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Researching European Community Competition law: A Practical Guide and Selective Bibliography

Amanda Lynn Parks

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**RESEARCHING EUROPEAN COMMUNITY COMPETITION LAW:
A PRACTICAL GUIDE AND SELECTIVE BIBLIOGRAPHY**

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I. INTRODUCTION

The creation of the 1992 European Community (EC) internal market presents both an opportunity and a threat to U.S. companies. By the end of 1992, the twelve EC member countries will have lifted trade barriers among themselves through the adoption of over three hundred directives, which will set the business standards throughout the EC.¹ The significance of EC law to an American attorney stems from the fact that the EC is America's chief trading partner.² American attorneys must be increasingly sensitive to the impact of EC law upon clients who conduct business in the EC.

An American attorney dealing with the EC for the first time may encounter many unexpected waves on these uncharted waters. For example, Community law, rather than the law of any single European country may control any given transaction. This is particularly true in the area of EC competition law (the term used for antitrust law in the EC). The integration of the internal market has led EC nations to scrap their domestic antitrust laws and adopt policies aligning their nation with the other EC nations. The aim of EC competition law is to eliminate the barriers between the member nations while protecting the individual member's interest in maintaining its competitive industries.

The goal of this guide is to prevent the attorney, researcher or academic from getting lost in the veritable ocean of EC competition

1. CLAIRE GERMAIN, *GERMAIN'S GUIDE TO TRANSNATIONAL LAW RESEARCH* § 2.02 (1991).

2. *Id.* § 1.01.

material available. It is meant to highlight the best sources and is by no means an exhaustive list. The sections of this guide are divided in terms of the particular information desired. If the researcher already has some knowledge of the law and needs an official copy and brief description of the law, "Finding the Law" is the place to look. To find applicable law and in-depth information on that area of the Law, "Finding Commentary on the Law" is the best section. To keep up to date, the section "Keeping Current" provides useful sources. Lastly, valuable ways to contact organizations and individuals who deal regularly with EC competition issues are found in "Organizations and People Sources." The sources in each section are listed in order of usefulness and research value.

II. THE STRUCTURE OF THE EUROPEAN COMMUNITY

The European Community consists of three communities, the European Coal and Steel Community (ECSC), the European Atomic Energy Community (Euratom) and the European Economic Community (EEC).³ It is important to note that in some materials the EEC may also be referred to as the Common Market. The ECSC was created in 1951 by the Treaty of Paris, while Euratom and the EEC were formed in 1957 by the Treaty of Rome.⁴ These treaties are the primary source of law in the EC. The three communities were joined by the 1965 Merger Treaty (effective July 1, 1987) which established a single Commission and a single Council for the three communities.⁵

Any research into EC law must begin with an understanding of the sources of power in the EC and the relationship of its various organs. The four main governing bodies of the EC are: the Commission, the Council of Ministers, the European Parliament, and the Court of Justice. The Commission proposes Community policies and legislation to the Council of Ministers and acts as a guardian of the Treaties.⁶ In most cases, the Council can only enact legislation that the Commission has first proposed.⁷ The Council of Ministers is the EC's primary

3. *Id.*

4. Treaty of Rome, Mar. 25, 1957, 1973 Gr. Brit. T.S. No. 1 (Cmd. 5179-II) (official English translation).

5. GERMAIN, *supra* note 1, § 1.01.

6. Treaty of Rome, *supra* note 4, arts. 169, 171. The Commission has a broad supervisory function. The Treaty obligates the Commission to see that "the provisions of the Treaty and of the measures taken by the institutions pursuant thereto are applied." *Id.* If they do not, the Commission may initiate proceedings against the defaulting member state in the European Court of Justice. *Id.* art. 169.

7. *Id.* art. 149. In most cases, the Commission enjoys the first right of initiative, which means that the Council can only enact legislation that the Commission has first proposed. *Id.*

legislative body and decides major Community policies.⁸ The European Parliament, principally a debating society, does not have lawmaking powers, but does control the budget.⁹ The European Court of Justice includes the new Court of First Instance which was authorized by the Single European Act of 1986.¹⁰ The Court of First Instance, which began operations in fall 1990, has jurisdiction to hear, *inter alia*, appeals from the Commission in competition law cases.¹¹

III. SOURCES OF EUROPEAN COMMUNITY COMPETITION LAW

The primary source of EC competition law lies within two articles of the Treaty of Rome (sometimes referenced as the EEC Treaty). Article 85 of the Treaty, the functional equivalent of section one of the United States Sherman Antitrust Act, prohibits agreements between "undertakings" in restraint of trade.¹² Article 86, the functional equivalent of section two of the Sherman Act, prohibits a party from abusing its dominant position.¹³

The most significant body of government, in terms of EC competition law, is the Commission. One of the Commission's main adminis-

8. *Id.* art. 145. The Council, the EC's primary legislative body, is comprised of one foreign minister from each of the twelve member states. *Id.* art. 146. If, however, the matter under consideration of the Council is agricultural policy, for example, the various ministers of agriculture will comprise the Council. *Id.* arts. 40, 43. The Council, which often works in collusion with the Commission at the expense of the Parliament, coordinates economic policy and makes political decisions. *Id.* arts. 145, 149, 152, 153, 155, 157, 159, 160, 162. Under the Treaty, the Council generally cannot act to implement legislation unless the Commission has first proposed the legislation. *Id.* arts. 21, 43, 44, 49, 54, 63, 69, 75, 89.

9. Treaty of Rome, *supra* note 4, art. 137. The Parliament has enjoyed little real power and, until recently, has possessed only the right of "consultation." *Id.*; 3 Common Mkt. Rep. (CCH) § 4302 (1987). The Single European Act of 1986 has strengthened the powers of Parliament. *Id.* Now, in certain cases, such as those having to do with the free movement of goods, Parliament can insist on the right of "cooperation." *Id.* The Parliament, in such cases, can force a second reading of the legislation. *Id.* § 20,025. A recent decision in the Court of Justice further strengthens the Parliament. Since the Single European Act of 1986, the Council enacted Council Regulation 3954/87 on Dec. 22, 1987, which sets maximum levels of radioactivity for foodstuffs after the Chernobyl crisis. *European Parliament v. EC Council*, case 70188, 4 Common Mkt. Rep. (CCH) § 95,500 (1990). In enacting this regulation, the Council did not consult the Parliament. *Id.* The Parliament sued the Council in the Court of Justice to annul the regulation. *Id.* The Court of Justice ruled that the case may proceed. *Id.* § 95,501.

