The Boundaries Of EC Competition Law: The Scope Of Article 81 (Oxford Studies In European Law)

A stand-alone guide to competition law, providing extracts from key cases, academic works, and legislation, along with incisive critique and commentary from two experts in the field. Niamh Dunne undertakes a systematic exploration of the relationship between competition law and economic regulation as legal mechanisms of market control. Beginning from a theoretical assessment of these legal instruments as discrete mechanisms, the author goes on to address numerous facets of the substantive interrelationship between competition law and economic regulation. She considers, amongst other aspects, the concept of regulatory competition law; deregulation, liberalisation and 'regulation for competition'; the concurrent application of competition law in regulated markets; and relevant institutional aspects including market study procedures, the distribution of enforcement powers between competition agencies and sector regulators, and certain legal powers that demonstrate a 'hybridised' quality lying between competition law and economic regulation. Throughout her assessment, Dunne identifies and explores recurrent considerations that inform and shape the optimal relationship between these legal mechanisms within any jurisdiction. This book examines the structure of the rule on restrictive agreements in the context of vertical intra-brand price and territorial restraints, analysing, comparing and evaluating their

treatment in US antitrust and EU competition law. It examines the concept of 'agreement' as the threshold question of the rule on restrictive agreements, the structure and focus of antitrust/competition law analysis, the treatment of vertical intra-brand price and territorial restrictions and their place in the test of antitrust/competition law. The treatment of vertical intra-brand restraints is one of the most controversial issues of contemporary competition law and policy, and there are substantial differences between the world's two leading regimes in this regard. In the US, resale price fixing merits an effects-analysis, while in the EU it is prohibited almost outright. Likewise, territorial protection is treated laxly in the US, while in the EU absolute territorial protection - due to the single market imperative - is strictly prohibited. Using a novel approach of legal analysis, this book will be of interest to academics and scholars of business and commercial law, international and comparative law. This volume contains papers presented at the 17th Annual EU Competition Law and Policy Workshop, organized by Philip Lowe and Mel Marquis and held at the European University Institute on 13-14 July 2012. From a variety of angles the book explores the themes of competition, regulation and certain public policies; their interactions; and, in some cases, their mutual tensions. The authors of the various chapters consider legal and economic issues relating to network industries, industrial, environmental and trade policies, and intellectual property and innovation policies, among others. Comparative views and the views of judges from different jurisdictions are provided, and techniques for mediating among different policy objectives and frameworks are discussed. Authors contributing to this book include: Rafael Allendesalazar, Robert D Anderson, Marco Boccaccio, Ginevra Bruzzone, Cristina Caffarra, Alexandre de Streel, Ian Forrester, Douglas Ginsburg, Geert

Goeteyn, Calvin Goldman, Daniel Haar, Küllike Jürimäe, Suzanne Kingston, Lars Kjølbye, Paul Lugard, Mel Marquis, Veljko Milutinovic, Giorgio Monti, Anna Caroline Müller, Rosa Perna, Anthony Pygram, Philip Lowe, Pierre Régibeau and Jon Stern.

The Goals of Competition Law

Public Procurement and the EU Competition Rules

Greening EU Competition Law and Policy

EU Competition Law

Causation in Competition Law Damages Actions

The Spectrum of Tests

Sauter examines how competition law maintains its coherence. He charts the historical development of the EU competition regime and its path to decentralised enforcement, as well as studying the coherence of the regime's goals, boundaries, rules, and exceptions.

This book aims at providing the Legal Masters student throughout Europe's universities with a thorough selection of case law that would be of direct help when studying the subject for the first time. The primary criterion for selection has been whether a particular case has contributed to the development of one of the doctrines or notions that are so important to the understanding of EU competition law. All cases and decisions have been incorporated with their key recitals and texts only, so as to make the amount of text digestible in the context of an introductory course in

