

# **Competition law, political coalitions and varieties of capitalism: a long-run empirical analysis**

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## **Abstract**

Competition law has played an important role in the development of industrial capitalism, but few scholars have examined the links between competition regimes and capitalist variety. In this article, we empirically examine the relationship using long-run data spanning from 1890-2010. We argue that competition regimes are complementary to varieties of capitalism and this complementarity is supported by two overlapping political processes. By structuring economic coordination, competition regimes shape the development of producer group organization. Producer group interests, in turn, influence the evolution of competition regimes through the policymaking process. Our argument is supported by empirical evidence that market competition rules systematically differ across liberal market economies (LMEs) and coordinated market economies (CMEs) and that these differences are correlated with objective, time-varying measures of economic coordination. Extensive analysis of party manifesto data shows that LME and CME competition regimes are rooted in distinct political coalitions. Our findings point to the value of incorporating competition law into comparative capitalism scholarship and political coalitions into the analysis of competition law.

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## INTRODUCTION

How does competition law shape the organization and operation of capitalist systems? Prior empirical research has examined how 19<sup>th</sup> century restraint of trade rules and early antitrust systems conditioned the emergence and durability of producer group organizations, leading to the formation of distinct models of industrial capitalism at the beginning of the 20<sup>th</sup> century.<sup>2</sup> Much less is known, however, about the relationship between competition law and capitalist organization outside of this formative period. While a number of insightful studies have investigated the co-evolution of competition law and capitalism in key jurisdictions such as the United States and European Union,<sup>3</sup> this relationship has not been systematically examined across a large number of countries or a long period of time.

Here we investigate the relationship between competition law and the organization of capitalist systems in the *longue durée*. Returning to the foundational varieties of capitalism theory, we argue that competition law should develop differently in liberal market economies (LMEs) and coordinated market economies (CMEs) in ways that are partially complementary to the predominant forms of coordination found in each system. We expect that the global diffusion of competition law, and the expansion of transnational and international fora for regulatory cooperation, generate pressure for countries to harmonize their competition systems toward a common model.<sup>4</sup> However, we posit that the distinct producer group and electoral coalitions found within LMEs and CMEs will mediate and shape these external pressures.<sup>5</sup> In such contexts, the

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<sup>2</sup> Chandler and Hikino (2009); Schröter (1996); Djelic (2001); Fligstein (1993); Thelen (2020).

<sup>3</sup> For instance, see Peinert (2023)'s analysis of long-run shifts in capitalism and competition law in the U.S. and France; Guardiancich and Guidi (2016)'s study of the relationship between agency independence and capitalist organization; Ergen and Kohl (2019)'s analysis of competition policy change in Germany and the United States' and Billows, Kohl, and Tarissan (2021)'s analysis of EU merger enforcement and coordinated-market economies.

<sup>4</sup> Djelic and Kleiner (2006); Hollman and Kovacic (2011); Aydin (2010); Bradford, Chilton, Linos, et al. (2019).

<sup>5</sup> Hall (2020); Menz (2008).

global diffusion of competition law is unlikely to result in regulatory convergence, but rather new forms of divergence as domestic political coalitions shape the form and function of competition regimes so that they align with established production regimes and producer group coalitions.<sup>6</sup>

Our fundamental premise is that competition law is an open political tool that can be used by a variety of political coalitions to structure the economy in line with favored production models and economic interests. Thus, in principle, antitrust regimes are not incompatible with producer group coordination or threatening to coordinated market economies, as is sometimes assumed in the literature.<sup>7</sup> Depending on the kinds of economic coordination that competition rules enable or foreclose, and how strictly those rules are enforced, competition law can be congruent with a range of producer group configurations and capitalist models.

Building on new theoretical research in law and political economy about the relationship between competition law and economic coordination,<sup>8</sup> we propose that when competition regimes strictly forbid ‘horizontal coordination’ between relatively weak actors such as groups of workers, farmers, and small and medium-sized enterprises (SME) this should reinforce a liberal market economy model characterized by corporate hierarchies and arms-length relationships between competitors. However, when rules are aimed at ‘hierarchical coordination’ that limits the exploitation of economic power by dominant corporations, then competition regimes are complementary to coordinated market economies.

At the same time, the relationship between competition law and economic coordination will also depend on the organization of enforcement institutions.<sup>9</sup> Historically, the strong trade associations and centralized unions associated with coordinated capitalist systems were more

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<sup>6</sup> Teubner (2001).

<sup>7</sup> Buch-Hansen and Wigger (2010, 2011); Wigger and Nölke (2007); Höpner and Schäfer (2012); Weymouth (2016).

<sup>8</sup> Paul (2020); Foster and Thelen (2024).

<sup>9</sup> Kagan (2007); Teubner (2001).

likely to emerge and be sustained in countries where state administrators (rather than courts) had primary control over the development of regulatory rules and where firms had limited access to judicial remedies.<sup>10</sup> Consequently, we expect to observe more nonmarket coordination in systems where regulators have significant control over rule-making and enforcement and less nonmarket coordination in systems that empower private actors to independently enforce the law through litigation.

To empirically assess our theoretical expectations, we analyze new long-run competition law indicators.<sup>11</sup> The data, which provide disaggregated measures of both substantive rules and enforcement authority in 126 countries over more than a century, allows us to track the evolution of competition regimes in CMEs and LMEs across multiple dimensions (both substantive and procedural). By combining competition law indicators with established measures of nonmarket coordination in the arenas of finance, industrial relations, vocational training, and employer coordination we are also able to assess the empirical relationship between different dimensions of competition law and objective, time varying measures.

We find evidence that competition law, both in terms of substantive rules and the organization of enforcement, has differed across LMEs and CMEs since competition law regimes first emerged at the end of the 19<sup>th</sup> century. However, the nature of this divergence has changed over time. At the beginning of the 20<sup>th</sup> century, virtually all areas of competition law were more stringent in LMEs compared to CMEs, which took a comparatively permissive approach to both horizontal and hierarchical coordination. Since World War II, competition regimes in LMEs and CMEs have partially converged, while still maintaining distinct trajectories. Most notably,

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<sup>10</sup> Thelen (2020); Pistor (2005).

<sup>11</sup> Bradford, Chilton, Megaw, et al. (2019).

beginning in the 1980's, CMEs developed more stringent rules regulating economic dominance and enforced these rules more frequently than in LMEs.

Regression analysis of nonmarket coordination measures in 26 advanced industrial economies from 1950-2010 indicates that the divergence in competition rules across capitalist system types is associated with objective, time-varying measures of market and nonmarket producer group coordination.<sup>12</sup> Countries with more stringent abuse of dominance rules have more extensive corporatist coordination and higher membership levels in unions and trade associations. While there does not appear to be a consistent relationship between horizontal rules and nonmarket coordination, countries with more legalistic and adversarial competition enforcement systems have lower union coverage, lower union density, lower degrees of corporatism, and less developed vocational training systems. This finding suggests that stringent horizontal competition rules, when embedded in adversarial legal institutions, may undermine producer group organization. However, where regulators maintain the ability to selectively enforce the law and show forbearance to 'beneficial' forms of economic coordination, then even formally stringent horizontal rules can be compatible with organized capitalism.

To explore whether these systematic differences in law are connected to distinct political coalitions, we analyze party manifesto data, relying on the Party Manifesto Database for all OECD countries as well as our own analysis of party manifestos in seven different countries (three LMEs and four CMEs) based on hand-coding and systematic text analysis using an original competition law dictionary. While market regulation has become more politically salient in all countries since the 1990's, political demands to rein in the power of large multi-nationals through stricter hierarchical coordination rules are more pronounced in coordinated-market economies. Political

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<sup>12</sup> Similar results are found when we examine a larger group of 50 countries.

parties in CMEs not only express more support for market regulation, but this support is cross-partisan and often expressed in terms of the need to ensure fair competition and regulate monopolies. LME party manifestos, by contrast, are more likely to mention consumer welfare and to focus on labor union ‘monopolies’ than to express concerns about monopoly or fair competition. Our analysis also shows that support for competition regulation has an overall left-leaning tenor: strong political party support for market regulation is more likely in manifestos that call for expansions of welfare state spending and the increased use of state economic planning. Together, these findings suggest that competition law is embedded in distinct political coalitions in LMEs and CMEs, and that these differences can be consequential for policy outcomes.

Our empirical analysis lends support to our theory that competition law structures producer group coordination in ways that are consequential for the organization of capitalism. It also is in line with our expectation that competition regimes are shaped on an ongoing basis by distinct sets of political coalitions that are tied to particular capitalist production models. However, the relationship between competition law, political coalitions and capitalist variety is not unidimensional and depends on the interaction of both substantive rules and procedural form. While more stringent horizontal rules were once strongly associated with LMEs, they no longer predict lower nonmarket coordination, unless accompanied by adversarial legal enforcement regimes. This may be because administrative systems characterized by significant bureaucratic discretion allow regulators to permit forms of horizontal coordination deemed to be economically or socially beneficial. The increased stringency of hierarchical rules, meanwhile, is positively associated with several types of nonmarket coordination during the postwar period, suggesting complementarity with CMEs. This suggests that in certain contexts, competition law can help protect nonmarket coordination in the face of significant external pressures.

The rest of the paper is organized as follows. In the next section, we develop our theoretical framework and lay out observable implications in four different arenas: interfirm relations, industrial relations, education and training, and corporate governance/ financing. A middle section describes the data and coding and presents the main results of the empirical analysis. This is followed by a final empirical section that examines the political salience of monopoly and fair competition concerns in party manifestoes. A conclusion discusses the broader theoretical implications of our analysis.