10. Single European Act, art. 11, 1987 O.J. (L169) 30, at 6; Council Decision of 24 October 1988, 1988 O.J. (L319) 31.

11. Council Decision of 24 October 1988, *supra* note 10, at 1.

12. Treaty of Rome, *supra* note 4, art. 85.

13. *Id.* art. 86. Article 3(f) generally proscribes any trade abuse which distorts EC competition. *Id.* art. 3(f).

trative duties is to monitor EC competition policy. The Commission's Directorate-General for competition (DG-IV) administers the EC's competition policy. Directorate-General IV assists the Commission in proposing, drafting and implementing the EC competition policy. Article 89 of the Treaty charges the Commission with ensuring the application of Articles 85 and 86 and making decisions to remedy infringement of these articles.¹⁴ Decisions apply solely to the parties in controversy and rule on that party's situation only.¹⁵ For example, a Commission decision regarding practices which constitute an abuse of dominant position by BPB Industries and its subsidiary, British Gypsum Limited, applies only to those two companies.

The Council also has a hand in effectuating the two EC competition articles. Article 87 confers power on the Council to make regulations and directives effectuating Articles 85 and 86.¹⁶ Regulations have general application to all members and are self-executing, which means that they are binding without any further action.¹⁷ For example, Council Regulation 17 of 1962 specifically grants the Commission the power to order an undertaking to cease infringement of the Community competition rules and to levy fines or penalties against violators. Directives are binding upon the member states as to the result, but the means of achieving the result remain within the jurisdiction of the individual member states.¹⁸ For example, Directive 87/601 regarding tariffs on regular air transport between member states leaves it to the individual states to take measures to comply with the directive.

IV. FINDING THE LAW: REGULATIONS, DIRECTIVES, DECISIONS, TREATY ARTICLES AND CASES

A. Introduction

EC competition policy is primarily derived from regulations, directives and decisions.¹⁹ Treaty articles are the foundations of these three types of law, and cases depict the court's current interpretation of the laws. This section describes both online and hardcopy ways to locate each of these types of laws.

14. *Id.* art. 89.

15. GERMAIN, *supra* note 1, § 4.02.4.

16. Treaty of Rome, *supra* note 4, art. 87.

17. GERMAIN, *supra* note 1, § 4.02.2.

18. *Id.* § 4.02.3.

19. *See id.* § 4.02.

B. *Finding Regulations, Directives and Decisions*

1. Online

In September 1990, LEXIS released a comprehensive European law library, adding legislation and treaty information to its existing case law database. As a result, by far the quickest and most up-to-date sources of EC regulations, directives and decisions are the ECLAW and COMDEC files on LEXIS.

a. ECLAW File

The ECLAW file in the INTLAW library on LEXIS accesses CELEX which is the official EC database. CELEX contains the complete contents of the C and L series of the *Official Journal of the European Communities* — the official source of EC law. It is difficult to use the index to the *Official Journal* (OJ); therefore, the best route is to find cites to the OJ from an outside source (such as ECLAW) and then proceed to the OJ. ECLAW does not give the full text to many of the laws, but always gives the cite to the OJ so the text can be found easily. The great advantage of using CELEX is the ability to rapidly search through all of the OJ's ever produced to find a piece of legislation, case, Parliamentary question, or national implementation measure.²⁰

A number of fruitful searches can be performed on ECLAW. If the researcher knows what type of document (e.g., regulation, directive, decision, question from Parliament) is desired, the search can be narrowed by the segment "type." For example, the search "type(regulation) and competition" produces 384 documents. This search is probably too broad and a more specific competition topic may produce more exact results. For example, to find the merger control regulation which controls concentrations between undertakings, the search "type(regulation) and merger" locates 15 documents. The first document found contains the merger control regulation entitled Council Regulation (EEC) No. 4064/89 of 21 December 1989. To further narrow the search results, the segment "doc-date" limits the search by date. The segment "keywords" is too broad to be of much help. For example, using the segment "keywords" under competition finds over 3,000 documents.

If the researcher does not know what type of law is desired, basic text searches are the way to go. For example, the search "England

20. Colin Hensley, *Online To Europe*, DATABASE MAGAZINE, Apr. 14, 1991. National implementation measures are additional legislation implemented in each of the member states to fully activate directives. *Id.*

and competition” produces documents which include an interesting Commission decision relating to proceedings under Article 86 of the EEC Treaty. This particular decision refers to practices, in the United Kingdom and Ireland, by BPB Industries PLC and its subsidiary British Gypsum Limited, which constitute abuses of dominant position in the supply of plasterboard. In addition, law concerning a particular company can also be found. For example, the search “IBM and competition” locates 15 documents. One interesting document is Commission Regulation (EEC) No. 1418/88 of 17 May 1988 which imposes a provisional anti-dumping duty on imports of serial-impact dot-matrix printers that originate in Japan. According to the regulation, Community producers simply delayed producing printers compatible with IBM personal computers too long, when there had been a growing demand since 1983.

It is important to note that when searching online, laws may be referenced by different titles. For example, the search “regulation w/3 4064/89” (the merger control regulation) retrieves only 2 documents. However, the search “regulation w/3 4064” retrieves 17 documents.

b. COMDEC File

If the researcher is looking for an EC Commission competition decision, the COMDEC file is a goldmine. It is found in the INTLAW library on LEXIS. COMDEC consists solely of EC Commission competition decisions (e.g., interpretations of Articles 85 and 86 of the Treaty of Rome). Searches by subject area are particularly successful because the entire file is made up of competition law. Additionally, if the researcher wants a decision regarding a particular party, a search which uses the party’s name is fruitful. For example, the search “Ford Motors” retrieves three decisions. To see if a regulation or directive is cited in a decision, try searches like, “regulation w/3 17.” This search found 301 decisions citing the regulation 17 which grants the Commission power to implement Articles 85 and 86. The OJ cite and a cite to the *Common Market Law Review*, if any, is given with each decision.

2. *Official Journal of the European Communities*²¹

The OJ is the official source of EC law. It is published daily in all languages of the Community members by the Office for Official Pub-

21. *Official Journal of the European Communities*. Luxembourg: Office for Official Publications of the European Communities, 1973-to date (daily).

lications of the European Community, Luxembourg. The OJ contains an L series (for legislation) and a C series (for legislative proposals and other kinds of communications).