EU competition law. Furthermore. for each case there is the mention of its relevance within the legal system and each case is accompamed with a short summary of its facts and circumstances. The sequence of cases follows the logic order in which EU competition law may or. in the author's view, should be taught. Wherever of practical use to the reader, cross-references are being made, be these of a general nature for a specific chapter as a whole or for a single specific case. These cross references refer to relevant sources in EU secondary legislation and Commission Notices, to a selection of further cases on the same issue, to leading scholarly articles on the subject and to interesting annotations adding to the understanding of a particular case. In this way the book offers the possibility for further study and reading to those who would find this necessary without burdening the students with extra and extensive obligatory reading material, which would go beyond the scope of their course format. As such the book also provides the young legal practitioner or in-house counsel with invaluable and time-saving background information in this important field of the law All texts in this third edition are in conformity with the new Article numbering and the terminology as used in the Treaty of Lisbon.

The notion of market power is central to antitrust law. Under EU law, antitrust rules refer to appreciable restrictions of competition (Article 101(1) Treaty on the Functioning of the European Union (TFEU), ex Article 81(1) EC Treaty), the

elimination of competition for a substantial part of the market (Article 101 (3) TFEU, ex Article (81(3) EC), dominant positions (Article 10 (2) TFEU, ex Article 82 EC), and substantial impediment to effective competition, in particular by creating or reinforcing a dominant position (Article 2 of the EU Merger Regulation). At first sight, only the concept of dominant position relates to market power, but it is the aim of this book to demonstrate that the other concepts are directly linked to the notion of market power. This is done by reference to the case law of the EU Courts and the precedents of the European Commission. The author goes on to argue that for very good reasons (clarity and enforceability, among others) the rules should be interpreted in this way. Beginning with market definition, the book reviews the different rules and the different degrees of market power they incorporate. Thus it analyses the notion of 'appreciable restriction of competition' to find a moderate market power obtained by agreement among competitors to be the benchmark for the application of Article 101 TFEU, ex Article 81 EC. It moves on to the concept of dominance under Article 102 TFEU (ex Article 82 EC), which is equivalent to substantial (or sgnificant) market power, and then focuses on the old and new tests for EU merger control. Finally, it addresses the idea of elimination of competition in respect of a substantial part of the market (Article 101 (3) TFEU, ex Article 81 (3) (b) EC), in which the last two types of market power (Article 102 TFEU, ex Article

82 EC and EU Merger Regulation) converge. To exemplify this, an in-depth study of the notion of collective dominance is conducted. The book concludes that a paradigm of market power exists under the EU antitrust rules that both fits with past practice and provides for a useful framework of analysis for the general application of the rules by administrative and even more importantly judicial authorities in the Member States, under conditions of legal certainty.

Mapping appropriately the content of courses on EC competition law, this book guides students through a wide range of carefully chosen cases and materials with insightful commentary and analysis. This is a complete stand-alone resource designed for use on EC competition law courses.

Competition Policy in the European Union

Non-Competition Interests in EU Antitrust Law

Competition Law of the EU and UK

Competition, Regulation and Public Policies

Coherence in EU Competition Law

Fidelity Rebates in Competition Law

Elucidates the concept of causation in competition law damages and outlines its practical implications through relevant case law.

Environmental Integration in Competition and Free-Movement Laws engages in a comprehensive analysis of the obligation of Article 11 TFEU (integration of environmental protection requirements) in the three core areas of EU internal market law: competition, state aid, and free movement. It develops a theoretical framework for integrating environmental and other policies and compares how environmental integration takes place within competition, state aid, and free movement law. In turn, it paves a way for a more transparent and consistent integration of environment protection in these three core areas of law. Structured in three parts, this volume (I) offers a detailed analysis of the historical development of environmental integration including discussions of the various intergovernmental conferences which led to a number of Treaty changes, shaping the obligation itself. (II) It investigates which provisions and concepts within competition law, state aid law, and the market freedoms can be interpreted in order to provide a clear demarcation of environmental protection and

