

# ARBITRATION AND COMPETITION LAW

## Abstract

The relationship between competition law and arbitration law and, therefore, the possibility of using arbitration for the resolution of disputes concerning antitrust matters has aroused increasing interest among scholars and legal practitioners.

Therefore, given the fundamental importance of the antitrust regulations and the increasing use of arbitration for the resolution of disputes relating to competition law, the present paper was aimed to examine the issue of arbitrability of competition law and the different aspects related to this issue.

In the first chapter, has been traced the origin of competition law in its modern meaning, and its legal and judicial developments first by reference to the experience of the United States of America and than of the European area and, therefore, Italian.

In the second chapter, we examined the characteristics of arbitration in the field of competition law with particular reference to the position of the arbitrators on the possibility of raising issues *ex officio* of competition law as well as for the identification of the law antitrust applicable in a particular case. In this respect, it was also considered the role to be attributed to the will of the parties to the arbitration.

In the third chapter, we analyzed the position of national courts in exercise control over the pronounced award, in an attempt to define the character, extent and intensity even through the examination of the relevant case law.

In the fourth chapter, we analyzed the relationship between arbitration concerning issues of competition law and the public authorities, both national and supranational, with particular

attention to the role played by the European Union Commission. In particular, we considered the possibility of allowing an intervention of the public as *amicus curiae* in the arbitration process. It was also considered what might be the effects of the Public Authorities decision on the arbitration. Finally, we considered the question of the extensibility to arbitration of the preliminary ruling to the European Court of Justice.

In the last chapter, we examined a particular hypothesis of arbitration on competition law namely the arbitration concerning disputes related to the commitments assumed by the merging company within an authorization to merger granted by the EU Commission. In particular, it was considered the first award pronounced in this regard, namely the ICC Ruling of 17 February 2012, in Case Reti Televisive Italiane -RTI SpA c. Sky Italy Srl. It was concluded that the arbitration concerning disputes related to the commitments assumed by the merging company, within an authorization to merger granted by the EU Commission, has to be regarded as and ordinary commercial arbitration between private parties.