As mentioned earlier, the *Index to the Official Journal of the European Communities* is not very useful and should be avoided if possible. The best way to use the OJ is to get the official cite to a regulation, directive or decision from an outside source and then go to the OJ to get the text. The official cite can be found through online services, treaties, journal articles, or other sources. To search for particular terms in the OJ use *EUROVOC: Annex to the Index to the Official Journal of the European Communities*. *EUROVOC* is a thesaurus for terms used in the OJ.

3. Other Places to Find Text of the Law

a. *Report on Competition Policy*²²

This annual report published by the Commission outlines the Commission's activities over the past year. It is considered quite authoritative and is the next best thing to an official cite to the OJ. The table of contents is good and covers competition under subjects such as trade regulation, industry and state.

b. *Competition Law in the European Communities*²³

This source has an elaborate table of contents which allows researchers to locate text easily. This two volume set is organized by treaty article or by the subject of regulations or directives. Volume 1 covers rules applicable to undertakings while Volume 2 covers rules applicable to state aids.

4. To Check Status of the Law or Legislative History

a. *Directory of Community Legislation in Force and Other Acts of the Community Institutions*²⁴

The *Directory*, a register of current Community legal instruments, is a computer-generated byproduct of CELEX. It contains a chronolog-

22. *Report on Competition Policy*. Commission of the European Communities, Office of the Official Publications of the European Communities, 1990.

23. *Competition Law in the European Communities*. Commission of the European Communities, Office of the Official Publications of the European Communities, 1990 (situation as it exists Dec. 3, 1989).

24. *Directory of Community Legislation in Force*. Luxembourg: Office for Official Publications of the European Communities, 1984-to date (a continuing register of current community legal instruments, published annually).

ical index by document number and an alphabetical keyword index. Since the *Directory* is updated only twice a year, it is important to note that the status of the law identified in the entries may be several months out of date. Basically, the *Directory* identifies treaties still in force and other binding and non-binding legislation in force as of December 1 of the current year.

To locate an entry in the chronological table, the year, the type of law, and the document number is needed. For example, "362 R 0017 . . . 453" indicates that regulation 17 passed in 1962 is on page 453. The chronological index groups each type of document together under the year. Primary legislation is preceded by a 1 or 2 and is listed before secondary legislation. In the above example, 362 means secondary legislation (indicated by the 3) passed in 1962. Each entry will give the status of the law (such as modified (M), implemented (O) or supplemented (C)), the OJ cite, and the official title of the law followed by a brief description.

b. *European Communities Legislation: Current Status*²⁵

This is a commercial index to all Community legislation published in the OJ since 1952. The index lists competition law and divides it into various sections such as Article 85 and 86 and the regulations. The Commission decisions are listed by name which are then accessible in the chronological text. The entry will identify the Commission decision and give the official cite. If no further information is given, the decision is still in force. Otherwise, the entry will note repealed, amended, etc.

C. *Finding Treaty Articles*

1. Online

Treaty articles are quick and easy to find online. The ECTY file in the INTLAW library of LEXIS contains the early treaties of the EC. ECTY is quite handy because it includes both the text of the treaty as well as commentary on the treaty. Each EC document has a useful bibliography and an introduction written by various law professors. The search "Article w/3 86" retrieves 7 documents with both the introduction and the text. For an extremely extensive search, the larger file BDIEL on LEXIS and INT-IEL on WESTLAW contain the EEC treaties and other economic documents.

25. *European Communities Legislation: Current Status*. London: Butterworths, 1988-to date (three volumes and quarterly supplements).

2. Hardcopy Sources of Treaty Articles and Other Legislation

a. *Treaties Establishing the EC*²⁶

The founding treaties, such as the Treaty of Rome, and accompanying documents are available in *Treaties Establishing the EC*. This is published by the Office of Official Publications, and amendments or changes appear in the OJ.

b. *Common Market Reporter*²⁷

This source is organized by Treaty article, with the text of the Treaty and secondary legislation, draft proposals, cases, and annotations following each article.

c. *Encyclopedia of European Community Law*²⁸

Volume B of this looseleaf (in three binders BI, BII, and BIII) covers the basic Community treaties with their annexes, protocols, further agreements (such as the Single European Act), and various treaties between the Community and non-member states. These materials are divided up by subject matter such as competition, movement of goods and transport. It also contains useful tables of EC treaties, cases and secondary legislation.

d. *Guide to EEC Legislation*²⁹

This T.M. Asser Institute Guide is an index to EEC treaties and other legislation appearing in the OJ. This guide is an index only and does not contain the text of the treaties. However, the guide has an elaborate classification scheme and is updated with supplements.

e. *Completing the Internal Market of the European Community: 1992 Legislation*³⁰

This is an expansive collection of the full texts of EEC laws and proposals that form the 1992 legislation as it affects various sectors

26. *Treaties Establishing the European Communities, Amending Treaties: Other Basic Instruments*. European Community Information Service, 1983.

27. *Common Market Reporter*. Chicago: CCH (four volumes in looseleaf, biweekly updates).

28. *Encyclopedia of European Community Law*. London: Sweet & Maxwell, 1973-to date (looseleaf).

29. *Guide to EEC Legislation*. Amsterdam: North-Holland, 1978-to date.

30. *Completing the Internal Market of the European Community: 1992 Legislation*. London: Office of Official Publications of the European Communities, Graham & Trotman, 1989- to date (looseleaf, printed quarterly).

of business, commerce and industry. This collection is an essential resource for the lawyer whose clients conduct business in the EC.

D. *Finding Case Law*

1. Online

Finding cases online is quite simple and convenient. The ECCASE file in the INTLAW library of LEXIS contains decisions from the European Court of Justice. The cases will give cites to the *Common Market Law Reports* and the *European Court Reports*. A search such as "court(justice) and competition and date(aft 1989)" retrieves 33 cases. Searches may also be limited by name, such as "name(IBM)" or by law, such as "regulation w/3 17." The headnotes are also instructive by explaining how the case got to the Court of Justice.