these areas of law. (III) It analyses how competition, state aid, and free movement law allow for a balancing of the environment against restrictions in cases of conflict. Because the EU depends on a very small number of external suppliers for its natural gas, energy security issues inevitably arise. In theory, competition law should regulate and adjudicate such issues. Yet, because contracts between EU companies and producers are highly sensitive and politically charged, the application of EU competition law to natural gas contracts is far from clear. This important book, drawing on ECJ case law, Commission administrative cases and inquiries, and the full range of relevant legal and economic theory, provides an extremely valuable and detailed study of how EU competition law can be applied to long-term natural gas capacity reservation and commodity contracts. Issues and topics such as the following arise in the course of the analysis: Third Gas Market Directive provisions; Article 102 TFEU cases on strategic under-investment; pre-liberation or "legacy" gas contracts (e.g.,

with Algeria and Russia); "right of first refusal"; take-or-pay requirement; third-party access; ownership unbundling; effect of elimination of priority access regimes; short-term trading; spot markets; and law and economics of vertical restraints. Focusing on the foreclosing effect of long-term upstream commodity contracts, the author recommends restrictions on the use of capacity reservation contracts, and analyses the efficacy of security of supply as a competition law defence in cases relating to such contracts.

This book covers cases and materials, and additionally includes detailed commentary and case studies.

Landmark Cases of the EU Courts and the European Commission

Competition Law and Policy in the EC and UK

European Union Law

Making and Managing Markets

The Rule on Restrictive Agreements and Vertical Intra-brand Restraints

Market Separation under Article 102 TFEU

This book examines the extent to which competition law and policy could be employed to promote the efficient allocation of resources in resource-dependent developing economies. Its background inquiry into competition policy and the analysis of economic problems of resource-dependent developing economies inspired by global competition trends in the United States and Europe provide an indispensable framework for understanding competition policy and current attitudes to regulation in a liberalised developing economy. The book provides a systematic exposition of some of the problems associated with resource-dependent economies and the implications for competition and what kinds of conduct in which firms can and cannot engage. In addition to building on basic competition and antitrust concepts, it offers insights into some prevailing problems, which include the issue of 'resource curse', rent-seeking, corruption, and abusive business practices, among others. Their examination here is aligned with scrutiny of the characteristics of developing countries in contrast to developed countries; Nigeria is taken as a proxy for resource-dependent developing countries. The book also determines whether competition law and policy could be used as a tool for addressing competition problems that may exist in resource-dependent developing countries. This book provides meaningful material for both undergraduate and graduate business school programs. In addition, it will be of great interest to lawyers, historians, economists, sociologists, and policy makers in both government and business who wish to understand competition issues in a clear and rigorous way in developing economies.

Companies today must consider and comply with competition law in their daily business management. The financial and reputational risks for breaching such rules are severe and the success of many merger and acquisition projects depends very much on it. While competition law

rules become increasingly sophisticated, business people are still expected to comply with it. Rather than giving a theoretical approach that can be found in a typical practitioner's book or textbook, «Day-to-Day competition law: a practical guide for businesses» is genuinely a practical book. The interaction between theory and practice is the main feature of the book. Major competition law issues are explained in a jargon-free manner and summarized in a nutshell at the end of each chapter. Not only will the reader gain an understanding of competition law rules, but also will gain a better understanding on how a company can behave and what to do if it is subject to an investigation by the competition authorities. This practical guidance may serve as a platform for designing internal in-house rules governing behaviour in relation to competition law, and may also trigger a revision of such rules in light of some of the issues raised by the authors. While a particular focus is drawn on the EU – as the EU competition law system is replicated in a large number of countries around the world – reference to differing rules and other key jurisdictions such as the United States is also made. This book is written to appeal to business people, as well as non-specialized in-house lawyers, and all those who wish to understand competition law in a clear and practical way. The authors' experience in the field of competition law ranges from leading investigations on behalf of competition authorities to applying competition law in a major global company in its daily activities, and advising multinational clients of one of the world's leading law firms. It is this professional insight which provides the reader with an invaluable inside view of all aspects of competition law, from the way authorities think to the impacts competition law has on businesses.

What rules or principles govern the assessment of evidence in EU competition enforcement? This book offers, for the first time, a comprehensive academic study on the topic. Its aim is twofold.