## THEORY: COMPETITION LAW AND CAPITALISM

A major focus of comparative political economy and economic sociology over the past fifty years has been the institutional determinants of the organization of capitalism across national systems.<sup>13</sup> The influential varieties of capitalism framework distinguishes between two main ideal-typical production systems, which are organized around distinct sets of mutually reinforcing ‘complementary’ institutions.<sup>14</sup> In liberal market-economies, or LMEs, “firms coordinate their activities primarily via hierarchies and competitive market arrangements.” Coordinated market economies, or CMEs, by contrast, are characterized by heavier reliance on non-market institutions. In these systems, firms and other producer groups are often embedded in arrangements that involve “more extensive relational or incomplete contracting, network monitoring based on the exchange of private information inside networks, and more reliance on collaborative, as opposed to competitive, relationships to build the competencies of the firm.” The predominant mode of coordination in each system is reinforced by complementary institutions across four different

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<sup>13</sup> Schmitter (1974); Streeck and Crouch (1997); Hall and Soskice (2001); Thelen (2004); Schneider (2013); Feldmann (2019); Nölke and Vliegenthart (2009).

<sup>14</sup> Hall and Soskice (2001).

spheres: corporate governance, financial systems, industrial relations, and education and training.

Within the political economy literature, competition law is usually portrayed as a market constituting and market making institution that enables the development of the corporate hierarchies and arms-length market relationships associated with the liberal economic model.<sup>15</sup> From this vantage, the steady strengthening of competition law regimes since the 1980's – and the increasing intensity of enforcement – has reduced the power of organized producer groups in many countries and contributed to the broader disorganization of capitalism.<sup>16</sup> In rich empirical studies examining the development of competition law in the European Union, a number of scholars have argued that the intensification and economization of EU competition law poses a direct threat to Europe's coordinated market economies.<sup>17</sup> Studies examining the global diffusion of competition law and the establishment of international fora to encourage global regulatory cooperation and harmonization have similarly concluded that competition law functions as a complement to economic liberalization<sup>18</sup> and a powerful tool to advance the development of a global neoliberal market model.<sup>19</sup>

Varieties of capitalism theory, however, suggests that coordinated market economies will be more resistant to such external convergence pressures. In the foundational framework, the nonmarket coordination used by firms and workers is not theorized as an historical artefact that persists because of institutional inertia. Rather, nonmarket coordination is viewed as a cross-cutting mechanism that productively contributes to “comparative advantages in particular

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<sup>15</sup> Streeck (2009, 157-158); Beckert (2009, 258); Vogel (1996).

<sup>16</sup> Baccaro and Howell (2011); Weymouth (2016).

<sup>17</sup> Billows, Kohl, and Tarissan (2021); Buch-Hansen and Wigger (2010, 2011); Wigger and Nölke (2007); Höpner and Schäfer (2012).

<sup>18</sup> Büthe (2015); Bradford and Buthe (2015).

<sup>19</sup> Djelic and Kleiner (2006); Hollman and Kovacic (2011).



activities and products” that in the presence of trade leads to cross-national specialization in sometimes lucrative market niches.<sup>20</sup> The theory suggests that in the absence of a national institutional environment that allowed competing firms to collaborate, workers to collectively bargain or firms to make long-term commitments to employees, many of the production strategies that predominate in CMEs would be less efficient. It therefore posits that producer groups – and especially employers – will politically support institutional arrangements that maintain the forms of nonmarket coordination most crucial to established production strategies.<sup>21</sup> Furthermore, it predicts that elected officials and state regulators will use their control over law and policy to shore up nonmarket coordination in the face of globalization, liberalization, and other convergence pressures.<sup>22</sup>

Building on these insights, we argue that competition regimes in the long-run should aligned with predominant production regimes. This complementarity will be driven by two overlapping political processes. First, competition regimes will structure the emergence and durability of nonmarket coordination, shaping the density and capacity of producer group organizations such as employer organizations, trade associations, and labor unions. By prohibiting certain kinds of coordination and permitting others forms, competition law will fundamentally structure the “mode of coordination for which there is institutional support”.<sup>23</sup> Second, competition regimes will be shaped on an ongoing basis by established producer group interests.<sup>24</sup> Specifically, we expect competition regimes to be embedded in political coalitions that link many of the core institutions of nonmarket coordination—including employer organizations, trade associations,

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<sup>20</sup> Hall and Soskice (2001, 38).

<sup>21</sup> Menz (2008); Thelen (2014); Mares (2003); Korpi (2006); McMnamin (2012).

<sup>22</sup> Martin and Thelen (2007); Schmidt (2009); Bussemeyer, Carstensen, and Emmenegger (2022).

<sup>23</sup> Hall and Soskice (2001, 10).

<sup>24</sup> Weymouth (2016) provides an insightful analysis of how organized producer interests influence and are influenced by competition regimes.

unions, cooperative and public financial institutions, and education and welfare state institutions—to political parties and the policymaking processes.

National competition regimes will of course also be affected by global economic and technological developments as well as the establishment of supranational and global competition law communities committed to particular competition paradigms.<sup>25</sup> Convergence pressures should be particularly acute in Europe, where a regional competition authority has been in place since the 1950's and national competition regimes have both influenced and been influenced by the substantive rules and procedural practices developed by EU courts and regulators.<sup>26</sup> However, we expect these global diffusion processes to be mediated by political accommodation to domestic interests<sup>27</sup> as well as the need to translate common norms into established legal and bureaucratic institutions.<sup>28</sup> Thus, while regulatory regimes everywhere will be forced to adjust, competition law regimes in LMEs and CMEs will develop distinct evolutionary trajectories as domestic political coalitions and state actors respond in different ways to external convergence pressures and common secular economic and technological developments. Our expectation is therefore neither complete continuity nor total convergence, but rather new forms of divergence as imported measures are politically contested and re-embedded in ways that preserve and protect the coordinating institutions important for core workers and sectors.<sup>29</sup>

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<sup>25</sup> Djelic and Kleiner (2006); Hollman and Kovacic (2011); Aydin (2010).

<sup>26</sup> Waarden and Drahos (2002); Riley (2003); Aydin (2012); Aydin and Thomas (2012).

<sup>27</sup> Menz (2008).

<sup>28</sup> Fischer-Lescano and Teubner (2003); Kagan (2007).

<sup>29</sup> Teubner (2001); Woll (2023); G. Jackson and Sorge (2012).

## A COMPARATIVE COORDINATION RIGHTS FRAMEWORK

To develop concrete expectations about how different aspects of competition regimes shape capitalist organization, we draw from a new comparative coordination rights framework that links different combinations of substantive competition rules to different systems of producer group coordination.<sup>30</sup> By disaggregating competition law into the coordination rights that benefit relatively strong economic actors and the coordination rights that benefit relatively weak actors, we are able to develop distinct theoretical expectations about different categories of competition rules. We combine this framework with socio-legal theories about how legal and bureaucratic traditions shape the organization of enforcement.<sup>31</sup> We expect that the same set of substantive rules will have different effects on producer group coordination when implemented through administrative systems that provide regulators with significant discretion compared to adversarial legal systems that significantly limit this discretion.

### *Substantive Coordination Rights*

We first distinguish between two main types of coordination used by firms and other producer groups. The first is *horizontal coordination* between economic actors who individually lack market power. This form of coordination most often occurs between actors operating in the same market, such as between small farmers growing the same crop, workers employed in the same industry or firm, or small companies manufacturing the same widget. However, it can also occur between actors operating in adjacent markets (for instance in the case of supplier or distributor agreements between two SMEs) as long as none of the actors involved are economically dominant.

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<sup>30</sup> See Foster and Thelen (2024) who build on Paul (2020)'s seminal reconceptualization of American antitrust.

<sup>31</sup> Burke and Barnes (2017); Kagan (2019); Damaska (1986).

The second is *hierarchical coordination* orchestrated by dominant companies that control a significant share of a given market and exhibit a degree of market power. In contrast to horizontal coordination, where no actor has a dominant market position, hierarchical coordination relies on concentrated control, an ordered structure of authority, and asymmetrical power between different economic actors.<sup>32</sup> Examples include a dominant retailer demanding significant price reductions from less powerful manufacturers as a condition of doing business, the refusal by a dominant firm in control of a key production input to give smaller competitors access to that input at a fair price, or the erection of barriers to entry by a firm with substantial market share.

Competition law fundamentally affects both horizontal and hierarchical coordination. As Sanjukta Paul has argued, one of antitrust law's core functions is "to allocate coordination rights to some economic actors and deny them to others."<sup>33</sup> In doing so, the law determines the arenas and conditions in which coordination is allowed and the arenas and conditions where competition is required.<sup>34</sup> But while both coordination and competition are necessary components of capitalism, the organization of coordination rights varies across historical periods and political jurisdictions.<sup>35</sup>

To conceptualize these differences, Foster and Thelen have proposed a two-by-two framework that theorizes how different combinations of coordination rights structure producer group coordination.<sup>36</sup> In Table 1, the horizontal dimension refers to the extent to which non-dominant firms have the right to use nonmarket forms of coordination in their 'horizontal'

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<sup>32</sup> Arslan (2021, 52-56).

<sup>33</sup> Paul (2020, 382).

<sup>34</sup> Callaci (2021).

<sup>35</sup> The necessity of both competition and coordination in capitalism has been noted by scholars working in quite different traditions, including transaction cost economics (Williamson 1985) and economic sociology (Beckert 2009).

<sup>36</sup> Foster and Thelen (2024).

Table 1: Coordination rules and market structures

|   |   |  |
|---|---|--|
| Hierarchical coordination beyond the boundaries of the firm | Horizontal coordination beyond the boundaries of the firm |  |
|   | Permissive Rules  | Strict Rules                           |
| Strict Rules  | <i>Coordinated competition model</i>                      | <i>Arms-length competition model</i>   |
| Permissive Rules  | <i>Cartelistic competition model</i>                      | <i>Oligopolistic competition model</i> |

Source: Foster and Thelen 2024.

relationships with other firms. On the left end of the continuum, horizontal coordination rights are extensive, and companies are able to cooperate on virtually all aspects of business without facing state restraints. On the right end, horizontal coordination rights are strictly prohibited, and companies must interact with other firms (and other economic actors) primarily through arms-length, market-based contracts. The hierarchical dimension refers to the extent to which dominant companies have the right to use exclusionary agreements or unilateral practices to structure the marketplace in their interests. At the permissive (“forbearing”) end of the continuum, competition regimes enable hierarchical control by dominant firms, while on the other end, hierarchical coordination is subject to state regulation that limits or redirects it.