2. Official Case Reports

The official case reports and decisions of the Advocates-General are published in *Reports of Cases Before the Court*. A sample citation is as follows: Case 13/72 Netherlands v. Commission 1973 E.C.R. 27. This indicates that case number 13 from 1972 is available in the 1973 volume in the *Reports of Cases* on page 27. As the official reporter for Court decisions, the *Reports on Cases*, referred to as *European Court Reports*, is the preferred source of citation.

3. Finding Leading EC Cases

a. *Leading Cases on the Law of the European Communities*³¹

This is the best source to find a few chief EC cases. Each section includes a summary of the facts, the decision and notes on each case. Chapter five specifically deals with competition policy. The cases are categorized by their main issue.

b. *Leading Cases and Materials on the Competition Law of the EEC*³²

This source contains only competition material and has longer extracts of cases which describe the facts and holdings as well as further treatment of the case. Partial texts of relevant regulations and tables of cases and decisions are annexed.

31. *Leading Cases on the Law of the European Communities*. Boston: Kluwer Law and Taxation, 1990.

32. *Leading Cases and Materials on the Competition Law of the EEC*. Boston: Kluwer Law and Taxation, 1984.

4. Further Case Information

a. *Gazetteer of European Law*³³

The *Gazetteer* provides a good comprehensive index to cases (advertised as constituting a 22-year cumulative index to the *Common Market Reports* and a 30-year index to the *European Court Reports*). The *Gazetteer* includes an index of cases from the European Court of Justice, decisions from the EC Commission (including decisions on competition law), and Supreme Court cases from member states. The *Gazetteer* has a useful subject index, an alphabetical list, numerical listings and a citator service that follows leading cases through their citation in later cases.

b. *Gazetteer of European Law: Case Search, European Communities, 1953-1983*³⁴

This service is the same as above but for earlier cases from 1953 to 1983.

c. *European Commercial Cases*³⁵

This source is published annually and records all of the cases in Europe in the areas of copyrights, patents, trademarks, conflicts of law, enforcement of foreign judgments, insurance and other business topics. Restrictive practices may be helpful for our purposes.

d. *European Law Digest*³⁶

This digest summarizes cases decided and includes a list of treaty provisions referred to, the court which rendered the decision and any EC legislation interpreted.

e. *Guide to EC Court Decisions*³⁷

This source has a detailed index and summaries of cases, including pending ones.

33. *Gazetteer of European Law*. N. Hunning, Co. London: European Law Centre, 1983 (two volumes).

34. *Gazetteer of European Law: Case Search, European Communities 1953-1983*. N. Hunning, Co. London: European Law Centre, 1983 (two volumes).

35. *European Commercial Cases*. London: European Law Centre, 1978-to date (quarterly).

36. *European Law Digest*. London: Common Law Reports Ltd., 1973-to date (monthly).

37. *Guide to EC Court Decisions*. Amsterdam: North-Holland, 1982-to date.

V. FINDING COMMENTARY ON THE LAW

A. *Introduction*

Commentary on the law comes in a variety of sources. Online services are the most up to date and give a good general overview of the topic area. Books and guides are general and detailed, but the researcher must be careful that the book is not out of date. Looseleaf services have extensive information, but because they are difficult to use, these services should be referenced only after the researcher has a basic understanding of the law. Journal articles are terrific for a narrow topic area, but are necessarily limited by space and scope of topic. It is up to the researcher to decide which source is best depending upon the type of commentary needed.

B. *Online*

The absolute latest information is available online. EURSCP is the best source for current general information.

1. EURSCP File

EURSCP is found in the Europe library on LEXIS. It contains 44 different chapters written by the staff of Coopers & Lybrand. EURSCP is very current, very comprehensive, provides an overview of EC developments thus far and cites to the OJ. There is an entire chapter on competition (ch. 37) which is divided into eleven sections dealing with Articles 85 and 86, merger control, judicial review, state aids, etc.

2. EURUPDATE Database

EURUPDATE on WESTLAW is another excellent source for general information. It has a complete chapter on competition law as well as chapters on the economic sector, company law and business policy which may be helpful for our purposes. To get a complete list of the chapters, type "scope."

C. *Books and Guides on EC Competition*

1. For Introductory Information

a. *An Introductory Guide to EEC Competition Law and Practice*³⁸

This book is an excellent standard text for introductory information. It contains a table of relevant treaty articles, regulations and notices.

38. VALENTINE KORAH, *AN INTRODUCTORY GUIDE TO EEC COMPETITION LAW AND PRACTICE* (4th ed. 1990).

In addition, there is an analysis of the basics of competition law, a bibliography and a helpful glossary of basic business terms and practices for which lawyers will be grateful. Additionally, this book contains a particularly in-depth explanation of Articles 85 and 86 from the businessman's point of view.

b. *EEC Competition Law Handbook*³⁹

This handbook is a great source for the competition law practitioner who already has knowledge of the law and just needs to reference something quickly. It has a very detailed list of contents (running for 21 pages) followed by over 50 pages of lists and tables which include citations to official reporters. The handbook also has a meaty index to assist in finding topics quickly. The authors rightly describe this book as "half citator, half text manual."

2. For Further Information

a. *Common Market Law of Competition*⁴⁰

Although a 1987 publication, this is a leading text on EC antitrust law. It contains an extensive analysis of Articles 85 and 86, with particular emphasis given to collaboration in research, development and production, joint ventures, distribution agreements, intellectual property, abuse of dominant position, mergers and acquisitions, and enforcement procedures. The appendix reproduces relevant documents.

b. *EEC Antitrust Procedures*⁴¹

This practical guide to antitrust procedural law focuses on fact finding, defense; fines, and judicial review. If the article or regulation number is known, the tables of legislation and cases direct the researcher to where they are discussed in the text. The text is a great source of citations.

c. *Company Law and Competition*⁴²

The aim of this useful work on EC company law and competition is to make these legally complex subjects accessible to non-lawyers

39. MARC VAN DER WOUDE, *EEC COMPETITION LAW HANDBOOK* (1990).

40. CHRISTOPHER BELLAMY & GRAHAM CHILD, *COMMON MARKET LAW OF COMPETITION* (1987).

41. CHRISTOPHER KERSE, *EEC ANTITRUST PROCEDURE* (2d ed. 1988).

42. S.J. BERWIN & Co., *COMPANY LAW AND COMPETITION* (1989).

and lawyers who are not specialists in Community law. Competition law is treated from a practical standpoint as the book outlines the rules and procedures of EC competition law. The book is clear and presents many practical examples and helpful case studies.