Firstly, it produces a typology of evidence standards in competition proceedings at the EU level, thereby systemising the guidance that is currently dispersed in the case-law of the EU Courts. Secondly, it examines the applicable evidence rules and principles with a view to better understanding their role in EU competition enforcement. In so doing, the book illustrates that evidence standards are not mere technicalities and their significance should not be underestimated. Rigorous and engaging, this work provides a much-needed analysis of a key question of EU competition enforcement.

Shortlisted for the 2012 Prix Vogel in Economic Law. Public procurement and competition law are both important fields of EU law and policy, intimately intertwined in the creation of the internal market. Hitherto their close connection has been noted, but not closely examined. This new work is the most comprehensive attempt to date to explain the many ways in which these fields, often considered independent of one another, interact and overlap in the creation of the internal market. In this process of convergence between competition and public procurement law , the need for this joint study is clearly apparent. As such the book asks whether competition law principles inform or condition public procurement rules, and whether they are adequate to ensure that competition is not distorted in markets where public procurement is particularly significant. The book moves away from the classical focus of public procurement on the activities of private actors, developing instead an analytical framework for the appraisal of the market behaviour of the public buyer from a competition perspective. The analysis is both legal and economic. Proceeding through a careful assessment of the general rules of competition and public procurement, the book constantly tests the efficacy of the rules in competition and public procurement against a standard of the proper functioning of undistorted competition in the

market for public procurement.

Identifying Exclusionary Abuses by Dominant Undertakings Under EU Competition Law

A Pratical Guide for Businesses

EC and UK Competition Law

An Agenda for Resource-Dependent Developing Countries

The Objective and Principles of Article 102

Competition Law

What are the normative foundations of competition law? That is the question at the heart of this book. Leading scholars consider whether this branch of law serves just one or more than one goal, and if it serves to protect unfettered competition as such, how this goal relates to other objectives such as the promotion of economic welfare. The book brings together contributions on the relevance of different welfare standards, on the concept of 'freedom to compete' and on distributional fairness as a goal of competition law. Moreover, it discusses the relationship to other legal goals such as mar.

Competition Policy in the European Union provides a comprehensive introduction to the European Union's policies on restrictive practices, mergers monopolies and state aid. The authors offer a wide ranging analysis of the evolution, operation and regulation of one of the EU's most important policies in a clear and accessible format.

The book examines how the interests of the member states, which provide the primary driving force for developments in European integration, are internalised and addressed by the law of the European Union. In this context, member state interests are taken to mean the policy considerations, economic calculations, local socio-cultural factors, and the raw expressions of political will which shape EU policies and determine member state responses to the obligations arising from those policies. The book primarily explores the junctions and disjunctions between member state interests defined in such a manner and EU law, where the latter expresses either an obligation for the member states to comply with common policies or an acceptance of member state particularism under the common EU framework.

Professional services are a key component of the EU internal market economy yet also significantly challenge the legal framework governing this internal market. Indeed, specific professional regulatory structures, which are often the result of a blend of government and self-regulation, hold clear potential for conflict with EU free movement and competition law rules. Hence this book looks at the manner in which both free movement and competition laws might apply to such self- and co-regulatory set-ups, and at the leeway given to quality considerations (apparently) conflicting with free movement or competition

objectives. In addition, since court action will seldom suffice to genuinely integrate a market, the book also explores those instruments of EU secondary legislation that are likely to impact the most on the provision of professional services. However, the book goes beyond a mere inventory to ask how EU Internal Market policy could contribute to the optimal legal environment for professional services. A law and economics analysis is employed to investigate the need for specific professional rules, the preferred type of regulator (self-, co- or government regulation), and the level - national and/or European - at which regulation should be adopted. As becomes clear, the story of the market for professional services is one of market and government failure; the author is thus left to compare imperfect situations where market failures compete with rent-seeking efforts, the tendency towards over-centralisation and national protectionism. This book offers both an in-depth legal analysis of the EU framework as it applies to professional services as well as a more normative evaluation of this framework based on insights from law and economics scholarship. It will therefore be a valuable resource for all practitioners, policy-makers and academics dealing with professional services, as well as, more generally, with questions of quality and self-regulation.