Different combinations of coordination rules enable distinct forms of economic coordination that partially overlap with the CME and LME ideal-types. The *cartelistic* competition model in the lower left quadrant of Table 1 permits firms to coordinate both horizontally and hierarchically without being subject to state interference. In this system, the horizontal nonmarket

coordination that distinguishes CMEs is permitted; however, this coordination remains vulnerable to co-option and exploitation by dominant firms since there are no rules regulating hierarchical coordination. This contrasts with the *coordinated* competition model in the top left quadrant, which is more aligned with CMEs since it allows relatively weak firms and workers to coordinate while also limiting the power of dominant companies to disrupt these arrangements through hierarchical controls. The *oligopolistic* competition model in the lower right quadrant emerges where horizontal coordination is strictly prohibited, but dominant companies are permitted to impose hierarchical controls. This combination of coordination rights supports the development of the corporate hierarchies found in LMEs, but does not prevent these hierarchies from becoming entrenched or interfering with the operation of competitive markets. Finally, the *arms-length* competition model in the top right quadrant imposes strict rules on both horizontal and vertical coordination, which forces companies to rely on arms-length contracts and markets to coordinate relationships beyond the boundaries of the firm. This arrangement should be most conducive to LMEs since it permits hierarchical coordination within the boundary of the firm while requiring firms to rely on arms-length coordination beyond the boundaries of the firm.

### *Procedural Coordination Rights*

The relationship between competition rules and producer group coordination will also depend on the institutional organization of rulemaking and enforcement.<sup>37</sup> Organized capitalism has historically been more durable in regulatory systems where the state has primary control over the ‘substantive ground rules’ that structure economic coordination and individuals have more

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<sup>37</sup> Guidi, Guardiancich, and Levi-Faur (2020); Kagan (2019).

Table 2: Modes of policy implementation

| Organization of decision-making authority | Decision-making style               |                              |
|---|-------------------------------------|------------------------------|
|   | INFORMAL                            | FORMAL                       |
| HIERARCHICAL                              | <i>Expert or political judgment</i> | <i>Bureaucratic legalism</i> |
| PARTICIPATORY                             | <i>Negotiation/ mediation</i>       | <i>Adversarial legalism</i>  |

Source: Kagan 2019: 10

limited access to judicial remedies.<sup>38</sup> In such systems, regulators were empowered to both selectively enforce the law and to show forbearance to cartel agreements determined to be beneficial.<sup>39</sup> It has tended to be weaker in countries where strict legalistic mandates, and strong private enforcement regimes have reduced regulators' authoritative control over coordination rights and their enforcement. In such systems, it was harder for regulators to both selectively enforce the law against particular companies and to show forbearance to arrangements seen as economically beneficial. Thus, we also add a procedural dimension to our expectations regarding the relationship between competition law and producer group coordination.

The typology developed by Kagan provides a helpful framework for conceptualizing procedural variation in terms of the organization of regulatory decision-making power and the formality of the decision-making process. In the top left corner of Table 2, regulators have significant bureaucratic discretion but few formal sanctioning tools. This results in relatively lax

<sup>38</sup> Thelen (2020); Pistor (2005). Pistor has argued that a legal system's ground rules in terms of decision-making rights and access to judicial remedies is fundamentally linked to varieties of capitalism.

<sup>39</sup> Fellman and Shanahan (2015). For more on selective enforcement see Dewey, Woll, and Ronconi (2021). For insightful discussions of forbearance and non-enforcement see Holland (2016); Dewey and Di Carlo (2021).

enforcement of the rule in question since regulators both lack strong sanctioning devices *and* private parties have few opportunities to pursue independent private enforcement actions.<sup>40</sup> As enforcement institutions become more legalistic and participatory (moving from the top left to the bottom right corner of the typology), enforcement intensity increases since officials have more enforcement tools and private actors are empowered to independently enforce the law. At the same time, bureaucratic discretion is also partially circumscribed. The increased use of formal sanctions and transparent procedures encourages more uniform application of the law while the greater availability of private enforcement limits the effectiveness of both selective public enforcement and forbearance.<sup>41</sup>

#### VARIETIES OF CAPITALISM AND COMPETITION LAW: OBSERVABLE IMPLICATIONS

The comparative coordination rights frameworks elucidated above suggests a number of observable implications that can be analyzed and tested through empirical analysis. Figure 1 provides a schematization of our expectations. Concretely, we propose that competition law shapes the four arenas of coordination seen as crucial to the LME/ CME distinction: namely, interfirm relations, industrial relations, education and training, and corporate governance/ financing. The substantive and procedural rules of competition regimes should condition the emergence, strength, and long-term durability of different modes of economic coordination along the lines specified in Table 1. Once established, competition regimes should also become sites of political contestation that are shaped by the organization of economic interests.

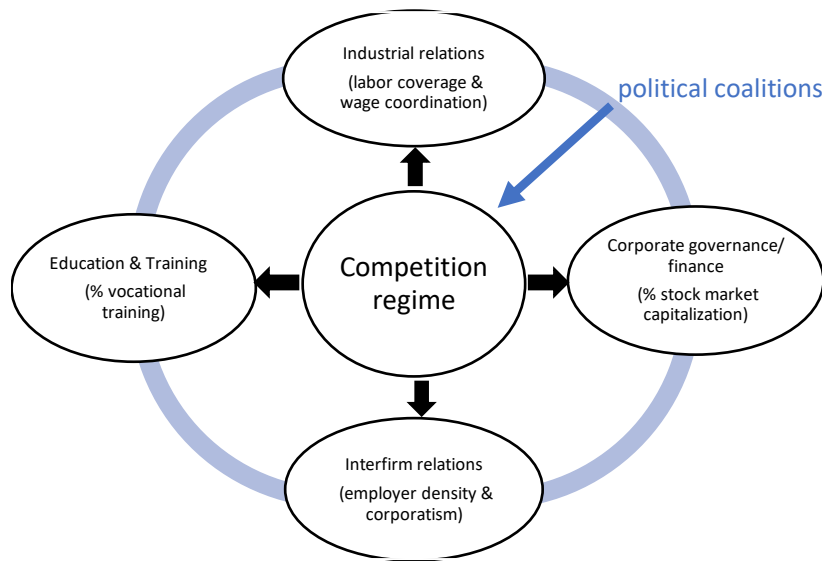
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<sup>40</sup> Kagan (2019).

<sup>41</sup> Kelemen (2011).



Figure 1: Competition regimes and Nonmarket Coordination



These general expectations can be more precisely specified across each of the four main arenas of coordination identified in the varieties of capitalism typology as specified in Figure 1: (i) financial systems, (ii) industrial relations, (iii) education and training systems, and (iv) interfirm relations. The black arrows pointing out from the center indicate our expectation that competition regimes will structure economic coordination across each these four arenas. These arenas are tied together into distinct political coalitions (the blue circle), which feed back into the political process and ultimately shapes the evolution of competition rules and procedures (blue arrow).

#### *The financial system or market for corporate governance*

In the varieties of capitalism framework, firms operating in different production regimes rely on distinct modes of *corporate financing*. In LMEs, firms are more often owned by diffuse shareholders who are more attentive to short-term profitability. Firms in CMEs, by contrast, are famously known for their access to long-term ‘patient’ capital that does not depend on quarter-to-quarter profitability and is often provided not by stock markets but by long-term stakeholders,

usually banks or other firms in the industry.<sup>42</sup> We therefore expect stringent horizontal rules, and adversarial legal enforcement systems, to be associated with higher levels of stock market development, since such rules encourage the development of market-based financial structures and arms-length relationships between competing firms.<sup>43</sup> Conversely, we expect more stringent hierarchical coordination rules to be negatively associated with stock market development since such rules can limit the ability of financial institutions and financialized business groups to forcibly acquire smaller firms or to control them through restrictive agreements and other hierarchical controls.<sup>44</sup>

### *Industrial Relations*

A second arena of coordination that should be shaped by competition law is the coordination of *industrial relations*. In CMEs, industrial relations institutions help ensure companies that their investment in workers will not be lost to other firms while also protecting workers from exploitation.<sup>45</sup> In LMEs, by contrast, firms can more easily hire and fire employees and unions are usually more fragmented and less powerful, especially in the private sector. Since strict horizontal competition rules can make it more difficult for workers to organize across an industry, including with workers on non-standard temporary contracts, we expect horizontal competition rules to be negatively associated with both union coverage and density.<sup>46</sup> Similarly, we expect legalism to be negatively correlated with labor unions because this may empower

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<sup>42</sup> Hall and Soskice (2001, 23); Vitols (2001, 2005); Culpepper (2005).

<sup>43</sup> Here our expectation follows the law and finance literature, which predicts that stronger public and private enforcement of regulatory rules designed to maintain arms-length relationships leads to more extensive market development. For good discussions, see La Porta, Lopez-de-Silanes, and Shleifer (2006); Djankov et al. (2008); H.E. Jackson and Roe (2009)

<sup>44</sup> For a discussion of the role that finance can play in developing hierarchical control over other firms in the Latin American context see Schneider (2009).

<sup>45</sup> Thelen (2001).

