to Cornell University Press for permission to publish this adaptation.

Michael W. Dowdle, Singapore

John Gillespie, Melbourne

Imelda Maher, Dublin