Application of the 'As Efficient Competitor' Test

Consumer Involvement in Private EU Competition Law Enforcement
Professional Services in the EU Internal Market
The Regionalisation of Competition Law and Policy within the ASEAN Economic Community
International Airline Alliances : EC Competition Law/US Antitrust Law and International Air Transport
Cases and Materials on UK and EC Competition Law

The author also contrasts the Commission's decisional practice with the case law, assesses approaches under U.S. antitrust law to similar forms of conduct, and incorporates insights from economic theory. --

This new study takes a keen look at the problems facing the international community due to conflicts arising from applications of varying competition laws by different competition authorities to international airline alliances. As a result of privatisation, deregulation, liberalisation and globalisation, international air carriers form alliances with one another in order to cope with growing competition in the international air transport market. This book clearly provides an introduction to the background to and origin of airline

alliances, different models of alliances and the related anti-competitive practices resulting from existing international airline alliances. The potential anti-competitive practices resulting from these cross-border alliances trigger a great deal of concern from various competition authorities. Thus, this study goes on to provide a detailed analysis regarding the relevant EC competition law and US antitrust law and their applications to alliance activities. The comparison of different applications of EC competition law and US antitrust law to international airline alliances provides leading research results first-hand. In the conclusion, the essential elements regarding establishing a level playing field in the international air transport market are identified and the author provides possible solutions for the harmonisation of different applications of competition law to international airline alliances.

This book explores the interface between competition law and market integration in the application of Article 102 of the Treaty on the Functioning of the European Union (TFEU), focusing on the notion of 'market separation'-namely conduct that may

hinder cross-border trade. The discussion reviews, among other things, the treatment of geographic price discrimination and exclusionary abuse, by which out-of-state competitors are affected. 'Market separation' cases are treated in the book as a case study for appraising the interface between competition and the Internal Market. On this basis, the book provides a comparative analysis of the Treaty requirements under Article 102 TFEU when applied in 'market separation' cases and the Treaty requirements under the free movement provisions. In addition, it utilises 'market separation' cases as a springboard for advancing an informed reformulation of the application of Article 102 TFEU when state action comes into play. All in all, the analysis presented in the book deconstructs the elements for establishing 'market separation' as an abuse of the dominant position. It shows that there is nothing that would justify a distinctive treatment of 'market separation' under Article 102 TFEU, other than a principled understanding of Internal Market law as a whole: whatever understanding one reaches about the proper shape of the Internal Market, interrogation of the proper application of competition law comes after that and thus should

be informed by this understanding.
Competition law, at both the EC and UK levels, plays an important and ever-increasing role in regulating the conduct of businesses. Based on the premise that open and fair competition is good for both consumers and businesses, competition law prevents businesses from entering into anti-competitive agreements and from abusing their dominant market position. Competition Law and Policy in the EC and UK looks at how competition law affects business, including: co-ordinated actions; pricing behaviour; take-overs and mergers; and state subsidies. It provides a clear guide to and outline of the general policies behind, and the main provisions of EC and UK competition law. Information is presented within a structured framework, complete with a glossary of useful terminology. This fourth edition has been revised and updated to take into account developments since publication of the previous edition, including expanded coverage of the regulation of cartels, the development of private enforcement, the consideration of IP issues in Microsoft, and extended discussion of UK competition Law.

EU and US Competition Law: Divided in Unity?
Competition Law and Economic Regulation
The Scope of Article 81
EC Competition Law
European Competition Law Annual 2012
An Introductory Guide to EC Competition Law and Practice

This book is the first to empirically examine the role of non-competition interests (public policy) in the enforcement of the EU's prohibition on anti-competitive agreements. Based on an original quantitative and qualitative database of over 3,100 cases, this book records all of the public enforcement actions of Article 101 TFEU taken by the Commission, EU Courts, and the national competition authorities and courts of five representative Member States (France, Germany, Hungary, the Netherlands, and the UK). The book not only exposes explicit tools in which non-competition interests played a role, but also sheds light on the "dark matter" of balancing, namely, invisible forms of balancing triggered by the institutional and procedural setup of the competition enforcers. Moreover, it contributes to the empirical-legal study of various other aspects of EU

competition law enforcement, such as its objectives, the more economic approach, decentralized enforcement, and the functioning and success of Regulation 1/2003.