d. *Competition Law*⁴³

This atypical book analyzes competition law through the mechanism of economic theories. There is a table of cited cases and statutes, but no references in the textual sections.

e. *The EEC: A Guide to the Maze*⁴⁴

The object of this guide is to indicate the range of Community policies and to make information about them easily accessible. The author concedes that this guide is no more than introductory. The bibliography leads the reader to relevant and detailed sources. At the foot of each page of the descriptive section is a reference to the appropriate page in the (colored) bibliographical section. Almost all of the references in the bibliographies are to official publications. All in all, this guide is a unique and somewhat humorous resource.

f. *EEC Antitrust Compliance: How to Achieve Corporate Compliance with the EEC Competition Rules*⁴⁵

Although this book is somewhat dated, it provides an interesting description of the steps to follow to achieve and maintain compliance with EC competition law. Topics range from a company's exposure to competition rules to what to do if an infringement is discovered and men from DG-IV arrive at the doorstep. This practical, yet humorous book should be read by all businessmen and lawyers who have contact with EC competition law. This is a great book for a corporation's internal use.

D. *Looseleaf Services*

1. *United States, Common Market, and International Antitrust: A Comparative Guide*⁴⁶

Looseleaf services are regularly updated and are often more current than books. This guide is an excellent looseleaf source with extensive

43. JOHN AGNEW, *COMPETITION LAW* (1985).
44. STANLEY BUDD, *THE EEC — A GUIDE TO THE MAZE* (1985).
45. ROSALYN MATTHEWS, *EEC ANTITRUST COMPLIANCE: HOW TO ACHIEVE CORPORATE COMPLIANCE WITH THE EEC COMPETITION RULES* (1986).
46. Barry Hawk, *United States, Common Market and International Antitrust: A Comparative Guide*. Clifton, N.J.: Prentice-Hall, 1984-to date (three volumes, printed in looseleaf).

citation. Volume 1 considers the application of U.S. antitrust and related trade laws in international trade. Volume 2 focuses on Common Market competition law (Articles 85 and 86), horizontal and vertical agreements, joint ventures, intellectual property and mergers. The guide illustrates similarities and differences with the U.S. and international codes as well as differences in the transfer of technology rules. Volume 3 is basically a comprehensive appendix containing applicable treaties, laws, rules and regulations.

2. *EEC Competition Law Reporter*⁴⁷

This service has an in-depth section on Articles 85 and 86 as well as other competition issues. It includes a table of cases and comprehensive index. The citation leads the reader to both official reporters and other fruitful bibliographies.

3. *EEC Competition Law*⁴⁸

This service is one of the best services for locating cases on EC competition law. This combination of commentary and cases is accented with a good index, bibliography and excellent footnotes.

4. For EC General Information and Competition Law

a. *Common Market Reporter*⁴⁹

This service gives a good coverage of topics relevant to the U.S. legal and business community. As mentioned previously, the service is organized by treaty article. Competition is covered in Volume 2. The table of contents for each section is very detailed and includes listings of articles or regulations along with a useful description.

b. *Encyclopedia of European Community Law*⁵⁰

Discussed previously.

c. *Guide to Doing Business in Europe*⁵¹

This service contains a country-by-country description of the laws affecting business in each EC member state.

47. Ivo van Bael & Jean-Francois Bellis, *EEC Competition Law Reporter*. New York: Matthew Bender (looseleaf).

48. Utz Toepke, *EEC Competition Law*. New York: Wiley & Sons (looseleaf).

49. *Common Market Reporter*, *supra* note 27.

50. *Encyclopedia of European Community Law*, *supra* note 28.

51. *Guide to Doing Business in Europe*. Chicago: CCH (monthly service).

E. Finding Journal Articles

1. Legal Resources Index

The absolute best place to find articles on EC competition policy is the LRI. Fortunately, LRI can now be accessed through the LRI database on WESTLAW and the LEGLIND file on LEXIS. The most effective way to use the LRI is to choose one of the broad topic headings and then browse through the entries for articles pertaining to EC competition.

On WESTLAW, type LRI to access the *Legal Resources Index*. For an overview of various ways to narrow searches type "scope." An example of a good general query is Competition /5 "European Community" "European Economic Community." This query retrieves 127 documents with each document listing the title, author, date, summary and cite. At this point it is easiest to type "L" for a list of retrieved documents. This allows the researcher to browse through the documents easily to see if any are of interest. Also, 45 documents are retrieved when the word antitrust is substituted for the word competition in the above query. All in all, this is a very lucrative source of information.

2. Index to Foreign Legal Periodicals⁵²

This is a very useful world-wide index. It is particularly useful in the area of EC law for those lawyers who speak French or German. However, there are also English sources listed. IFLP covers various sources not referenced in the LRI. The index system of the IFLP is divided into an author index, subject index and geographical index. In the subject index, under the section "Antitrust and Restraint of Competition," subsection "European Communities," one interesting entry is an article from the *European Competition Law Review* regarding national authorities in the European airline competition. Another good article listed is from the *Common Market Law Reports* and centers upon state action and the effectiveness of the EEC Treaty's competition provisions. Additionally, the "Unfair Practices" section may also be a fruitful heading.

3. Public Affairs Information Service Foreign Language Index⁵³

This index references foreign language periodicals and may be useful depending upon the researcher's language abilities. It also refer-

52. *Index to Foreign Legal Periodicals*. Berkeley, Cal.: University of California Press, 1986-to date (earlier publisher, London: Institute of Advanced Legal Studies, 1960-1985).

53. *Public Affairs Information Service Foreign Language Index* New York: Public Affairs Information Service, 1972-to date (quarterly).

ences some English language periodicals. Some good headings to search under are "Antitrust Laws," "Competition Regulation," and "Competition-Legislation." For example, under the heading "Competition-Legislation," a French article is listed which focuses upon the comparison between national competition laws (French and Italian) and the EEC rules. Also, under the heading "Competition-Regulation," there is an article which examines the American influence on EEC legislation in antitrust regulations. Additionally, there is a whole section on EEC competition under the "Competition — EEC" heading. An interesting article under this section reviews management, competition and legal issues affecting marketing and advertising in the European single market.

