INTERNATIONAL COMPETITION LAW SERIES

Safeguarding Companies' Rights in Competition and Anti-dumping/Anti-subsidies Proceedings

SECOND EDITION

Themistoklis K. Giannakopoulos



<u>Safeguarding Companies Rights In Competition And Antidumpingantisubsidies Proceedings</u>

Michael Brown

Safeguarding Companies Rights In Competition And Antidumpingantisubsidies Proceedings:

Safeguarding Companies' Rights in Competition and Anti-dumping/anti-subsidies Proceedings Themistoklis K. Giannakopoulos, 2011-01-01 Focusing on the rules safeguarding procedural due process in the administrative procedures of the Commission this fully updated edition of a widely used handbook covers the four principal fields that entail enforcement of substantive competition rules antitrust merger anti dumping antisubsidies and State aid Among the many practical issues raised are the following the right of directly involved parties to bring an action before the European Courts in merger anti dumping anti subsidies and State aid cases the rights of complainants in antitrust cases the rights and obligations of beneficiaries in State aid cases the extent to which the right to confidential communication between lawyer and client in these cases is recognised by the European Commission and the European Courts the right to silence to avoid self incrimination in antitrust cases the right to respect for confidentiality and the right to be heard during the preliminary factfinding procedure of the Commission the obligations of an undertaking during the fact finding procedure of the Commission the right of access to the Commission's file the right to a fair hearing of all the parties concerned by the Commission proceedings and the applicability of Article 6 of the European Convention of Human Rights ECHR to EU antitrust procedures Three tables consolidate briefly and comparatively the rights and the obligations of the private parties in the four proceedings as well as their right to bring an action before the European Courts These tables give the reader the opportunity to easily check out what is the situation in the four proceedings regarding a specific right or obligation The author's analysis draws on all the relevant judgments of the European Courts and the book comes with a wealth of reference material including detailed footnotes lists of legislation and cases in both chronological and alphabetical order and an extensive bibliography Leniency in EU Competition Law Ingrid Margrethe Halvorsen Barlund, 2020-06-18 Leniency has emerged as one of the main enforcement instruments used by competition authorities to combat cartels Offering immunity from punishment is believed to destabilise already existing cartels and deter undertakings from entering into such arrangements This book offers the first in depth analysis of the scope of leniency in European Union EU competition law considering three crucial ramifications ensuring a leniency applicant can self report with confidence retaining the right to compensation of those who have suffered losses due to the cartel and furthering the objective of undistorted competition within the internal market With thorough insight into the interaction between the Commission's Leniency Notice and public and private enforcement the author fully explains such aspects of the subject as the following who is eligible for leniency liability of an immunity recipient the EU fining system disclosure of leniency evidence scope of public authorities reaching out to cartel infringers the immunity recipient and follow on damages claimants the immunity recipient and subsequent leniency applicants effect of the Damages Directive and the European Economic Area dimension The author offers cogent suggestions about how the shortcomings of the Commission's leniency offer can be ameliorated and which regulatory steps

should be taken to give the policy greater leverage The author calls for increased harmonisation at national level in the EU and compares leniency practice in US antitrust law As a comprehensive analysis of the practical application of current policy and procedure in EU cartel enforcement the book clearly shows the ways in which the scope of leniency is manifest in the interaction between public and private enforcement evaluating which interaction is most effective Its practical character will be recognised and welcomed by competition law practitioners and policymakers who will strengthen their grasp of leniency procedure and clearly discern implications for competition infringement cases **Blocking Patents in European** Competition Law Angelika S. Murer, 2021-12-03 In practice and jurisprudence in European competition law it is especially difficult to define the boundaries of patent abuse as an offence In this thoroughly researched book the author answers the question of when and how an application for a blocking patent can amount to an abuse of a dominant position under Article 102 TFEU Drawing on legal literature and European Union EU case law the presentation analyses a constellation of blocking patenting strategies and proposes potential remedies where abuse is involved With detailed descriptions of the characteristics of potentially abusive and non abusive behaviour regarding applications for blocking patents the book provides the following and more a comprehensive analysis of the case law of the EU courts on the abuse of a dominant position in cases which involve intellectual property rights insights on how patenting strategies affect competition with a particular focus on the application of blocking patents an overview of the developments in doctrine and practice which led to the current understanding of the seemingly conflictual goals of competition and intellectual property law and insights on the difficulties of defining relevant markets and establishing whether an undertaking holds a dominant position The book illustrates the mechanisms of blocking patenting strategies with examples from the pharmaceutical industry because blocking strategies have particular relevance in applying for patents in that context A test scheme for analysing the application of a blocking patent under Article 102 TFEU is included Additionally the book provides an outlook on the topic of patents and shortages of supply in light of the COVID pandemic Practitioners and policymakers requiring an understanding of the conceptual framework of the abuse concept within EU competition law and how it relates to patent strategies will welcome this invaluable book They will not only be able to set the conduct of applying for blocking patents into the Article 102 TFEU context but also have decisive tools to approach questions on the intersection of patent law and competition law in <u>Unfair Competition Law</u> Frauke Henning-Bodewig, 2006-01-01 The book delineates with extraordinary clarity and the EU precision the working of unfair competition law throughout the European Union Its four comprehensive chapters encompass basic considerations of definition subject matter enforcement and applicable law international provisions under the Paris convention TRIPS and WIPO model law analysis of relevant EC directives and regulations and ECJ jurisprudence and extensive discussions of the national unfair competition laws of all 25 Member States For each Member State specific topics covered include such considerations as the following sources of law competition law in a nutshell regulation of advertising