Whish and Bailey's Competition Law is the definitive textbook on this subject. The authors explain the purpose of competition policy, introduce the reader to key concepts and techniques in competition law and provide insights into the numerous different issues that arise when analysing marketbehaviour. Describing the law in its economic and market context, they particularly consider the competition law implications of business phenomena, including distribution agreements, licences of intellectual property rights, cartels, joint ventures, and mergers. The book assimilates a wide varietyof resources, including judgments, decisions, guidelines, and periodical literature. An authoritative treatment of competition law is paired with an easy-to-follow writing style to make this book a comprehensive guide to the subject, regularly used in universities, law firms, economic consultancies,competition authorities, and courts. Clear, detailed, and analytical, this is an unparalleled guide and stand-alone resource on competition law.

Three questions surround the interpretation and application of Article 82 of the EC Treaty. What is its underlying purpose? Is it necessary to demonstrate actual or likely anticompetitive effects on the market place when applying Article 82? And how can dominant undertakings defend themselves against a finding of abuse? Instead of the usual discussion of objectives, Liza Lovdahl Gormsen questions whether the Commission's chosen objective of consumer welfare is legitimate. While many Community lawyers would readily accept and indeed welcome the objective of consumer welfare, this is not supported by case law. The Community Courts do not always favour consumer welfare at the expense of economic freedom. This is important for dominant undertakings' ability to advance efficiencies and for understanding why the Chicago and post-Chicago School arguments cannot be injected into Article 82.

One of the fundamental challenges currently facing the EU is that of reconciling its economic and environmental policies. Nevertheless, the role of environmental protection in EU competition law and policy has often been overlooked. Recent years have witnessed a shift in environmental regulation from reliance on command and control to an

increased use of market-based environmental policy instruments such as environmental taxes, green subsidies, emissions trading and the encouragement of voluntary corporate green initiatives. By bringing the market into environmental policy, such instruments raise a host of issues that competition law must address. This interdisciplinary treatment of the interaction between these key EU policy areas challenges the view that EU competition policy is a special case, insulated from environmental concerns by the overriding efficiency imperative, and puts forward practical proposals for achieving genuine integration.

Mens Rea in EU Antitrust Law

New Challenges

Competition Policy and Resource Utilization

The Boundaries of EC Competition Law

Between Compliance and Particularism

The Foundations of European Union Competition Law

This edited volume of essays examines a wide range of issues related to the regionalisation of competition policy in South East Asia, where the ten member states of ASEAN have launched the ASEAN Economic Community

(AEC). Written by a diverse group of academics, practitioners and policy-makers, this book explore issues such as the role of competition policy in facilitating the market-integration ambitions of the ASEAN member states, the challenges arising from divergences in the national competition law regimes of the ASEAN member states, and the absence of a supranational legal framework and the future of competition policy in light of the AEC Blueprint 2025. Given the nexus between regional competition policy and regional market integration, this book will be of particular interest to lawyers, economists and policy-makers working in the fields of competition law and regional trade law.

Under the purely economics-based approach to competition law, the central consideration is whether the conduct of undertakings has the effect of restricting competition or not. Such an 'objective' approach to antitrust enforcement leaves little room for subjective elements like intentions. But what happens when economic analysis reaches its limits? In this signal contribution, the author invokes the criminal law concept of mens rea, the idea of the 'guilty mind', thoroughly evaluating the normative cogency of mens rea evidence in the determination of antitrust infringements. Delving deep into the case law, the author views the subject from the standpoint of

a confluence of various areas of law, including: the role of mens rea in the criminal law in France, Germany, and England and Wales; the different types of mens rea (e.g., intent, recklessness, negligence); mens rea in a corporate context; mens rea evidence in United States antitrust law; the notion of the 'meeting of minds' in Article 101 TFEU; relevance of intentions in the determination of the object of an agreement or concerted practice; relevance of intentions in the determination of abuse of a dominant position; and the role of mens rea in the determination of fines for antitrust breaches. The author also examines arguments both for and against the use of mens rea evidence in determining whether an antitrust infringement took place and how it should be punished. This is the first full-length assessment of what role mens rea evidence actually plays and should play in competition law even as the tools for antitrust analysis are meant to become increasingly objective. As a thoroughly researched and systematically presented commentary and analysis of the current status of the use of mens rea in antitrust enforcement and how the practice could develop, it is sure to be welcomed by practitioners as well as by policymakers and academics.