<sup>46</sup> Paul (2015).

employers to use antitrust rules to challenge worker collective bargaining as illegal restraints of trade.<sup>47</sup> Finally, we expect more stringent hierarchical rules to be positively correlated with collective bargaining since hierarchical rules limit the autonomy of large companies to structure the workplace in their own interests and therefore provide partial protection to worker organizing. This includes the ability of large firms to develop monopsony power that reduces worker wages<sup>48</sup> and hierarchical controls that require workers to sign non-compete and mandatory arbitration agreements as a condition of employment.<sup>49</sup>

#### *Education and Training systems*

A third arena where competition law could shape nonmarket coordination is the organization of *vocational training and educational systems*. CMEs rely heavily on the development of industry-specific skills through extensive vocational education systems, which are supervised by industry-wide employer associations and trade unions.<sup>50</sup> In LMEs, by contrast, education systems focus on general skills development and individual companies, rather than industries, and provide in-house training that falls far short of the extensive apprenticeships that are common in CMEs. Educational institutions in LMEs are also prevented from collaborating in many areas because of stringent horizontal cartel rules.<sup>51</sup>

Industry-wide educational training should be easier to develop and sustain in legal and regulatory contexts that permit information exchange, employment allocation, and wage setting by competing employers. Consequently, we expect that vocational training systems will be less

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<sup>47</sup> Steinbaum (2019).

<sup>48</sup> Naidu (2021).

<sup>49</sup> Vaheesan and Buck (2022).

<sup>50</sup> Thelen (2004).

<sup>51</sup> For instance, in 2022, 16 top US universities were sued by private plaintiffs in the U.S. for being part of a “price-fixing cartel” because the universities had formed a consortium to coordinate their financial aid packages <https://www.scribd.com/document/552106540/Universities-Antitrust-Lawsuit-1-9-22>

developed in countries with stringent horizontal competition rules and more adversarial legal enforcement systems. At the same time, we expect dominance rules to be positively associated with vocational training, since such rules can limit the power of large companies to opt out of established systems.

### *Interfirm Relations*

We expect competition regimes to shape the quality of *inter-company relations*. While LMEs can count on worker turnover to ensure the transfer of new technology between competitors, CMEs rely more heavily on cooperation agreements between firms to diffuse new technology.<sup>52</sup> Firms in CMEs are also more likely to participate in inter-firm research and development programs, relational contracting, and niche production that is facilitated by horizontal agreements as well as multi-employer, sector wide collective bargaining agreements with workers.<sup>53</sup> Where horizontal agreements are subject to stringent rules, and such rules can be enforced by private parties, horizontal coordination will be more difficult and even rendered unworkable in practice. At the same time, strict hierarchical rules may facilitate inter-firm cooperation by preventing larger firms from solving coordination problems on their own (by for instance, forming exclusionary agreements, establishing barriers to entry, or blocking access to IP) and forcing them to collaborate with other firms (by for instance sharing or licensing new technology).

We therefore expect jurisdictions with more stringent horizontal rules to have *less* extensive corporatist systems. And we expect jurisdictions with more stringent hierarchical rules to have *more* extensive corporatist systems. Finally, since more adversarial legal enforcement systems empower firms to sue other firms for violations of anti-competitive agreement rules, we also expect to find a negative association between adversarial legalism and corporatism.

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<sup>52</sup> Hernan, Marin, and Siotis (2003, 79-80).

<sup>53</sup> Hall and Soskice (2001, 26-27).

### *Political Coalitions*

A final set of expectations relates to political mechanisms. If competition regimes are playing an important role in structuring capitalist systems, as we expect, then we should observe distinct political coalitions in LMEs and CMEs that reflect these interests.<sup>54</sup> Historically, political parties have served as important channels for producer group coalitions to shape coordination rights. Party mobilization was crucial for the emergence of early competition laws in the United States, Canada, and Germany.<sup>55</sup> Political parties have subsequently played key roles in many antitrust systems, shaping both the development of substantive rules and how the law is enforced in practice.<sup>56</sup> Given the formal independence enjoyed by competition regulators in many systems, and the strong influence of international norms in this policy domain, we do not expect political party preferences to quickly or automatically shape competition rules and procedures. However, over a sufficiently long period of time, predominant party preferences will shape competition regimes. We therefore expect political parties in LMEs and CMEs to express distinct sets of views on competition policy and for predominant party positions to correlate with competition rule indicators.

### DATA

To evaluate these hypotheses, we draw on three different sets of data: competition regulation data, institutional data describing different varieties of capitalism, and political discourse data from party manifestos. For approximating this regulation, we use regulation data

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<sup>54</sup> Hall (2020); Menz (2008).

<sup>55</sup> For instance, in the United States, the early development of antitrust was initially shaped by a coalition of proprietary capitalists and farmers represented primarily through the Democratic party who sought to preserve their own horizontal coordination rights while limiting hierarchical coordination by large corporations. In Germany, a major impetus for the enactment of its first competition law was the Catholic Center party, which was supported by small business owners frustrated with the outsized economic power possessed by cartel organizations. See especially Sanders (1999); Sklar (1988); Gerber (1998).

<sup>56</sup> Pitofsky (1978).

from the Comparative Competition Law Dataset as well as the Comparative Competition Enforcement Dataset. The former contains a battery of items concerning the setup and type of detailed antitrust regulations. To measure substantive coordination rights, we rely primarily on three different indexes developed by the Comparative Competition project.<sup>57</sup> Although these were not created with a comparative coordination rights framework in mind, they fall nicely into each category.

Our measure for *horizontal coordination rules* is the CCL anti-competitive agreement index which encompasses rules limiting anti-competitive agreements between firms (anti-competitive agreement index). These can relate to restrictions between firms that are either in the same market (classic horizontal cartel agreements) or adjacent market (sometimes called vertical agreements in antitrust parlance).<sup>58</sup> This index examines whether legislation prohibits four kinds of horizontal cartel activities: price fixing, market sharing, output limitations and bid rigging. Additionally, it also includes four kinds of vertical agreements: exclusive dealing, resale price maintenance, tying as well as agreements that in some other ways eliminate competitors. Points are subtracted for various kinds of defenses (such as “efficiency” or “public interest”) that reduce the stringency of the rule.

Our measure for *hierarchical coordination rules* is the CCL dominance index measuring the degree to which abuse of dominance is regulated in a jurisdiction (abuse of dominance index). The index is composed of binary coding of laws which may or not prohibit dominant firms to limit the supply of goods, to tying sales of goods to each other, to incentivize discounts, to use unfair,

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<sup>57</sup> Bradford and Chilton (2018).

<sup>58</sup> While these provisions can and do apply to firms with and without market power, where substantial market power is involved, a case is usually prosecuted under abuse of dominance rules, a distinct category that we use as a measure for hierarchical coordination rules.

discriminatory or predatory pricing or retail price maintenance, to eliminate competitors or preventing them from entering. In this case as well, points are subtracted for various defenses.

Finally, our measure for the *organization of enforcement* is the CCL authority index, a measure that approximates a regulator's legal sanctions, and private enforcement opportunities at various points in time (authority index). We consider regimes to be more legalistic insofar as regulators can impose fines, imprison violators, seek damages, force a company to divest or impose their rules extraterritorially. We consider regimes to be more adversarial if private parties are empowered to independently enforce the law, seek injunctions, and receive damages. The authority index captures both these dimensions by providing points for additional enforcement powers and subtracting points for industry and firm exemptions.

Varieties of capitalism have been described along different institutional dimensions and we use the Comparative Welfare Data Set,<sup>59</sup> the Comparative Political Data Set,<sup>60</sup> and the Corporatism Index 3.0.<sup>61</sup> We proxy countries' vocational training system by the percentage of people in vocational training, corporate governance by the size of a country's stock market and the total deposits per GDP (taken from the World Bank), industrial relations by union coverage, wage coordination and employer density, and interfirm relations by the corporatism index which includes the degree of work council activity, collective bargaining and general wage coordination in an economy. Here we limit our analysis to 26 advanced industrial economies where data is available from 1950-2010.

For a number of analyses, we also use a VoC-dummy variable to divide countries into Coordinated vs. Liberal Market Economies (vs. others). Here, we follow Pistor in defining CMEs

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<sup>59</sup> Brady, Huber, and Stephens (2014).

<sup>60</sup> Armingeon et al. (2020).

<sup>61</sup> Jahn (2016).

as including Austria, Belgium, Denmark, Finland, Iceland, Germany, Japan, Netherlands, Norway, Sweden, Switzerland and LMEs as including Australia, Canada, Ireland, New Zealand, United Kingdom, United States, while all remaining countries are grouped as “other.”<sup>62</sup> Alternatively, we also make use of the country-classification by legal origin whose “Common-Law” coding coincides with LMEs, but whose differentiation into German, Roman and Scandinavian legal origin allows for more nuance.

For studying the politics of competition regulation, we make use of the Party Manifesto Project dataset<sup>63</sup> for all OECD countries since 1945 and a new text dataset of all full-text manifestos in three LMEs (Canada, UK, USA) and CMEs (Germany, Sweden, Finland) starting with the first antitrust law enacted in 1889 up to 2020.<sup>64</sup> To approximate antitrust content in party manifestos, we pursue two strategies. We first draw on the comparative manifesto project (CMP) dataset starting in 1945 for all OECD countries which contains a coding of all quasi-sentences in manifestos which are in favor of “market regulation” or as the CMP codebook defines it: “Support for policies designed to create a fair and open economic market.” Among other things, this includes: calls for increased consumer protection; increasing economic competition by preventing monopolies and “other actions disrupting the functioning of the market”; the defense of small businesses against disruptive powers of big businesses; and support for a social market economy. While “social market economy” is obviously a catch-all term, the three first elements in the codebook do respond to the typical regulatory concerns of antitrust policies.

A closer look at manifesto phrases reveals that the codes do in fact pick out antitrust content, but the fourfold coding obviously contains a broader set of “market-regulating” items

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<sup>62</sup> Pistor (2005).

<sup>63</sup> Lehmann et al. (2023).

<sup>64</sup> Dobeson and Kohl (2023).



which have no direct connection to regulating competition and confuse different dimensions. To address this concern, we disambiguate the composite code used by the comparative manifesto project by creating dictionaries to more precisely locate mentions of monopoly, fair competition and consumer welfare. This allows us to analyze different motivations for supporting competition policy over the complete full-text corpus.<sup>65</sup> We interpret monopoly and fair competition mentions to indicate greater support for rules restricting hierarchical coordination, and consumer mentions as indicative of support for stricter horizontal coordination rules. As robustness, we additionally went through the manifestos of six countries and manually coded anti-monopoly stances.