direct marketing sales promotion risk of confusion disparagement defamation misappropriation imitation impediment of competitors and breach of the law The author also provides a selected bibliography of sources for each country It would be difficult to find a more useful analysis of European Unfair Competition Law than this systematic study It is practical thorough clarifying and readable all at the same time The author untangles the most complex of apparent contradictions with impressive skill Copies of this book will quickly take their places on the working shelves of interested practitioners academics and officials throughout Europe Information Exchange Between Competitors in EU Competition Law Martin Gassler, 2021-02-12 Information Exchange Between Competitors in EU Competition Law Martin Gassler Competing firms often exchange information in order to make more informed market decisions which can help to overcome market inefficiencies However an abundance of legal and economic research as well as case law has shown that information exchange may also enable firms to engage in collusion more readily and sustain it longer This book is the first to concentrate on this challenging topic of EU competition law in such depth It focuses on pure information exchanges exchanges that are not ancillary to a wider pro competitive or anticompetitive conduct and thoroughly explains the characteristics of such information exchanges their pro competitive and anticompetitive effects and discusses all the relevant legal aspects for their assessment The author provides a robust analytical framework for assessing information exchanges under Article 101 TFEU focusing on the risk of collusive outcomes and what types of information exchange are particularly harmful With detailed attention to the leading cases on information exchange the analysis examines the most important aspects for assessing information exchange between competitors in particular the concept of a concerted practice the concepts of a restriction by object and effect including their similarities and differences the importance of evidentiary issues the issue of signalling via advance public announcements factors that facilitate collusion efficiencies of information exchange including market transparency the legal challenges of tackling mere parallel conduct facilitative practices in the Commission Guidelines including the Horizontal Cooperation Guidelines and safe harbours for certain types of information exchange The book offers clear guidance on how to identify and thus distinguish information exchange that restricts competition by its object and information exchange that restricts competition only by its effects It offers practical solutions to some of the perceived issues when assessing information exchanges With its wealth of analysis not available from other sources this concise yet comprehensive review of a much debated topic in competition law offers clear guidance for practitioners in assessing the issues surrounding information exchange The book will also be welcomed by competition law academics competition lawyers and competition authority officials throughout Europe Judicial Review of Competition Law Enforcement in the EU Member States and the UK Maciej Bernatt, Francisco Marcos, Annalies Outhuijse, 2024-09-17 International Competition Law Series 91 Enforcement of competition law often calls for a complex economic and legal assessment and the review of those enforcement decisions usually falls to national courts In this connection however European competition law and legal