F. *Helpful Bibliographies, EC Documentation Guides and Research Aids*

1. Bibliographies

A relevant bibliography is a tremendous source of information which often unlocks a floodgate of sources.

a. *Legal Bibliography Index*⁵⁴

This index references other bibliographies and sources. The best way to use this source is to pick a topic heading, such as "European Communities" and browse through the entries to find current sources on competition or antitrust.

b. *International Bibliography*⁵⁵

This is a bibliography to publications of intergovernmental organizations. It has a subject index, organization index, title index and a section on how to acquire publications. In the most current volume (Vol. 19, 1991), not much is on point for our purposes. However, under "Development (Economic and Social)" there is a general entry on competition and economic development. Also, in the "Commerce and Business" section, there is an entry regarding training for small businesses in the European Community which may have information on compliance with the EC competition rules.

54. *Legal Bibliography Index*, Louisiana State University Law Center, 1978-to date (annually).

55. *International Bibliography*, New York: UNIPUB, 1983.

c. *European Community Law: A Selective Bibliography*⁵⁶

Unseen by the Author.

d. *Public International Law*⁵⁷

This bibliography is quite current and has an entire section on EC competition law.

e. *A Bibliography of Current Issues in International Business Transactions*⁵⁸

A few EC competition articles are listed in section II of this bibliography.

2. Additional Documentation from the EC

a. *Documents of the European Commission, Annual Catalog*⁵⁹

The Commission publishes this official catalog of documents annually. The index leaves much to be desired; however, there is a competition section with further narrowing subdivisions.

b. *The Documentation of the European Communities: A Guide*⁶⁰

This is a comprehensive survey of general EC legislation and documents from the Commission. There is a separate section on documents regarding competition law. The appendix is very handy because it lists EC online services, periodicals, EC information centers, and depository libraries. This source is limited to official publications.

c. *A Guide to the Official Publications of the EC*⁶¹

This guide is an annotated checklist and bibliography of major Community documents.

56. Claire Germain, *European Community Law — A Selective Bibliography of Publications in English, French, and German with Annotations*, 8 INT'L J.L. LIB. 239 (1980).

57. *Public International Law*. Berlin, New York: Springer Verlag, 1975-to date (semiannual).

58. Therese Eve Painter & Diane Zomper, *A Bibliography of Current Issues in International Business Transactions*, 21 TEX. INT'L L.J. 165 (1985).

59. *Documents of the European Commission*. Commission of the European Communities. Office of the Official Publications of the European Communities (annual catalog).

60. IAN THOMSON, *THE DOCUMENTATION OF THE EUROPEAN COMMUNITIES* (1989).

61. JOHN JEFFRIES, *A GUIDE TO THE OFFICIAL PUBLICATIONS OF THE EUROPEAN COMMUNITY* (2d ed. 1981).

d. *EC Index*⁶²

The *EC Index* is an abstracting and indexing guide to publications and documents of the EC. Each volume covers publications issued that year. It contains a user guide, list of acronyms and abbreviations, bibliographic section and an index section. The index section is divided by sources, type of document, keywords, subject, name, Court of Justice case numbers, and decision, directive or regulation numbers.

3. Research Aids

a. *Eurojargon: A Dictionary of EEC Acronyms, Abbreviations and Sobriquets*⁶³

This dictionary is a terrific source for lawyers who wish to unlock the mystery of many EC terms.

b. *EUROVOC: Annex to the Index of the Official Journal of the European Communities*

EUROVOC, which began publishing in 1984, is a thesaurus for terms used in the EC publications as well as a locator for EEC material.

c. DIALOG⁶⁴

DIALOG is a computer service (now available through WESTLAW) which contains computerized indexes, abstracts, bibliographic databases and full-text databases. DIALOG files contain business information including company earnings, markets and organizations of international corporations. Specific data, such as place of incorporation, addresses, sources of revenue and financial reports are also available. Additional files contain scientific, medical and technical data, as well as governmental and intellectual property information.

VI. KEEPING CURRENT

A. *Introduction*

Keeping up to date in any area of the law is important. This is nowhere more true than in the continually growing area of EC compe-

62. *EC Index*. Maastricht, The Netherlands: Europe Data, 1985-to date (monthly).

63. ANNE RAMSEY, *EUROJARGON: A DICTIONARY OF EC ACRONYMS, ABBREVIATIONS AND SOBRIQUETS* (2d ed. 1989).

64. For further information, contact: DIALOG information Services, 3460 Hillview Avenue, Palo Alto, CA 94304. Tel. (800)334-2564.

tion law. Online sources and looseleaf updates are generally the most current source of information. Recent journal articles and newsletters are particularly good to keep up in a specific area of competition law. Mass media sources also lend very current information; however, the academic quality of these sources must be scrutinized by the researcher.

B. *Online*

1. LEXIS/NEXIS — EUROPE Library⁶⁵

The LEXIS/NEXIS EUROPE library provides, on a current up-to-date basis, the following items: EC treaties, amendments to the treaties, secondary legislation (regulations, directives and decisions), preparatory acts (proposals for legislation), decisions of the European Court of Justice, EC-related news from 30 different sources, financial information on European companies, and analytical reports and summaries of EC-related information. Specifically, the INFO92 file contains laws and legislation to complete the single market, and the RAPID file contains press releases from the European Commission. Also, the BUSANL file contains business analysis and European country reports.

2. *Bureau of National Affairs International Trade Reporter*

This service can be accessed through both LEXIS and WESTLAW. It is a daily reporter on international trade. On LEXIS, it can be found in the ITRADE or INTLAW libraries. On WESTLAW, it is in the BNA-BTD database. The same service collates their daily reports into a regular reporter also kept online. This is accessed through the ITRADE file on LEXIS and the BNA-ITR database on WESTLAW. On WESTLAW, the query "European Economic Community" "European Community" /30 Competition Antitrust locates 76 documents. One interesting entry is an excerpt from the *International Trade Reporter* discussing the new EC merger laws and how major U.S. companies such as Dupont, Coca-Cola and Ford Motor Corporation may be forced to divest their European subsidiaries for anti-competition reasons. The entry also notes where to get more information on the new merger laws. The document was two days old when it was retrieved.

65. For further information, contact: LEXIS/NEXIS. Tel. (800)543-6862.

C. *Bulletins and Newsletters*

1. *Europe Access*⁶⁶

This is a current awareness bulletin to the policies and activities of the EC. It is wonderful for keeping current because each edition has a chronology of events listing the recent EC-related events and initiatives for the previous three or four months. It has an entire section on "Single Market-Competition." This is a terrific source to keep up to date with EC law.

