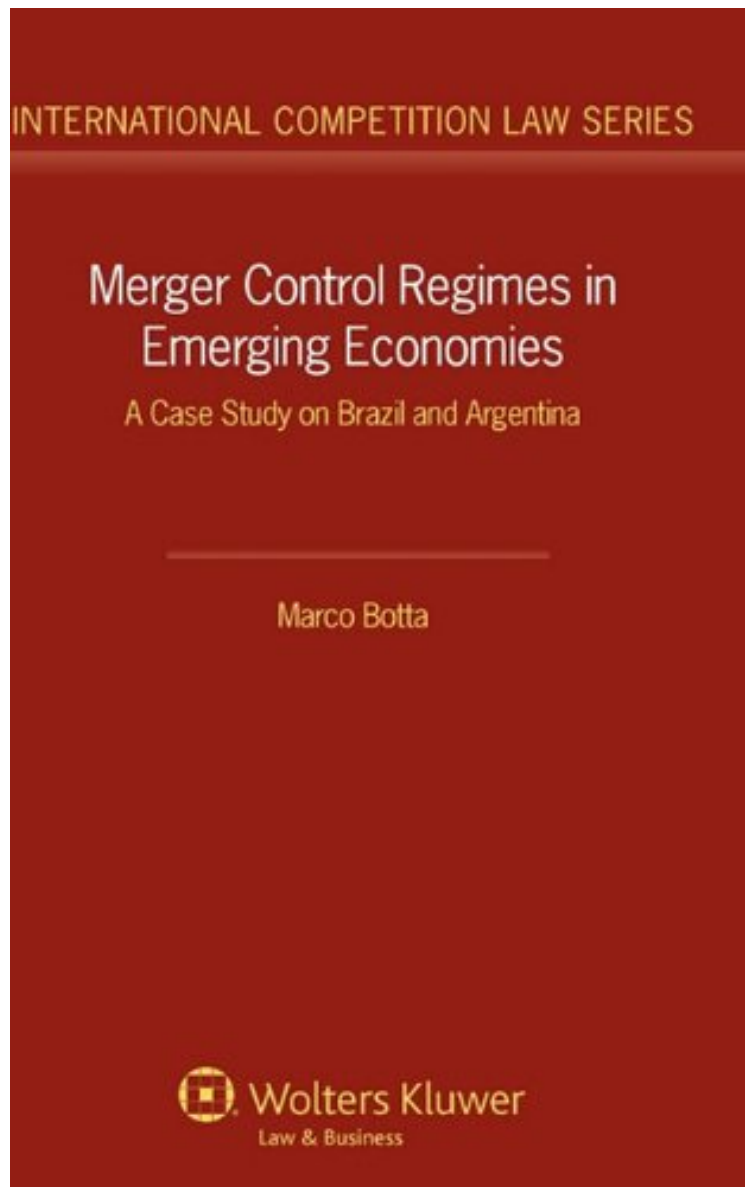


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Marco Botta

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Competition Law):

When emerging economies draft competition law and begin to enforce it, they usually draw on the EU and US competition law systems. However, significant country-specific legal and practical variations tend to arise quickly, making it imperative for international business lawyers to acquire more than a passing knowledge of competition legislation and relevant case law in these countries. Now for the first time a thoroughly researched book provides an in-depth empirical analysis of the legal problems raised for competition, and especially for merger control and its enforcement, in emerging economies, using a case study approach in the Brazilian and Argentinean contexts to reveal paradigmatic trends. Brazil and Argentina are chosen not only because they are among the major trading jurisdictions in the developing world, but also because they have each established a track record of over a decade in formulating and enforcing a system of merger control. The author describes and analysis all Brazilian and Argentinean legislation in the field of competition law, as well as the main merger decisions adopted by the competition authorities and the judgments held by the courts of these countries. The book thoroughly covers the system of competition law currently enforced in each country, as well as the main innovations of proposed new competition law currently pending in Brazil. In addition, the author draws on field interviews with competition lawyers and officers of competition authorities conducted between April and July 2008 in Buenos Aires, Brasilia, and Sao Paulo. The analysis considers such issues as the following: impact of MAs on the level of competition in the markets of developing countries; enforcement of competition law and the judiciary; criteria for notification of economic concentrations; application of econometric tests to define the relevant market and the degree of market concentration in the emerging economies; structural and behavioral remedies in merger control; extraterritorial application of competition law; foreign direct investments and political pressures on the competition authorities of the developing countries; the effect of cross-border concentrations in the developing countries; ongoing negotiations between the EU and Mercosur to conclude a free trade area agreement; and impetus toward regional competition law rules within Mercosur. Although the presentation is based essentially on a legal analysis, an overarching interdisciplinary methodology takes into consideration the economic and political aspects which may favor or hamper the development of competition law in an emerging economy. The author offers a number of policy proposals for improving the enforcement record of a formal institution like the national competition authority, in order to increase its credibility vis-a-vis public opinion, the business community, and the state administration. The core subjects discussed in the book institutional factors undermining enforcement of competition law in emerging economies, the features of an effective merger control system, and the problems faced by national competition authorities when they review multijurisdictional concentrations are of central importance in the work of corporate lawyers and government officials charged with regulating and enforcing competition law in emerging economies. For this reason, this book will be highly valuable to such practitioners and policymakers, both for its systematic analysis and for the practical utility generated by its empirical data.