scholarship have offered scant guidance on how judicial review should and does function This book the first comprehensive systematic and comparative empirical study of judicial review of competition law public enforcement in the EU and the UK provides a thorough understanding of the practical operation of the role of judicial review in competition enforcement A country by country analysis along with a detailed introduction and an incisive comparative summary covers all publicly available judicial review judgments 5 707 in all of final public enforcement actions in relation to Articles 101 and 102 TFEU and relevant national provisions in the twenty seven EU Member States and the UK rendered between 1 May 2004 and 30 April 2021 The data presented draws on a rich database built for the purpose of this study by twenty eight national teams of competition law academics and practitioners For each jurisdiction the analysis focuses on such aspects as the following structure of the national enforcement system number of judgments rendered success rate types of appellants competition rules subject to review grounds of review use of preliminary references appeals involving leniency and or settlements and role of third parties Numerous graphs figures and tables support the presentation In the light it sheds on trends in judicial review of competition law enforcement on a comparative basis and in its data driven assessment of how the decentralised judicial review of EU competition law meets EU integration aims this important study will be of inestimable value to competition lawyers policymakers and academics in developing a confident understanding of precisely how judicial review in this area operates in each of the EU Member States and the UK In addition the book provides a significant contribution not only with respect to EU and national competition laws but also more broadly to comparative administrative law scholarship in Liner Shipping and EU Competition Law Alla Pozdnakova, 2008-01-01 As of October 2008 liner shipping Europe companies lose their privileged status under EU competition law due to withdrawal of the liner conference block exemption which generously authorized horizontal price fixing and similar agreements between liner shipping companies Where the liner consortia block exemption does not apply all cooperative activity should be carefully and individually assessed under the competition provisions of the EC Treaty Alla Pozdnakova has taken this opportunity to research and write an in depth study of competition law problems in the liner shipping context Her analysis is not only the first to examine the new European regime and thus the most up to date study of the subject it is in fact the first major independent study of how Articles 81 and 82 EC are construed and applied to the market conduct of liner shipping companies In particular the author addresses the following legal questions Does cooperation between liner shipping companies infringe Article 81 1 even if it does not entail hard core restrictions of competition Can a cooperative arrangement between liner shipping companies claim that the efficiencies they produce outweigh the negative impact on competition Article 81 3 When do certain market strategies of liner carriers become an abuse of a collective or individual dominant position Article 82 Does parallel pricing behaviour infringe EC Treaty competition rules Systematically the author considers various market strategies of liner shipping companies and tests them as to their compatibility with EC Treaty competition provisions In doing so she thoroughly analyses

European Commission decisions and judgments of the European courts applying them authoritatively to the liner shipping sector In this way her book provides a well structured account that clearly identifies the legal issues that liner shipping companies are likely to face once the special treatment traditionally allowed them is withdrawn A summary of current and prospective developments in EU competition regulation and policy in liner shipping rounds up the analysis Liner Shipping and EU Competition Law will be a unique and powerful resource for practitioners and policymakers as liner shipping companies restructure their agreements and market strategies to accommodate loss of the block exemption It is also sure to become a definitive analysis of the legal identity of the liner shipping market sector under European competition law

Competition Law in the ASEAN Countries Ploykaew Porananond, 2018-06-22 Amongst other regional organisations the Association of Southeast Asian Nations ASEAN stands out for the diversity of its ten Member States stemming from their respective economic and political heritage governance systems legal institutions stages of economic development and exposure to or reliance on foreign trade and investments As of 2017 however the regional bloc has formalised its focus on economic integration and development of a regional competition law Challenging this vision are the States very different national competition law systems ongoing problems with governmental intervention in the economy and lack of effective and efficient corruption free regulatory and juridical infrastructure This book the first detailed analysis of competition law in the ASEAN countries looks at the prospects of implementation for the regional law and compares the existing systems in each Member State Opening with a thorough description of the composition and organisation of the ASEAN the analysis proceeds to an in depth evaluation of such aspects as the following persistence of the ASEAN s traditional mode of dispute resolution often referred to as the ASEAN Way economic challenges posed by intra regional growth and globalisation the strong relationship between the business and government sectors and governmental interventions as cultural practices There is detailed reference throughout to case law legislation institutional announcements relevant treaties and literature on both the ASEAN and competition law As an important critical analysis of this major new regional competition law regime this book will be welcomed by competition law practitioners multinational corporation counsel and jurists officials and academics in a variety of legal fields Although the subject is specifically the ASEAN the analysis contributes to a better understanding of competition law regimes in developing economies and to the more general literature on global competition law of EU Case Law on Competition, René Barents, 2017-10-30 This well known book prized since 2007 by practitioners in EU competition law for its easy to find extracts sorted by subject is now in its second and hugely expanded edition covering all decisions of the Court of Justice and the General Court of the European Union on competition law through the end of 2016 This new edition comprising of forty seven chapters follows the same easy to use format as the earlier volume and covers all the case law on the substantive and procedural aspects of the EU treaty rules and legislation on antitrust and mergers To improve the accessibility of the case law this book is structured as follows Hundreds of headings and subheadings present