2. *EEC Competition Law Newsletter*

This newsletter relates specifically to EC competition law and is published by Baker and McKenzie in Amsterdam.

3. *Atlantic Trade Report*⁶⁷

ATR focuses on developments in EC competition policy.

4. *Bulletin of the European Communities*⁶⁸

This is a good source for keeping abreast of the work of all EC institutions. It reports on proposals issued and meetings held as well as references documents available. This is an excellent place to get hold of the text of proposed legislation and other documents.

D. *European Community Journals*

1. *European Competition Law Review*⁶⁹

This is a top-notch source for information on current EC competition law. The ECLR contains articles, analysis and a news section. The news section covers the latest decisions and national developments including cites to press releases and the OJ.

2. *European Law Review*⁷⁰

This review contains articles and a current survey of EC events, member states, Community law and employment law. There is an

66. *Europe Access*. Chadwyck-Healey Ltd., 1991 (six times per year).

67. *Atlantic Trade Report*. Washington, D.C.: King Communication Group, 1989-to date (biweekly).

68. *Bulletin of the European Communities*. Brussels: European Communities Commission, 1968-to date (monthly).

69. *European Competition Law Review*. Oxford: ESC, 1980-to date (quarterly).

70. *European Law Review*. London: Sweet & Maxwell, 1975-to date (six times per year).

index at the end of each issue referencing the law and cases cited throughout the year.

3. *Journal of the Common Market Studies*⁷¹

This journal generally contains economic articles.

4. *International Legal Materials*⁷²

This is a good source to get a copy of the law or treaty before it is published in the official sources. It is indexed by the LRI.

E. *Mass Media*

1. Useful Newspapers

Newspapers are handy for keeping abreast of very current competition issues. Two newspapers with particularly good coverage of EC issues are *The Financial Times of London* and *The International Herald Tribune*.

2. NEXIS Service on LEXIS/NEXIS

This service offers several interesting files for persons doing business in the EC. In addition to specific newspaper and magazine files, such as the *New York Times*, the *Manchester Guardian Weekly*, the *Daily/Sunday Telegraph* and *U.S. News & World Report*, NEXIS offers wire services such as the *Associated Press* and the *Reuter Business Report*.

3. *Europe*

Europe is a monthly magazine on EC-U.S. developments. It contains articles on how to conduct business in the new Europe without frontiers, key players in business and government, and the latest on mergers, acquisitions and joint ventures.

VII. ORGANIZATIONS, PEOPLE SOURCES AND U.S. DEPOSITORY LIBRARIES

A. *Introduction*

Contacting people who deal regularly with the EC can be an excellent source of advice when faced with a particularly perplexing issue.

71. *Journal of Common Market Studies*. Oxford: Blackwell, 1962-to date (quarterly).

72. *International Legal Materials*. Washington, D.C.: American Society of International Law, 1962-to date (bimonthly).

Advice concerning the staunch European bureaucracy, general atmosphere, odds and past experience are but a few questions that a U.S. attorney may need answers to.

B. *Directories*

Directories contain valuable lists of government officials, attorneys and businessmen who may be able to help the researcher.

1. *Diplomatic List*⁷³

This list is the number one source for diplomatic information about the EC. The Department of State publishes this list quarterly. The entries include a list of the personnel of each diplomatic mission, their position and the address of the mission.

2. *Directory of the Commission of the European Communities*

This directory has a list of names and positions in the Directorate — General on competition. Valuable contacts are available here with persons close to EC competition policy making. The address of the Commission is: Rue de la Loi 200, Brussels, Belgium 1049, Telephone Number: 32-2-351-111.

3. *Key Officers of the Foreign Service*⁷⁴

The important entry here for our needs is the list of Americans at the Mission to the European Community. The entry includes the address and phone number to the Mission. The Trade Policy officer or the Commercial officer are the officials to try contacting first.

4. *International Directory of Bar Associations*⁷⁵

An area that should not be overlooked is the value of lawyer-to-lawyer contact. This directory includes the Bar Association of the European Community.

C. *Organizations*

Some very helpful organizations for further information are listed below:

73. *Diplomatic List*. Washington, D.C.: Dept. of State, May 1976-to date (quarterly).

74. *Key Officers of the Foreign Service*. Washington, D.C.: Foreign Affairs and Reference Center (three times per year).

75. *International Directory of Bar Associations*. American Bar Association (4th ed. 1983).

1. European Community Information Service in Washington, D.C.,⁷⁶
2. U.S. Department of Commerce; International Trade Administration; International Desk Office for the EEC, Desk Officer: Charles Ludolph, and⁷⁷
3. U.S. Trade and Business Associations:
 - a. National Association of Manufacturers⁷⁸
 - b. National Foreign Trade Council⁷⁹
 - c. United States Council for International Business⁸⁰
 - d. The Business Roundtable⁸¹
 - e. Emergency Committee for American Trade⁸²
 - f. American Association of Exporters and Importers.⁸³

D. *U.S. Depository Libraries*

The libraries listed in Appendix A are designated by the EC to receive periodical and nonperiodical documents issued by each of the EC institutions.

VIII. CONCLUSION

When faced with an EC competition law problem, remember that a multitude of good sources are available. Before you head off to the library, try to define exactly what type of information you are looking for. Search through the various sources under any heading that looks like it may be relevant to your problem. Most importantly, make sure that the information that you rely on is current because the EC is changing rapidly. Finally, if you find yourself hopelessly stuck, take heart, as there are many people out there who can help you, including librarians who often have a wealth of information.

Amanda Lynn Parks

76. Office: 2100 M St. NW, suite 707, Washington, D.C. 20037. Tel. (202)862-9500.

77. Tel. (202)377-5276.

78. 1331 Pennsylvania Avenue, NW Ste. 1500 North, Washington, D.C. 20004. Tel. (202)637-3000.

79. 1625 K Street, N.W. Ste. 1090, Washington, D.C. 20006. Tel. (202)887-0278.

80. 1212 Avenue of the Americas, New York, N.Y. 10036. Tel. (212)354-4480.

81. 200 Park Avenue, Ste. 2222, New York, N.Y. 10166. Tel. (212)682-6370.

82. 1211 Connecticut Avenue, N.W., Ste. 801, Washington, D.C. 20036. Tel. (202)659-5147.

