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**THE COMPETITION LAW REVIEW**

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Book Reviews – S Vande Walle, *Private Antitrust Litigation in the European Union and Japan* (Maklu, 2013); D McFaden, *The Private Enforcement of Competition Law in Ireland* (Hart Publishing, 2013); and, D Ashton & D Henry, *Competition Damages Actions in the EU* (Edward Elgar, 2013)

Barry J Rodger\*

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The last 18 months has witnessed a proliferation in the number of titles published in relation to competition law private enforcement, a central theme in the current issue of this Review. Aside from the reviewer's own contribution to the genre<sup>1</sup> the following three titles are noteworthy. Simon Vande Walle, a prior contributor to the Review<sup>2</sup> currently working at the EU Commission, was an attorney in Brussels before he undertook a Ph.D. focused on private enforcement in Japan; studying at Kyosho University before moving to the University of Tokyo upon graduation. His book is a worked up and transformed version of his doctoral thesis. Vande Walle provides a fascinating, comparative and empirical approach to the development of private enforcement in the two jurisdictions. The empirical approach underlies his attempt to develop an understanding of the practical reality of competition litigation and in particular provides fascinating insights into the role of residents' lawsuits in Japan as a collective redress-type mechanism. Vande Walle's work across two widely different legal systems and cultures underlines the benefits to be gained from a dual empirical comparative approach in this context.

*The Private Enforcement of Competition Law in Ireland* by David McFadden is also a finalised version of an earlier doctoral thesis at Trinity College, Dublin. This is a well-written, fully structured account of the current state of play in Ireland regarding competition law private enforcement. It covers all the key debates on the rationale for private enforcement, who should be able to sue and the scope for collective redress, providing a review of US and UK models for collective redress. The key structural difference from Vande Walle is that McFadden's account inevitably posits the EU legal and policy developments in this area in the Irish context and then considers the potential scope in Irish law to further incentivise private enforcement through the adoption of national provisions on collective redress, litigation funding and damages awards to incentivise claims. It is in these later chapters focusing on the Irish legal system and debate that McFadden's analysis is enlightening and emphasises the ongoing role for national institutions and rules on procedures and remedies in ensuring the effective application of EU rights.

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\* Professor of Law, University of Strathclyde, Glasgow.

<sup>1</sup> Barry J Rodger, *Competition Law: Comparative Private Enforcement and Collective Redress Across the EU* (Kluwer Law International 2014).

<sup>2</sup> In Volume 8 Issue 1.

This leads us to the most recent of the trilogy of books which was published in late 2013, *Competition Damages Actions in the EU: Law and Practice* by D Ashton and D Henry. This is an engaging, well-written and thoroughly readable review of certain key aspects of the main focus in the debate on private enforcement; namely damages actions, as the title suggests. The book covers various key issues addressed generally in the policy debate and literature, such as the underlying right to damages, the related questions of Indirect Purchaser and Passing-On, Proving the Infringement and Collective Action. The authors write with ease and authority in a style that would appear to make potentially complicated material simpler to understand for relative novices to the subject. They also undertake some interesting (though non-exhaustive) comparative work on key aspects of the discussion across many of the legal systems in the EU. The book contains a wonderfully detailed and important account in Chapter 8 of the quantification of damages ('Economics Contribution') by Frank Maier-Rigaud and Ulrich Schwalbe, and the book also recognises the potential significance of international private law rules in competition litigation.<sup>3</sup> However, for this reviewer, the beauty of this book lies in the succinct and excellent analysis in Chapter 1 of the central and crucial problematic issue in the EU private enforcement debate regarding the relationship between EU law and national law, the scope of the ('so-called') principle of 'procedural autonomy' and the uneasy distinction between rights and remedies.

Each of these three books, in their own distinctive ways, makes an important contribution to the private enforcement literature and merit consideration and reflection by policy-makers; lawyers, academics and students with a business or academic interest in competition law, enforcement of EU law rights or access to justice.

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<sup>3</sup> See also Barry J Rodger, 'EU Competition Law and Private International Law: A Developing Relationship' in I Lianos and D Geradin (eds), *Handbook on European Competition Law: Enforcement and Procedure* (Edward Elgar 2013).