## RESULTS

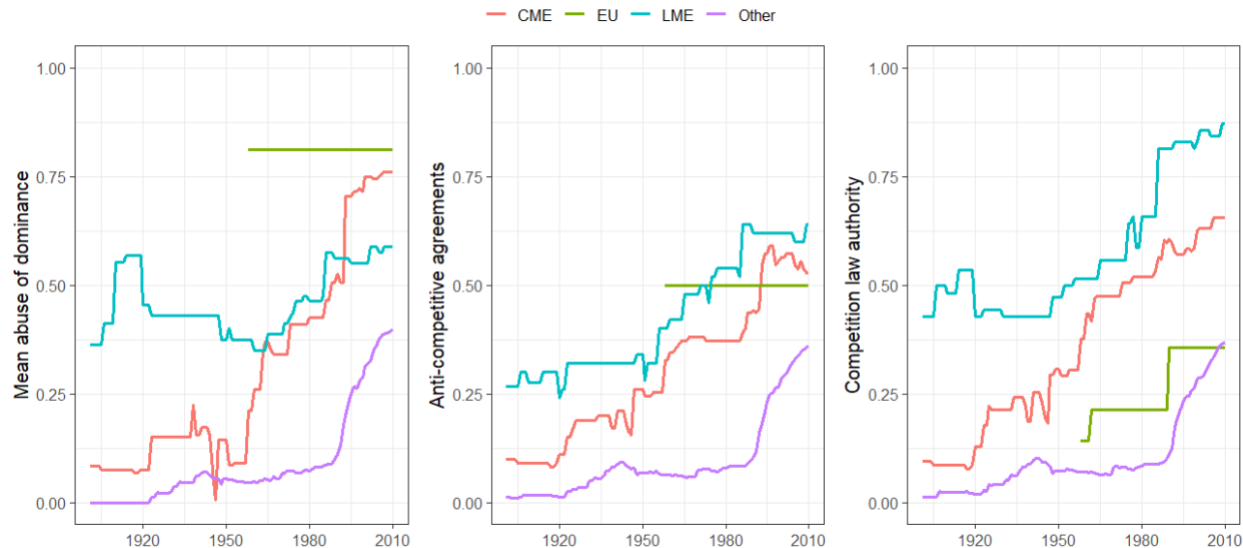
As a starting point of our analysis, we examine the longitudinal pattern of competition law across LMEs and CMEs (vs all others). Figure 2 reports the average measure across the two varieties of capitalism from 1890 to 2010: whereas LMEs have persistently shown higher degrees of anti-competitive agreements aimed at prohibiting horizontal coordination combined with more legalistic and adversarial systems (authority index), there has been a clear catch-up process in all dimensions, which, in the case of abuse of dominance regulation has even led to CMEs overtaking LMEs in the later 20<sup>th</sup> century.

This picture looks very similar when replacing national values with EU values for countries and years of EU membership or when replacing VoC by legal origins (cf. Appendix and Discussion). It is not necessarily the case that CMEs all converge towards the EU-legislation level,

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<sup>65</sup> monopoly = c("monopol\*", "oligopol\*", "cartel\*", "antitrust\*", "anti-trust\*", "usury", "price-fixing", "of trusts", "collusion", "market concentration"), competition = c("competit\*"), small = c("small and medium", "small and mid-size", "small firm", "family firm", "small compan\*", "small business", "family business", "small- medium-sized", "small property", "small farm")

Figure 2: Competition law measures in CMEs and LMEs, 1890-2010

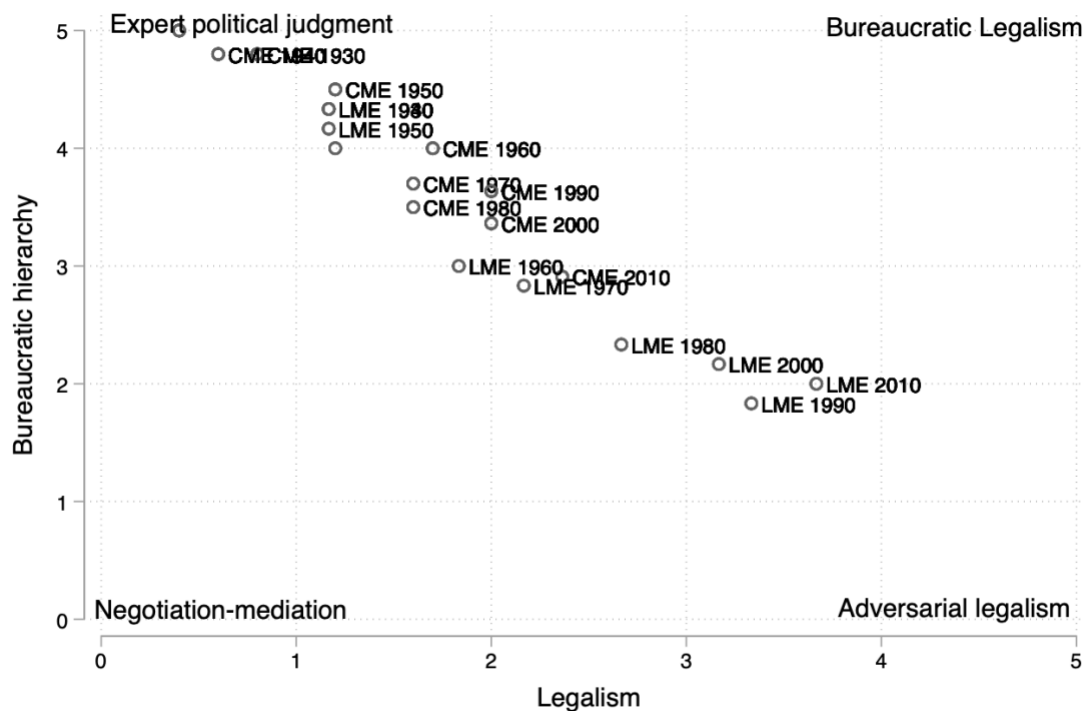


which rather seems like a separate rather time-invariant category, and, as Appendix Figure A2 shows, the evolution of competition laws in CMEs joining vs. not joining the EU is quite comparable. “Other” jurisdictions, largely non-OECD countries, also display catch-up processes taking place in the Global South.

Figure 3 plots competition regime authority at different periods of time across the two procedural dimensions developed earlier (degree of legalism and opportunities for private enforcement). For most of the 20<sup>th</sup> century, competition regimes in most LMEs and CMEs fell into the top left box. These ‘administrative control’ systems empowered political experts to regulate cartel abuses on a case-by-case basis and to enforce their decisions largely through warnings and other informal channels.<sup>66</sup> Generally speaking, private actors did not have the ability to enforce competition law independently in courts. In the post-war period, the enforcement systems in LMEs and CMEs became less discretionary as rules were ensconced in more formalized regulatory

<sup>66</sup> Gerber (1987, 1998).

Figure 3: Trajectories of Procedural Rule Change in LMEs and CMEs

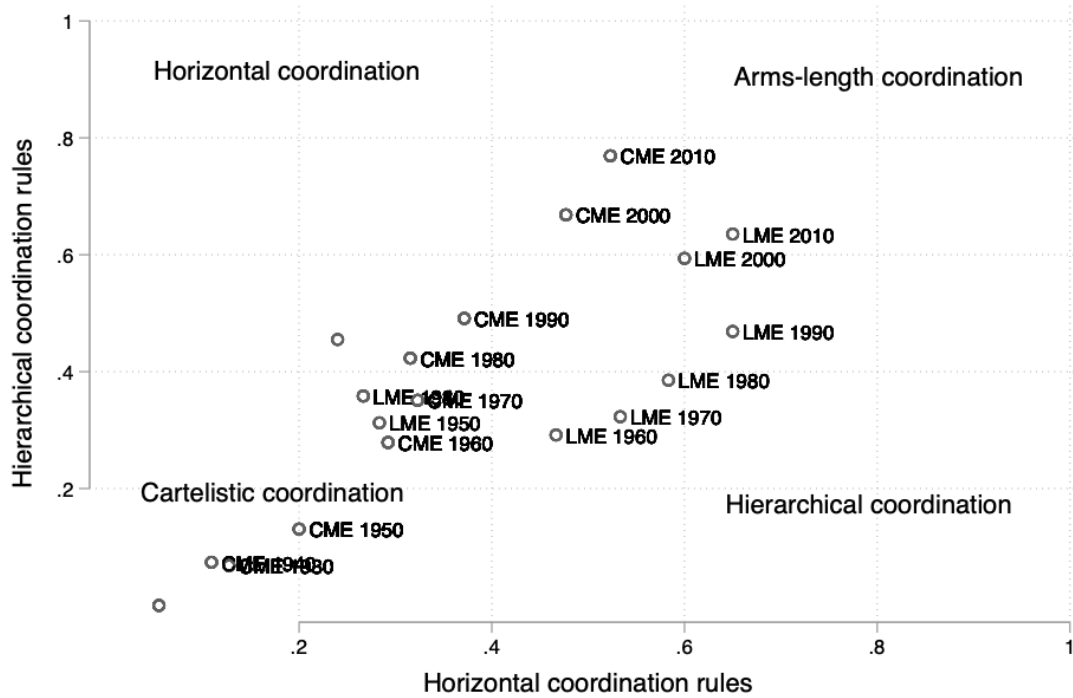


Source: Calculations by the authors using Bradford et al. 2019.

institutions. Since 1950, most systems have become more legalistic and adversarial. However, the shift has been much more pronounced in LMEs.