virtually every point from which a researcher is likely to start Each subject heading starts with extracts having a more general meaning followed by extracts relating to specific points or situations Extracts are accompanied by cross references where appropriate Extracts are drawn from all EC competition case law encompassing every judgment and order in the Reports of Cases before the Court of Justice and the General Court Summary of the Judgment until 2017 Although it is primarily of value to barristers solicitors in house lawyers of companies and associations of companies officials of national competition authorities and other active practitioners in EU competition law the book will also be welcomed by scholars and others who need to obtain in a minimum of time an overview of what the European courts have actually stated about a specific point including detailed references in the field The Interplay Between Competition Law and Intellectual **Property** Gabriella Muscolo, Marina Tavassi, 2019-01-17 Although competition law and intellectual property are often interwoven until this book there has been little guidance on how they work together in practice As the intersection between the two fields continues to grow worldwide both in case law and in regulation the book s markets based approach focusing on sectors such as pharmaceuticals IT telecoms energy and agriculture in eleven of the world's most active jurisdictions provides a much needed in depth understanding of how this interplay reveals itself among the different legal systems Written by a range of authors including judges regulators academics economists and practitioners in both fields the book provides an international comparative perspective as well as detailed analysis of specific cases policies and proposals for change Among the issues and topics covered are the following free movement of goods and the protection of intellectual property rights standard essential patents intellectual property rights between technological development and consumer protection geo blocking online platforms and antitrust excessive prices In this context special attention is paid throughout to the increasing dialogue among Competition Authorities and between Judges and Competition Authorities around the world As matchless remedy for the lack of uniformity heretofore the book s investigation of the nexus between competition law and intellectual property in different sectors and in various countries takes a giant step towards a more balanced approach and more levelled regulation and practices It will be warmly appreciated by policy makers decision makers regulators practitioners and academics in both competition law and intellectual property fields Article 234 and Competition Law Barry J. Rodger, 2008-03-13 It is a truism that almost all the major principles established by the ECJ have been decided in the context of a reference to that court for a preliminary ruling under Article 234 ex 177 EC Article 234 facilitates a dialogue between the national courts and the ECJ in order to allow national courts to seek guidance on the appropriate interpretation of Community law principles in a particular legal dispute From a Community perspective this process should enhance the uniform and consistent interpretation of Community law throughout the national courts This book adds to a growing body of literature on the ECJ s role in developing Community law and comprises quantitative and qualitative aspects It is based on collaborative research involving 14 Member States which focused on the Article 234 procedure in relation to competition law

and State aid cases Rapporteurs were appointed in each Member State from which any Article 177 234 references had been made in relation to competition law or State aid The results presented here follow up competition law related Article 234 rulings to their domestic legal context to ascertain what happened in the subsequent legal phase when parties seek to enforce their rights or rely on other party s obligations on the basis of the ruling by the ECJ Each national report is built on a questionnaire seeking information on a range of issues relative to every competition law related ruling by the ECJ in references from that Member State s courts including the following the number of rulings in relation to that Member State the dates of all rulings details of the case background reference questions and the ECI ruling for each case and information where available on each post ruling process The research is comprehensive in reviewing all competition law related rulings to 1 May 2004 and pioneering as being the first systematic attempt to collate detailed information on all relevant cases including crucially the post ruling process This research is an important contribution to the literature on the ECJ and its role in developing a competition culture across the Community Moreover the importance of ensuring consistency and uniformity in the implementation of EC competition law by national courts has been given added significance following the accession of new Member States In light of these factors this book will serve as a reliable groundwork for further studies of the development of European integration particularly as it focuses on competition law an area of ever increasing significance and importance It is also of distinctive value to practitioners seeking precedents or juridical context on which to build arguments in European competition law Patent Settlements in the Pharmaceutical Industry under US Antitrust and EU **Competition Law** Amalia Athanasiadou, 2018-08-14 Reverse payment settlements or pay for delay agreements between originators and generic drug manufacturers create heated debates regarding the balance between competition and intellectual property law These settlements touch upon sensitive issues such as timely generic entry and access to affordable pharmaceuticals and also the need to preserve innovation incentives for originators and to strengthen the pipeline of life saving pharmaceuticals This book is one of the first to critically and comparatively analyse how such patent settlements and various other strategies employed by the pharmaceutical industry are scrutinised by both United States US and European courts and enforcement authorities and to discuss the applicable legal tests and the main criteria used for their assessment The book sultimate objective is to provide guidance to the pharmaceutical industry regarding the types of patent settlements strategies and conduct which may be problematic from US antitrust and European Union EU competition law perspectives and to assist practitioners in structuring settlements which are both efficient and compliant To this end an exhaustive legal analysis of some of the most controversial issues regarding pharmaceutical patent settlements is provided including the lengthy split among US Circuit Courts on the issue of pay for delay settlements its resolution by the US Supreme Court in FTC v Actavisand subsequent jurisprudence the decision of Lundbeck v Commissionby the European General Court and the Servier decision of the European Commission the Roche Novartisdecision of the European Court of Justice and the most