Competition Law of the EU and UK is the essential introduction to

competition law. Clear and accessible, without compromising on rigor, it helps students to navigate all of the technicalities of competition law. With strong coverage of the economics underpinning the law, this text leads students through the complexities of competition law and helps them to understand its principles. Designed to bring the law to life, a range of learning features aid comprehension and invite students to think about the many applications of competition law. Key cases boxes provide lively discussion, and user-friendly flow charts and visual aids offer a stimulating approach to competition law, making it an ideal introduction to the subject for undergraduates and postgraduates new to this area of law. An Online Resource Centre accompanies this book and provides: Summary maps and key cases - downloadable for ease of use Multiple choice questions - to help students to self-check progress and understanding Table of OFT decisions - for quick reference Web links - to enable students to take their learning further

The Boundaries of EC Competition LawThe Scope of Article 81Oxford University Press on Demand

A Principled Approach to Abuse of Dominance in European Competition Law

An Empirical Study of Article 101 TFEU
Quality Regulation and Self-Regulation
Member State Interests and European Union Law
Market Power in EU Antitrust Law

Article 102 TFEU prohibits the abuse of a dominant position as incompatible with the common market. Here the difficulties of assessing abuse in terms of Article 82 in light of the objectives of EU competition law are addressed to establish a robust and workable analytical framework for abuse of dominance.

Since output reduction can co-exist with cost reduction/innovation, and that these latter features are desirable, cost reduction and innovation operate to justify infringement of the substantive obligation. Thus, this monograph argues that output, cost, and innovation are the only legitimate issues in an Article 81 analysis. It is in this sense that the monograph is concerned with the boundaries of Article 81 EC. Addressing the problems surrounding the interpretation and application of Article 81 of the EC Treaty, this monograph shows how it affects the regulation and limits of EC competition law. This monograph addresses two problems surrounding the interpretation and application of Article 81 of the EC Treaty - what is competition and how does Article 81 ensure that competition is protected. After over 40 years of application and a period of modernisation, decentralisation, and reflection, it is possible to understand Article 81 and what it seeks to achieve. The monograph's aim is to reveal the intellectual order and rational structure underlying the law so as to enable the reader to

understand Article 81 in a clear and rigorous manner. This is done by breaking Article 81 down into its constituent elements and examining the function that each element serves. Arguing that jurisdiction rests on a public/private distinction, both the substantive and the justificatory rules are cast to generate obligations appropriate for private actors to perform. Actors and activities falling within the scope of Article 81 are subject to the substantive element prohibiting contrived reductions in output.

This book represents a fresh approach to EC competition law - one that is of singular value in grappling with the huge economic challenges we face today. As a critical analysis of the law and options available to European competition authorities and legal practitioners in the field, it stands without peer. It will be greatly welcomed by lawyers, policymakers and other interested professionals in Europe and throughout the world.

Antitrust is fast becoming a 'trending topic', with over 120 countries having already adopted some form of competition legislation. This volume brings together carefully selected articles which reflect the evolution and progression of the regulation of joint conduct under competition law on both sides of the Atlantic, and which discuss principles of fundamental importance for antitrust law. The articles focus on various kinds of joint conduct between companies which might bear negative effects on competition, in particular on horizontal cartels and collusion between competitors. Attention is also paid to the debate surrounding the most adequate approach for vertical agreements, which take place between firms operating at different levels of production. Their effects on competition have traditionally been one of the

most disputed issues in modern antitrust, and tend to divide the principal schools of thought that have influenced the evolution of competition policy around the world. The articles look primarily at two of the most established antitrust jurisdictions, namely the United States and the European Union. They discuss the general theoretical framework that has influenced the evolution of the law and policy; cover the most relevant practical developments; provide contrasting doctrinal views and pay particular attention to the main schools of thought that have influenced antitrust in the US and the EU; and are representative of the leading discussions in the course of antitrust history.