Figure 4 plots the average substantive rule in LMEs and CMEs at different time periods along the two substantive dimensions of competition law illuminated earlier (see Table 1). When we examine the trajectories of change, we once again see a clear divergence between LMEs and CMEs. Most countries at the beginning of the 20<sup>th</sup> century had either no competition laws in place or competition laws that took a permissive stance to both horizontal and hierarchical coordination. This placed most systems clearly in the cartelistic competition model in the bottom left corner of the typology. During the postwar period, this changes as new competition laws are established in most countries, and LMEs begin to develop much more stringent rules on the horizontal

Figure 4: Trajectories of Substantive Rule Change in LMEs and CMEs

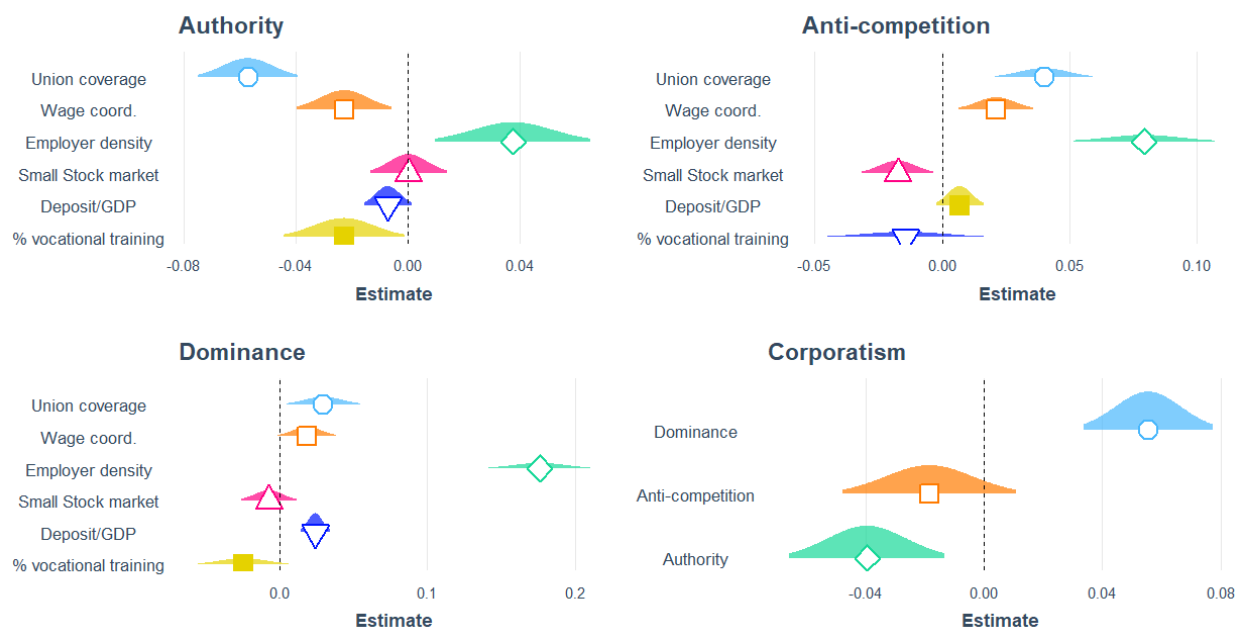


Source: Calculations by the authors using Bradford et al. 2019.

dimension. Since the 1980's, CMEs have increased the stringency of national competition rules on both dimensions, and particularly for hierarchical rules. While LMEs also develop more stringent anti-monopoly rules, the jump is much more pronounced in CMEs. This roughly corresponds with our expectation for LMEs to develop competition systems that fit with the arms-length competition model, and CMEs to develop rules that lean closer to the coordinated competition model.

These longitudinal patterns capture important over-time antitrust differences between LMEs and CMEs. To better understand how they relate to concrete indicators of coordination, we use multi-level regression analysis with cases nested in countries and years to evaluate whether the four different institutional varieties of capitalisms systematically correlate with the different

Figure 5: The Relationship between competition law and nonmarket coordination



Source: Authors' own calculations, see Appendix for regression tables

antitrust institutions across time.<sup>67</sup> As a catch-all analysis, we additionally regress the general corporatism index which encompasses many VoC properties on a continuous scale on the different antitrust elements (dominance, competition, authority). The null model shows that about 80% of the variance plays at the country level, only 20% along the time dimension.

Figure 5 summarizes the coefficients of all regressions on the four different dependent dimensions together with the range of their standard errors, where colors display the different models. Starting in the upper left panel, we see that that more legalistic and adversarial regimes are associated with lower union coverage, less wage coordination, lower participation in vocational education programs, and lower bank deposits as a percentage of GDP. Our substantive measures

<sup>67</sup> As the antitrust variables relatively inert over time and non-stationary (passing the Dickey-Fuller test), we use the logarithmized level rather than first differences. We look for associations that confirm complementarity between institutional spheres, not for causation.

show less consistent relationships across the four coordination dimensions. Wage coordination and union density, as well as employer association membership, is positively correlated across both horizontal (anti-competition) and hierarchical (dominance) competition rules. But notably, there does not appear to be a consistent relationship for corporate governance (stock market or bank share indicators) or vocational training, suggesting that competition law does not systematically shape coordination in these two spheres. The final lower right-hand panel reports our results for the most all-encompassing indicator of nonmarket coordination, since it is a composite of multiple measure of labor and employer coordination. As expected by our theory, hierarchical coordination rules (dominance) is positively associated with corporatism while horizontal coordination rules (anti-competition) is negatively associated with corporatism. These relationships become more substantively and statistically significant when interacted with enforcement authority. The interaction of the authority and dominance variable has a positive coefficient while the interaction of authority and anti-competition variables has a negative coefficient.

#### EXPLANATORY MECHANISMS: THE ROLE OF POLITICAL COALITIONS

The above analysis suggests that competition law does, in fact, systematically vary across varieties of capitalism. It also points to the presence of complementarities between concrete modes of coordination and different kinds of competition rules and procedures. While these complementarities can partially explain why particular competition regimes are maintained once established, they cannot explain either the origin of distinct competition rules and procedures or their evolution over time. To better understand the mechanisms driving our results, we examine three potential explanatory mechanisms: the legacy of distinct legal origins; the harmonizing effect of the European Union; and the role of political parties.

### *Legal Origins*

Historical studies of the development of industrial capitalism suggest there is a strong link between legal systems and the origins of distinct competition regimes.<sup>68</sup> Observing that all LMEs are common law countries and all CMEs civil law countries, Pistor argues that differences in the ‘legal ground rules’ of common law and civil law systems may help explain variation in the predominant mode of coordination.<sup>69</sup> Long-term competition law indicators suggest that there is, in fact, a relationship between legal origins and the initial differences in competition regimes across systems. As can be seen in Figure 6, common law systems enacted stringent competition laws far earlier than other systems.

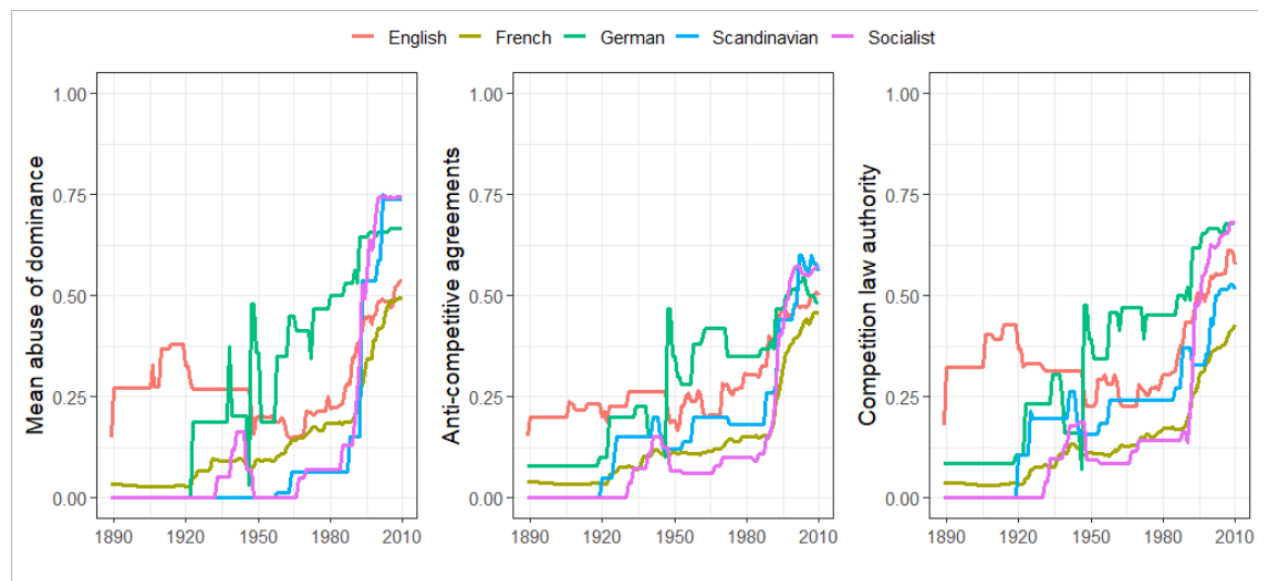
Legal origins, however, have a more difficult time accounting for the evolution of competition law over time. Both in terms of substance and procedure, competition regimes have dramatically changed since the early 1920’s—and not always in ways that aligns with legal traditions. For instance, since the 1950’s, many civil law systems have developed quite different competition regimes. Countries with German legal origins have enacted stringent substantive rules and comparatively legalistic enforcement procedures. Countries with French legal origins, by contrast, have comparatively permissive hierarchical and horizontal competition rules as well as the least legalistic (i.e. most discretionary) enforcement procedures. Finally, countries with socialist legal origins demonstrate the most radical transformation, rapidly converging with the most stringent competition law systems after the end of communism in 1990.

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<sup>68</sup> Chandler and Hikino (2009), Letwin (1981), and Sklar (1988) all emphasize that common law restraint of trade rules made horizontal coordination less stable during the final decades of the 19<sup>th</sup> century.

<sup>69</sup> Pistor (2005).

Figure 6: Competition rules and procedures across different legal origins



Source: Authors' calculations using CCL Index.