important decisions by National Competition Authorities on pharma patent settlements in the EU an overview of other types of strategies such as product hopping and product reformulations no authorised generic commitments problematic side deals mechanisms affecting generic substitution the rejection of the scope of the patent test in both the US and the EU and the balancing of patent law and antitrust law considerations in the prevailing applicable tests the benefits of settlements and the main criteria for assessing their legitimacy under US antitrust and EU competition law The analysis provides concrete examples of both illegitimate and legitimate settlements and strategies emphasising on conduct that falls within a grey zone and on the circumstances and criteria under which such conduct could be deemed problematic from an antitrust perspective This book will serve as a valuable guide for pharmaceutical companies wishing to minimise the risk of engaging in conduct that could potentially infringe US antitrust and EU competition law It further aims to save courts and enforcement agencies and also practitioners and academics considerable time and resources by providing an exhaustive analysis of the relevant caselaw with the ultimate goal to increase legal certainty on the most controversial aspects of patent settlements in the pharmaceutical industry Global Competition Enforcement Paulo Burnier da Silveira, William Evan Kovacic, 2019-10-17 Global Competition Enforcement New Players New Challenges Edited by Paulo Burnier da Silveira the digital economy s challenges to competition authorities convergent aims and rules among different competition authorities regional organizations with competition mandates competition neutrality and state owned enterprises and leniency programmes Although necessarily there is considerable information on major antitrust regimes like those of the United States and the European Union chapters by local experts highlight lessons to be learned from the work of competition authorities in five continents including Argentina Australia Brazil China Colombia India Japan Mauritius Mexico Peru and South Africa The contributors include competition enforcers regulators academics practitioners and leading commentators from a range of jurisdictions Adding up to an authoritative analysis from the enforcer's perspective the studies presented in the book clarify the approaches and priorities of competition enforcement authorities including those of major emerging economies and provide expert guidance on dealing with transnational investigations Antitrust lawyers corporate counsel and interested academics as well as policymakers will benefit immeasurably from this book s wealth of informative detail Rules for the 21st Century Ky Ewing, Ky P. Ewing, 2006-01-01 Ky Ewingand's magisterial work on international competition law is here updated to take stock of the prodigious expansion of anti cartel enforcement throughout the world in the intervening years Although the book has been highly regarded as a major reconsideration of the foundations of competition law and policy it has also proven enormously valuable for its wealth of information and practical guidance Among its most useful features some new to the second edition are the following and a vast amount of statistical and other information about public competition law enforcement agencies and their resources around the world and in depth analysis of the differences in competition law regimes and the various economic and legal theories from which they derive and detailed attention to