The EU Competition Rules

The Interface between Competition and the Internal Market

Evidence Standards in EU Competition Enforcement

Cartels and Anti-Competitive Agreements

Commentary, Cases and Materials

Text, Cases, and Materials

This eagerly awaited new edition has been significantly revised after extensive user feedback to meet current teaching requirements. The first major textbook to be published since the rejuvenation of the Lisbon Treaty, it retains the best elements of the first edition – the engaging, easily understandable writing style, extracts from a variety of sources showing the creation, interpretation and application of the

law and comprehensive coverage. In addition it has separate chapters on EU law in national courts, governance and external relations reflecting the new directions in which the field is moving. The examination of the free movement of goods and competition law has been restructured. Chapter introductions clearly set out what will be covered in each section allowing students to approach complex material with confidence and detailed further reading sections encourage further study. Put simply, it is required reading for all serious students of EU law.

This title should equip students with a broad range of materials - case extracts, statutory extracts and relevant academic writings - to enable them to study and make sense of this fast-developing and often complex area of law.

This text is a timely and comprehensive examination of consumer participation in EU competition law enforcement. Using in-depth analysis of recent case law and policy documents, it offers a clear and innovative framework of the subject's normative and practical aspects, and proposes necessary remedial and procedural rules to enable participation.

This book examines the treatment of fdelity rebates as one of the most controversial topics in EU competition law. The controversy arose from the lack of clarity as to how to distinguish between rebates that constitute a legitimate business practice and those that might have anticompetitive e?ects, as the same type of rebates could be pro-competitive or anticompetitive depending on their e?ects on competition. This book clarifes the appropriate treatment of fdelity rebates under EU competition law by o?ering original insights on the way in which abusive rebates should be identifed, taking into account the wealth of EU case law in this area, the economics' literature and the perspective of US antitrust law. The critical discussion on the case law is centred on the idea as to whether the as efcient competitor (AEC) test is an important part of the assessment of fdelity rebates and in which circumstances it could be used as one tool among others. The analysis treats such issues and topics as the following: – What motivated the EU Courts to treat fdelity rebates as illegal ‘by object'? – Why has this case law drawn so much criticism from academics and other commentators? – What can we learn from the economic theories of exclusive dealing and fdelity rebates, and whether the strict

approach of the Courts can be supported by economic empirical studies? – What is the meaning attached to the notion of an 'e?ects-based' approach as an expression of the reform of Article 102? – Why is the controversy regarding the treatment of fdelity rebates still a live issue after the Intel and the Post Danmark II judgments? – In which circumstances the price-cost test can be used as a reliable tool to distinguish between anticompetitive and pro-competitive fdelity rebates? – Can we evaluate the e?ect of fdelity rebates without necessarily carrying out a price-cost test? – Can we consider the AEC test as a single unifying test for all types of exclusionary abuses? – What can we learn about the application of the AEC test in fdelity rebate cases from the recent US case law? A concluding chapter provides an original perspective and also policy recommendations on how the abusive character of fdelity rebates should be assessed including an appropriate legal test that is administrable, creates predictability and legal certainty and minimises the risk of errors and the cost of those mistakes. This book takes a giant step towards improving the understanding of the legal treatment of fdelity rebates and understanding as to whether the treatment of fdelity rebates could

be e?ects-based, without necessarily carrying out an AEC test. It will also contribute signifcantly to the practical work of enforcement agencies, courts and private entities and their advisors. book's parallel study of US and EU competition law.

The Reform of EC Competition Law

The EU Approach

Day-to-Day Competition Law

Vertical Natural Gas Transportation Capacity, Upstream Commodity Contracts, and EU Competition Law

Environmental Integration in Competition and Free-Movement Laws

Cases and Materials