### Europeanization

One potential driver of institutional change is the European Union, which has played a central role in the postwar development of competition regimes in Europe<sup>70</sup> and competition systems around the world.<sup>71</sup> Since the 1990's, CME systems – which apart from Japan are all EU member states – have been empowered to enforce EU law and have integrated key elements of the EU approach into their national competition regimes.<sup>72</sup> While this cross-jurisdictional learning process has not been unidirectional (the EU often adopts policies and procedures first developed by its member states), it does suggest that Europeanization has been an important driver of national-level changes in competition systems, as seen in Figure 2.<sup>73</sup> It is fair to say that at least part of the shift toward more stringent hierarchical coordination rules in CMEs may reflect the

<sup>70</sup> Büthe (2007); Gerber (1998).

<sup>71</sup> Bradford, Chilton, Linos, et al. (2019).

<sup>72</sup> Wilks (2005).

<sup>73</sup> Waarden and Drahoš (2002); Gerber (1998); Bradford, Chilton, Linos, et al. (2019).



diffusion of the EU's 'ordo-liberal' inspired approach to abuse of dominance, which places strong constraints on the exclusionary practices of large companies.<sup>74</sup>

But while the role of the EU is no doubt important, national governments still maintain significant control over both substantive rules and procedural practices in cases that do not involve inter-EU trade. Although national regulators are now empowered to enforce EU competition law, many countries continue to rely primarily on domestic law. These laws are not only heterogeneous across EU member states but also diverge in important ways from EU competition rules.<sup>75</sup> Furthermore, EU competition policy itself has undergone important changes since its foundation in the 1950's and 1960's.<sup>76</sup> Among other things, this includes a significant increase in hierarchical enforcement, as the European Commission has finalized scores of major cases against large multinationals.<sup>77</sup> Thus, even if the EU can help explain the evolution of national rules in CMEs, we still need to account for how and why EU policy has changed over time. We also need to account for the systematic difference in LMEs and CME competition regimes before countries joined the EU and among countries that never joined (see Figure 2).

#### *Domestic Political Coalitions*

One plausible explanation for the European Commission's increased emphasis on abuse of dominance enforcement is that the problem of economic dominance is increasingly salient within the national political discourses of EU member states. Figure 7 reports the percentage of party manifesto content that mention market regulation across LMEs, CMEs and other countries. The pattern suggests that the political salience of market regulation reached a low point around 1990

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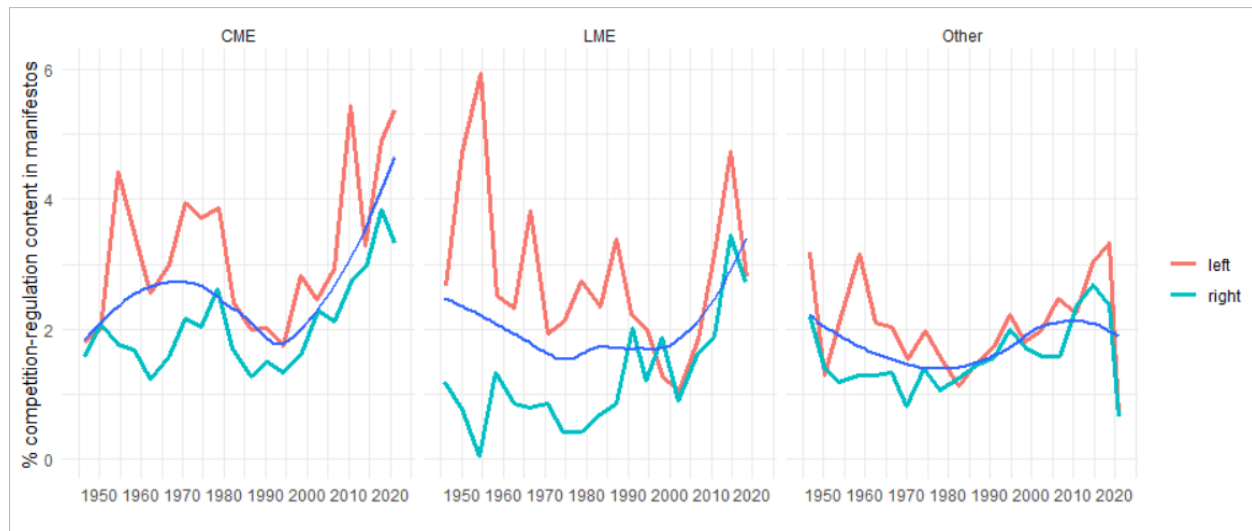
<sup>74</sup> Gerber (1994).

<sup>75</sup> For instance, in 2010, the Netherlands had one of the most permissive horizontal coordination laws with a CCL score of 0.1, while Slovenia had one of the strictest, with a score of 0.7. These CCL scores both differed significantly from the EU, which registered a 0.5 on this dimension.

<sup>76</sup> Büthe (2007).

<sup>77</sup> Gutiérrez and Philippon (2019); Philippon (2019).

Figure 7: Average market-regulation content in manifestos of left/right parties in CMEs/LMEs (per403 coding in CMP)



Source: Authors' own calculations using Party Manifesto Project.

but has been steadily increasing over the past thirty years. This increase is more pronounced in coordinated-market economies. Political parties in CMEs are not only more likely to express support for more extensive market regulation than in LMEs, but this support is comparatively more cross-partisan and more often expressed in terms of the need to limit the power of large, multinational corporations. Strong party support for market regulation is also more likely in manifestos that call for expansions of welfare state spending and the increased use of state economic planning.

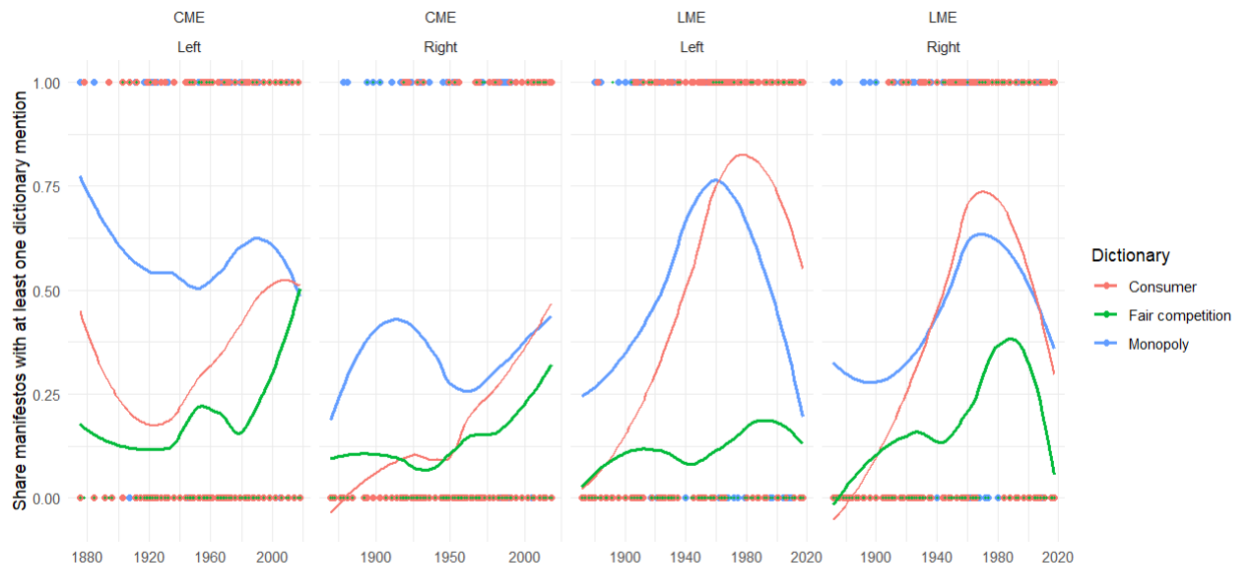
A similar pattern is found in our dictionary-based analysis, which indicates the percentage of manifestos that mention the need to regulate monopolies, to preserve fair competition, or generate lower prices for consumers. The manual coding (presented in the Appendix) additionally confirms that these mentions have to be read positionally. As can be seen in Figure 8, overall anti-monopoly mentions decreased and consumer mentions increased over the course of the 20<sup>th</sup>

century. Within these secular trends, LMEs and CMEs had quite distinct trajectories. In LME countries, mentions of monopoly and fair competition fell precipitously during the second half of the 20<sup>th</sup> century, and have only recently ticked up in some places such as the United States. By contrast, in CMEs, the problem of economic dominance has remained not only a more central part of political discourse, but increasingly salient, as rightwing and leftwing parties increasingly express concerns about preserving fair competition and preventing monopoly.

German manifestos of the recent decade, for instance, explicitly mention their opposition to monopolization in the digital economy, and call for the state to use its competition law authority to limit this power. For instance, the Greens state in 2017 that “We want to prevent monopoly-like structures. Therefore, the public institutions are becoming increasingly important as the guardian of fair competition.” A striking similar position can be found in the manifestoes of the economic-liberal party, FDP, which wrote in its 2013 manifesto that “Monopolies and cartels destroy the ability of the market economy system to function. That is why we Liberals demand a strengthening of competition law, including the possibility of deconcentration [Entflechtung]. This creates opportunities, prospects and a future. The German economy, in particular the strong Mittelstand, has led us out of the crisis faster than almost any other country in the world.” Such statements suggest that the politicization of economic dominance may be a driving force behind more stringent hierarchical coordination rules in CMEs.