83. 11 West 42nd Street, New York, N.Y. 10036. Tel. (212)944-2230.

IX. APPENDIX

EUROPEAN COMMUNITY DEPOSITORY LIBRARIES

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|--|--|
| AMERICAN UNIVERSITY Law Library 4400 Massachusetts Avenue, N.W. Washington, DC 20016 | COUNCIL ON FOREIGN RELATIONS Library 58 East 68th Street New York, NY 10021 |
| UNIVERSITY OF ARIZONA International Documents University Library Tucson, AZ 85721 | DUKE UNIVERSITY Public Documents Department University Library Durham, NC 27706 |
| UNIVERSITY OF ARKANSAS Documents Department UALR Library 33rd & University Little Rock, AR 72204 | EMORY UNIVERSITY Law Library School of Law Atlanta, GA 30322 |
| UNIVERSITY OF CALIFORNIA Documents Department General Library Berkeley, CA 94720 | UNIVERSITY OF FLORIDA Documents Department Libraries West Gainesville, FL 32611 |
| UNIVERSITY OF CALIFORNIA Documents Department Central Library La Jolla, CA 92093 | GEORGE MASON UNIVERSITY Center for E.C. Studies 4001 North Fairfax Drive Suite 450 Arlington, VA 22203 |
| UNIVERSITY OF CALIFORNIA International Documents Public Affairs Service Research Library Los Angeles, CA 90024 | UNIVERSITY OF GEORGIA Law Library Law School Athens, GA 30602 |
| UNIVERSITY OF CHICAGO Government Documents Regenstein Library 1100 East 57th Street Chicago, IL 60637 | HARVARD UNIVERSITY Law School Library Langdell Hall-Law 431 Cambridge, MA 02138 |
| UNIVERSITY OF COLORADO Government Publications University Library Box 184 Boulder, CO 90309-0184 | UNIVERSITY OF HAWAII Government Documents University Library 2550 The Mall Honolulu, HI 96822 |
| LIBRARY OF CONGRESS Serial Division Madison Building 10 First Street, S.E. Washington, DC 20540 | UNIVERSITY OF ILLINOIS Law Library School of Law 504 East Pennsylvania Avenue Champaign, IL 61820 |

ILLINOIS INSTITUTE OF TECHNOLOGY
Law Library
77 South Wacker Drive
Chicago, IL 60606

INDIANA UNIVERSITY
Government Documents
University Library
Bloomington, IN 47405

UNIVERSITY OF IOWA
Government Publications
Library
Iowa City, IA 52242

UNIVERSITY OF KANSAS
Government Documents and Maps
University Library
6001 Malott Hall
Lawrence, KS 66045

UNIVERSITY OF KENTUCKY
Government Publications
Margaret I. King Library
Lexington, KY 40506

UNIVERSITY OF MAINE
Law Library
246 Deering Avenue
Portland, ME 04102

UNIVERSITY OF MICHIGAN
Serials Department
Law Library
Ann Arbor, MI 48109-1210

MICHIGAN STATE UNIVERSITY
Documents Department
University Library
East Lansing, MI 48824-1048

UNIVERSITY OF NEBRASKA
Acquisition Division
University Libraries
Lincoln, NE 68588-0410

UNIVERSITY OF NEW MEXICO
Social Science College Development
Zimmerman Library
Albuquerque, NM 87131

UNIVERSITY OF NEW ORLEANS
Business Reference
Earl K. Long Library
New Orleans, LA 70148

NEW YORK PUBLIC LIBRARY
Research Library, Economic & Public Affairs
Grand Central Station
P. O. Box 2221
New York, NY 10017

NEW YORK UNIVERSITY
Law Library
School of Law
40 Washington Square South
New York, NY 10012

STATE UNIVERSITY OF NEW YORK
Government Publications
Library
1400 Washington Avenue
Albany, NY 12222

STATE UNIVERSITY OF NEW YORK
Government Documents
Lockwood Library Building
Buffalo, NY 14260

NORTHWESTERN UNIVERSITY
Government Publications
University Library
Evanston, IL 60201

UNIVERSITY OF NOTRE DAME
Document Center
Memorial Library
Notre Dame, IN 46556

OHIO STATE UNIVERSITY
Documents Division
University Library
1858 Neil Avenue Mall
Columbus, OH 43210

UNIVERSITY OF OKLAHOMA
Government Documents
Bizzell Memorial Library
Room 440401 West Brooks
Norman, OK 73019

UNIVERSITY OF OREGON
Documents Section
University Library
Eugene, OR 97403

UNIVERSITY OF PENNSYLVANIA
Serials Department
Van Pelt Library
Philadelphia, PA 19104

PENNSYLVANIA STATE UNIVERSITY
 Documents Section
 University Library
 University Park, PA 16802

UNIVERSITY OF PITTSBURGH
 Gift and Exchange
 Hillman Library G 72
 Pittsburgh, PA 15260

PRINCETON UNIVERSITY
 Documents Division
 Library
 Princeton, NJ 08544

*UNIVERSITY OF PUERTO RICO
 Law School Library
 Rio Piedras, PR 00931

UNIVERSITY OF SOUTH CAROLINA
 Documents/Microforms
 Thomas Cooper Library
 Columbia, SC 29208

UNIVERSITY OF SOUTHERN CALIFORNIA
 International Documents
 Von Kleinschmidt Library
 Los Angeles, CA 90089

STANFORD UNIVERSITY
 Central Western European College
 The Hoover Institution
 Stanford, CA 94305

UNIVERSITY OF TEXAS
 Law Library
 School of Law
 727 East 26th Street
 Austin, TX 78705

UNIVERSITY OF UTAH
 International Documents
 Marriott Library
 Salt Lake City, UT 84112

UNIVERSITY OF VIRGINIA
 Government Documents
 Alderman Library
 Charlottesville, VA 22903

WASHINGTON UNIVERSITY
 John M. Olin Library
 Campus Box 10611, Brookings Drive
 St. Louis, MO 63130

UNIVERSITY OF WASHINGTON
 Government Publications
 University Library FM-25
 Seattle, WA 98195

UNIVERSITY OF WISCONSIN
 Documents Department
 Memorial Library
 728 State Street
 Madison, WI 53706

YALE UNIVERSITY
 Government Documents Center
 Seeley G. Mudd Library
 38 Mansfield
 New Haven, CT 06520

*Established in 1990, may not be complete