jurisprudence and legal commentary over many decades and probing of the meaning of and loward and fairand as applied to prices and suggestions for carrying out re evaluation of policies on the basis of empirical evidence and formulation of a model new U S competition law preempting state laws and and guidelines on distinguishing useful collaboration from collusive activity Nine new appendices have been added to this edition covering such informative material as new statistical data about U S enforcement details on the dramatic cooperation now taking place among nations in anti cartel enforcement and suggestions on how companies and practitioners should respond to multinational investigations Development of Competition Framework Zongle Huang, Jiyuan Chen, 2004-01-01 In the march of economic globalization it has become increasingly apparent that divergence in competition policy from one country to another is a major stumbling block More than any other factor an international consensus of competition laws is sure to facilitate the clear working interaction among trade investment intellectual property rights and technology transfer that economic progress demands This forward looking book offers presents insightful perspectives on how this consensus may be achieved The Future Development of Competition Framework presents papers and speeches by well known competition law practitioners versed in competition law and policy including representatives of national competition authorities. They came from a variety of countries including France Germany Canada Mexico Indonesia Malaysia Russia Japan Australia Taiwan Korea and the United States to attend a 2003 conference sponsored by the Taiwan Fair Trade Commission The book reproduces texts of the various contributions to the conference including a roundtable discussion Among the topics addressed are the following mergers and acquisitions political interests enforcement policies and sanctions national cultures and traditions international cartels regional cooperation concentration indexes and dominance indexes patent pools financial deregulation confidentiality measures technical assistance striking the right balance between competition and regulation reconciling competition policy and development policies Although they are especially valuable for their concentration on the Asia Pacific countries these discussions will be of incalculable value to practitioners and academics everywhere who are involved in any of the interconnected branches of economic law or policy covered here Sixty Years of EU State Aid Law and Policy Eugene Stuart, Iana Roginska-Green, 2016-04-24 If an EU industrial policy can be said to exist its contours may be found in the complex and evolving concept of State aid Because approaching any State aid issue can be fraught with multiple and sometimes conflicting interpretations an in depth analysis of the rationales initiatives and regulations that constitute the State aid system is much needed In response to this need this book provides a fine grained clarifying context through which recent reforms policy shifts and judicial decisions concerning State aid can be understood and applied to specific situations Focusing on the impacts of landmark cases and policy developments leading up to a deeply informed critique of the current State Aid Modernisation Programme the authors cover such issues and topics as the following linkages to other established and evolving EU common policies and common strategies effect of EU State aid rules in the expanding geopolitical regions of

EU influence interaction with the WTO Subsidies and Countervailing Measures Agreement the problem of a subsidies culture how the European Commission s notion of bad State aid has evolved effect of EU policy imperatives e g environmental goals which implicitly argue for increased subsidisation nexus with EU tax harmonisation competition among undertakings versus competition among Member State policies and nature of the quasi devolution of regulatory responsibilities to EU Member States This book is a crucially important source of both theoretical enlightenment and practical wisdom that will greatly enhance confident progress through any legal matter involving EU State aid rules It will prove of immeasurable value to practitioners in house counsel policymakers and academics for many years to come Margin Squeeze in the Electronic **Communications Sector** Anna Renata Pisarkiewicz, 2018-06-22 Margin squeeze is a form of abuse of a dominant position in which a vertically integrated company reduces the margin between the price charged to competitors and the price charged to consumers which can have the effect of excluding a competitor from the market In the decade or so since the liberalisation of network industries margin squeeze has become a major source of concern among competition authorities and courts particularly pronounced in the electronic communications sector Because some of the adopted decisions show significant inconsistencies in approach and legal certainty remains elusive in this area this book which provides an extremely thorough analysis is both timely and of great practical value The author provides an in depth examination of margin squeeze allegations in the electronic communications sector with a view to developing a more advanced and comprehensive analysis of principles which should guide ex post assessment of margin squeeze Issues and topics covered include scope of intervention in margin squeeze cases both for national regulatory and national competition authorities conditions for sanctioning margin squeeze under Article 102 methodological and practical difficulties in identifying a margin squeeze methodology employed in margin squeeze cases and its regulatory aspects assessment of the ability and incentives of regulated firms to engage in a margin squeeze and situations when competition law is used to address the deficits of regulation and regulatory failures It also includes a critical comparison of the vertical foreclosure analysis undertaken in margin squeeze cases with the approach adopted in the EU Non Horizontal Merger Guidelines Throughout the analysis margin squeeze treatment in the European Union and its Member States is examined in light of the diverging approach adopted by the US Supreme Court The increasing complexity of the electronic communications market can only further confound an already complex assessment of price squeezes and one can expect that claims of anticompetitive margin squeeze in liberalised network industries will continue to be high on the enforcement agenda of competition authorities for years to come In light of the need for a coherent or at least predictable sentencing policy to provide relative legal certainty the research in this book proves invaluable The analysis and conclusions discussed in this book will be welcomed by policymakers regulators and lawyers working in the areas of competition law and electronic communications law $\mathbf{E}\mathbf{U}$ State Aid Control of Infrastructure Funding Corinne Ruechardt, 2018-07-03 The elements of infrastructure roads