Within the three LMEs, similar concerns about monopoly power were expressed during the middle of the 20<sup>th</sup> century. However, since the late 1960’s, mentions of monopoly and fair competition became much less common. This roughly corresponds to the development of the Chicago School of Antitrust, which questioned the need for strong anti-monopoly and vertical

Figure 8: Likelihood of mentioning monopolies, fair competition and consumer welfare in manifestos of left/right parties in CMEs/LMEs



Source: Authors own calculations from dictionary-based analysis

restraints rules<sup>78</sup> and contributed to major changes in enforcement policy in the United States, Canada and other LMEs.<sup>79</sup> Even when the problem of monopoly is discussed in LMEs, the target is sometimes arresting the horizontal coordination rights of workers rather than the market power of dominant companies, as for instance, the 1964 Republican party platform, which notes the party’s “constant opposition to any form of unregulated monopoly whether business or labor.” Within contemporary manifestoes, mentions of monopoly or fair competition have become increasingly less frequent among political parties of both the left and the right. When competition policy is discussed, this is more often framed in terms of consumer welfare, a framework that in the American context privileges hierarchical coordination while proscribing horizontal

<sup>78</sup> Posner (1979).

<sup>79</sup> Khan (2019); Wu (2018).

coordination rights.<sup>80</sup> These patterns are in line with our expectations that lower levels of politicization have led to comparatively weak hierarchical coordination rules in LMEs.

Table 3 investigates the CMP market-regulation code more systematically by estimating an OLS regression on the relative salience of market-regulation in manifesto content (column 1) and two logistic regressions (columns 2-3) on the binary variable whether manifestos mention these antitrust-topics at all (vs. not). This is to measure how much and how widespread antitrust propositions are in party manifestos. We find broadly similar results across the two estimations: LMEs have significantly less content on regulating competition in their manifestos throughout the decades since 1945. An LME manifesto has 0.53 percentage points less content on competition regulation to a comparable CME manifesto, even when controlling for differences in party families across these varieties of capitalism. LME parties are also systematically less likely to express concerns about monopoly or preserving fair competition and more likely to discuss consumer welfare and the need to protect small business.

These findings also provide helpful information about the ideological nature of the political coalitions in support for competition policy. Table 3 shows that competition regulation follows an economic left-right partisan logic where center-left parties are more likely to propose it, conservative parties less so compared to liberal parties. This is similar to pro-welfare-state positions which correlate with the regulation of competition in manifestos. Put a different way, the political parties most in favor of competition policy, and in particular for stronger rules to constrain hierarchical coordination by multi-national corporations, tend to be highly skeptical of free markets and supportive of market shaping interventions by the state.

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<sup>80</sup> Vaheesan (2020).

Table 3: OLS and logistic regression on market regulation in manifesto content

|                                    | Market Regulation             |                   |                   |
|------------------------------------|-------------------------------|-------------------|-------------------|
|                                    | OLS                           | Logistic          |                   |
| LME (vs. CME)                      | -0.530*** (0.143)             | -0.626*** (0.147) | -0.606*** (0.149) |
| Other (vs. CME)                    | -0.464*** (0.090)             | -0.388*** (0.093) | -0.567*** (0.111) |
| Ecological parties (ref. Liberals) | 0.436** (0.219)               | 0.595** (0.270)   | 0.653** (0.276)   |
| Socialist Parties                  | 0.556*** (0.156)              | 0.121 (0.155)     | 0.151 (0.158)     |
| Social democratic parties          | 0.667*** (0.139)              | 0.244* (0.142)    | 0.259* (0.145)    |
| Christian democratic parties       | 0.041 (0.157)                 | -0.225 (0.156)    | -0.210 (0.160)    |
| Conservative parties               | -0.359** (0.148)              | -0.345** (0.143)  | -0.372** (0.147)  |
| Nationalist parties                | -0.134 (0.171)                | -0.375** (0.165)  | -0.331* (0.170)   |
| Agrarian parties                   | -0.139 (0.221)                | -0.336* (0.201)   | -0.395* (0.205)   |
| Ethnic and regional parties        | -0.026 (0.184)                | -0.298 (0.189)    | -0.394** (0.197)  |
| Special issue parties              | 0.540** (0.235)               | 0.146 (0.233)     | 0.168 (0.235)     |
| GDP_PC                             |                               |                   | -0.017*** (0.006) |
| log(pop)                           |                               |                   | 0.016 (0.029)     |
| Pro-welfare                        | 0.014* (0.007)                | 0.021*** (0.007)  | 0.020*** (0.007)  |
| % seats                            | -0.001 (0.003)                | 0.005 (0.003)     | 0.004 (0.003)     |
| Manifesto length                   | 0.0004*** (0.00005)           | 0.004*** (0.0002) | 0.004*** (0.0002) |
| Constant                           | 2.674 (1.807)                 | 13.870 (622.489)  | 13.881 (621.812)  |
| Observations                       | 4,204                         | 4,204             | 4,008             |
| R <sup>2</sup>                     | 0.092                         |                   |                   |
| Adjusted R <sup>2</sup>            | 0.084                         |                   |                   |
| Fixed effects                      | Decade                        | Decade            | Decade            |
| Log Likelihood                     |                               | -1,897.654        | -1,825.147        |
| Akaike Inf. Crit.                  |                               | 3,875.307         | 3,734.293         |
| Residual Std. Error                | 2.540 (df = 4164)             |                   |                   |
| F Statistic                        | 10.852*** (df = 39; 4164)     |                   |                   |
| Note:                              | *p<0.1; ** p<0.05; *** p<0.01 |                   |                   |

## DISCUSSION AND CONCLUSION

Competition law is a ‘constitutive’ institution in capitalism, helping determine where coordination is allowed and competition is required. In this paper, we have empirically assessed whether and how competition law structures the organization of capitalist systems and how these relationships have evolved over time. We have shown that the combination of globalization, the diffusion of particular regulatory paradigms, and the development of European Union competition law has led to significant convergence in the substantive rules and procedural practices of competition regimes. At the same time, competition law continues to vary across capitalist system types in ways that reflect both the continuity of longstanding approaches as well as new divergences in response to convergence pressures. CMEs have developed more stringent rules regulating monopoly and dominance and enforced these rules more frequently. Competition regimes in LMEs are more legalistic and adversarial than in CMEs, where there are comparatively few opportunities for private enforcement that reduce bureaucratic discretion.

Analysis of the relationship between nonmarket coordination and competition rules suggests that these patterns are not incidental. Countries with more stringent abuse of dominance rules have more extensive employer organization, more extensive union organization, and higher degrees of corporatist coordination. Countries with more legalistic and adversarial competition enforcement systems have lower union coverage, lower union density, and lower degrees of corporatism. Moreover, the actors that benefit from nonmarket coordination appear to have both the political motivation and capacity to defend these arrangements in the face of external pressures. Thus, within CMEs, a wide range of political parties have raised concerns about the problem of economic dominance and the need to preserve fair competition. The political response in LMEs, by contrast, has been more muted and partisan. While political parties in LMEs once expressed

wide concern about regulating monopoly, such sentiment has collapsed since the 1980's in favor of a discourse more focused on consumer welfare.

Our analysis shows the analytical value of examining the relationship between competition law and capitalist organization. While the conventional view is that competition law is a liberalizing tool that reinforces the corporate hierarchies and market-based contracting at the core of LMEs, our results suggest a more variable geometry. When competition regulators use their authority to limit horizontal coordination—by for instance, enforcing price competition between competitors or liberalizing historically protected industries—then competition law acts as a market enforcing institution that complements liberalization processes.<sup>81</sup> However, when competition law is used to limit ‘hierarchical’ coordination—by for instance enforcing abuse of dominance rules against multi-national corporations—then competition law is a market shaping institution that re-embeds global markets in social and political demands for protection.<sup>82</sup> Competition law, in short, is a political instrument that can be used to support *both* market and nonmarket forms of coordination in capitalist political economies.

Previous work has argued that the development of competition law has contributed to the disorganization of capitalism.<sup>83</sup> We certainly agree that some developments in competition policy have likely bolstered marketization processes, especially where competition regulators have encouraged the deregulation or privatization of formerly state-owned or highly regulated network industries and the marketization of cooperative and public banks, and facilitated hierarchical consolidation by greenlighting transnational mergers.<sup>84</sup> At the same time, our results suggest this

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<sup>81</sup> Vogel (1996).

<sup>82</sup> Ruggie (1982); Polanyi (1944).

<sup>83</sup> Buch-Hansen and Wigger (2011); Wigger and Nölke (2007); Höpner and Schäfer (2010).

<sup>84</sup> Vogel (1996); Billows, Kohl, and Tarissan (2021); Buch-Hansen and Wigger (2010).



is only part of the story. Horizontal competition rules do not, in and of themselves, appear to be a significant impediment to employer and labor coordination. Indeed, stringent horizontal rules are associated with more— not less—nonmarket coordination when embedded in discretionary bureaucratic structures. Furthermore, strong hierarchical coordination rules are strongly associated with nonmarket coordination. By creating a mechanism for constraining hierarchical coordination, competition regimes with stringent abuse of dominance rules limit the power of dominant companies to exploit power asymmetries in their negotiations with smaller firms and workers. This, in turn, may partially protect nonmarket coordination in the face of significant external pressures.

Finally, our study highlights the benefit of bringing party politics back into the analysis of competition law. An extensive literature in law and economics has identified an ‘Atlantic Divide in Antitrust’ that roughly corresponds to the substantive and procedural divisions observed in this study.<sup>85</sup> While providing invaluable insight on the nature and extent of transatlantic policy differences, the established literature has not paid sufficient attention to the electoral and producer group coalitions that have contributed to the emergence and durability of distinct competition regimes. Indeed, the comparative study of competition law rarely considers political parties or organized interests as important factors in competition law developments.<sup>86</sup> By showing that monopoly and fair competition have been politically salient issues (to different degrees) almost since the founding of competition regimes, and that competition law rules are associated with distinct producer group configurations, we provide new insight into the political factors underpinning the Atlantic Divide. More broadly, we hope our study pushes scholars to view

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<sup>85</sup> Gifford and Kudrle (2015); Bradford, Chilton, and Lancieri (2020); Gutiérrez and Philippon (2019); Philippon (2019).

<sup>86</sup> An important exception is the study by Weymouth (2016).

competition law as a site of political power that both structures the organization and operation of capitalist markets and is, in turn, shaped by the economic interests and political imperatives that are tied to the capitalist economy.

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