

BOOK REVIEWS

BLACKSTONE'S GUIDE TO THE COMPETITION ACT 1998 BY SUSAN SINGLETON
[Blackstone Press Limited, 1999. 224 pp (including index)]

THE competition law of the United Kingdom was, until recently, immensely complex and cumbersome. As an incredibly specialized area even within the United Kingdom itself, it is no wonder that foreign (including Singapore) lawyers are generally uninterested in it. The present reviewer has had occasion to study it only because he was a contributor to an English text entailing some discussion of the area. However, with increased globalization, even Singapore academics and practitioners may have little choice but to be familiar with at least the rudimentary principles of United Kingdom competition law. Thankfully, this will no longer be as excruciating an experience as it was in the past. This is because the recently enacted Competition Act 1998 does away with the greater part of the previous law and follows, instead, the relatively less complex principles embodied within European Community law (principally in Articles 85 and 86 of the Treaty of Rome), thus simultaneously achieving harmonization with the latter as well. Such harmonization merely underlines the need for at least some local practitioners to be familiar with the Act itself. A caveat is, however, in order: the 1998 Act will only come into force approximately a year later (at the time of writing of this review), so a knowledge of the previous law is still necessary for the time being.

The present book deals, as its very title tells us, with the 1998 Act. It has been published (consistently with the efficiency we are accustomed to with respect to the publications of Blackstone Press) very quickly indeed (Royal Assent having been achieved only on 9 November 1998). However, the quality of the book is extremely high. This comes as no surprise since the author practises in this area and is in fact editor of *Trading Law and Trading Law Reports*. The book comprises two basic parts.

In the first, the author describes the basic structure and substance of the Act in a very clear and readable fashion. Not surprisingly, the first two chapters deal with the two main thrusts of the Act itself. Chapter 1 deals with anti-competitive agreements (the "Chapter I prohibition") which (under section 2(1)) proscribes "agreements between undertakings, decisions by associations and undertakings or concerted practices" which "(a) may affect trade within the United Kingdom, and (b) have as their object or effect the prevention, restriction or distortion of competition within the United Kingdom". As expected, exemptions are provided for, which cannot be described within the constraints of the present review. Chapter 2 of the book deals with the abuse of a dominant position in a market (the "Chapter II prohibition": see, in particular, section 18). This particular prohibition does not apply in the case of certain excluded cases. However, unlike the situation with respect to the Chapter I prohibition, no exemptions as such are allowed.

Chapter 3 deals with the important topic of “Investigation and Enforcement”, whilst Chapter 4 deals with the no less important topic pertaining to “The Competition Commission and Appeals”. Indeed, in this latter respect, it should be noted that the new Competition Commission constituted under the 1998 Act replaces the former Monopolies and Mergers Commission, which is now dissolved. The final Chapter (5) deals with “Procedure, Transitional Provisions and Other Matters”.

The second main part of the book comprises two Appendices. The first (and subsidiary) Appendix gives us a list of proposed Guidance Notes to be issued by the United Kingdom Office of Fair Trading; the second is much more substantive – simply because it reproduces the 1998 Act in its entirety.

Even given the substantial simplification of the law as effected via the 1998 Act, the new position is by no means extremely simple: not least because of the actual provisions of the Act itself as well as the substantial amount of European Community case law that has developed over the years and which is obviously of direct relevance to the interpretation of the 1998 Act, having regard to its genesis in European Community law itself. Indeed, section 60(1) of the 1998 Act provides that “[t]he purpose of this section is to ensure that so far as is possible (having regard to any relevant differences between the provisions concerned), questions arising under this Part in relation to competition within the United Kingdom are dealt with in a manner which is consistent with the treatment of corresponding questions arising in Community law in relation to competition within the Community”. And section 60(2) proceeds to elaborate on this, with section 60(3) stating that “[t]he Court must, in addition, have regard to any relevant decision or statement of the Commission”.

Given the topicality of the 1998 Act, the clarity with which the author expounds on the structure and provisions of the Act itself, as well as (most importantly) the expertise the author brings to bear on her description and analysis of the Act, this book is highly recommended to readers desiring a clear guide to the new competition law of the United Kingdom. The reproduction of the 1998 Act in the book itself is of great value to foreign readers who do not have ready access to United Kingdom legislation. I should think that this convenience would also accrue to readers in the United Kingdom as well (although, and understandably, to a lesser extent); however, the very reasonable price (again “traditional” of Blackstone Press books) overcomes even the possible residuary objections that might be mounted along these lines.