transportation electricity water communications schools hospitals are so ingrained in the fabric of daily life that few people give a second thought to who provides them and how Yet they are controlled by an extensive and complex regulatory system Moreover the EU s State aid modernization plan has made infrastructure a crucial aspect of competition law How did EU State aid law turn into regulation on whether a city can build a new airport or how it may operate a school And what do the rules actually mean for infrastructure funding These are the questions this book the first comprehensive guide to EU State aid law in this key sector and a major contribution to the debate on the topic seeks to answer In its thorough review of the legal literature as well as relevant legislation and case law this book covers such aspects of the infrastructure State aid nexus as the following role of infrastructure in competition law infrastructure funding as aid and its compatibility with the internal market impact on land development and other ongoing activities sector specific impact of State aid regulation on the design of infrastructure projects risk management and newer infrastructure sectors such as sports and cultural and healthcare projects At many points in the presentation the case by case analysis provides individual appraisals In addition to focusing on the complex rules and how they have been interpreted in the decisional practice of the Commission and in the EU case law this book provides deeply informed proposals for reform This is a key work in a field of EU law that has developed and changed dramatically in recent years It is sure to be of immeasurable value to practitioners and jurists in State aid law competition law and public procurement as well as market actors aid beneficiaries and competitors policymakers government Civil Procedure in EU Competition Cases Before the English and Dutch officials and business persons in these fields Courts George Cumming, Mirjam Freudenthal, 2010-01-01 For decades it seemed clear that EC competition law was enforceable effectively at the national level and ECJ case law has continued to bear this out In recent years however the Commission has been proposing harmonization of national rules of procedure in competition cases implying that procedural autonomy is insufficient on its own to produce an effective enforcement system in this area As the authors of this book clearly demonstrate this suggests a binary system governing the enforcement of EC Articles 81 and 82 namely that led by the Commission through directives and eventual regulations and that built on ECJ principles in areas not dealt with by such Community instruments This book describes and analyzes not only the specific Commission recommendations but also the manner and extent to which these recommendations are or may be implemented in civil procedure In particular the authors consider changes which may be required if these recommendations are incorporated into Dutch and English rules of civil procedure Also addressed are elements of procedure not mentioned by the Commission but which might usefully be considered in the context of ECJ principles of effectiveness equivalence and effective judicial protection of rights At the heart of the study is a detailed analysis of the Commission White Paper on Damages Actions and the Commission Staff Working Paper both issued early in 2009 The in depth analysis ranges over procedural aspects of such elements as the following and standing and disclosure and access to evidence and burden of proof and fault no fau and costs of damages actions and

injunctions and civil versus administrative enforcement and limitations and leniency programmes and collective actions and confidentiality and and forms of compensation Anticipating as it does a looming impasse in European competition law this remarkable book sheds defining light on the real implications of EC competition law for parties to damages actions not only in the national systems studied but for all Member States For practitioners and jurists it offers a particularly useful approach to the handling of cases involving European competition law and also serves as a guide to current trends and as a clarification of doctrine Private Enforcement of EC Competition Law Jurgen Basedow, Jürgen Basedow, 2007-01-01 The European Commission's recent green paper on damages actions for breach of EC antitrust rules stirred a debate across Europe on the need for legal reform that would encourage private plaintiffs to claim compensation for losses suffered as a result of anticompetitive conduct Prominent in the wake of that initiative was the international conference convened by the Max Planck Institute for Comparative and International Private Law in Hamburg in April 2006 the papers and proceedings of which are presented in this important book Among the topics and issues raised and discussed here are the following the 2001 Courage judgment of the European Court of Justice in which the court decided that everyone who suffers losses from a violation of arts 81 or 82 EC is entitled to compensation relevance of the case law that contributes to general principles of European tort law comparative analysis from the more comprehensive experience of national laws in the United States Germany France and Italy calculation of damages passing on of losses sustained in an upstream market to customers in a downstream market procedural devices which may help to overcome the lack of implementation duties of disclosure and the burden of proof collective actions that may help to overcome the rational abstention of individuals pitfalls of leniency programmes implemented by national competition authorities and issues of jurisdiction and choice of law The lively debates that followed the presentations at the conference are also recorded here Although more discussion will be needed before a viable legal framework in this area begins to emerge these ground breaking contributions by lawyers of various disciplines jurists economists academics and European policymakers take a giant step forward For lawyers academics and officials engaged with this important area of international law this book clearly improves our understanding of the economic need and legal particularities which could generate an effective European system of private antitrust litigation

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