
MERGER CONTROL
IN THE EU

SECOND EDITION

EDURNE NAVARRO ANDRÉS FONT
JAIME FOLGUERA JUAN BRIONES



OXFORD

Merger Control In The European Union

Götz Drauz, Michael Reynolds



Merger Control In The European Union:

Merger Control in the EU and Turkey Fevzi Toksoy, Bahadır Balki, Hanna Stakheyeva, 2019-09-08 As a country on the way to integration with the European Union EU Turkey has been following EU principles in establishing and improving its merger control regime as well as overall competition law keeping pace with changes in relevant EU legislation and case law However as is to be expected specific adjustment needs engender significant differences in the two regimes This book presents for the first time a description and analysis of the relationship between the EU and Turkish merger control law and practice The authors all three both practicing lawyers and academicians in Turkey focus on comparing substantive procedural and jurisdictional issues and draw parallels on their regulation in the two jurisdictions These matters include the following determining whether a transaction shall be regarded as a notifiable merger hence be subject to control financial thresholds used for allocating jurisdictions extraterritoriality of merger control relationship between the significant impediment to effective competition SIEC test and the dominance test determination of the relevant market techniques used for assessment of horizontal and non horizontal mergers notification requirements procedural duties of competition authorities in relation to remedies third party rights gun jumping fines and other sanctions for failure to comply with merger control requirements and peculiarities of assessment of mergers in the big data world Each chapter provides an overview of the respective issues in the EU and Turkey projecting a clear understanding of the main similarities and differences in the two regimes A notable feature is an in depth analysis of applicable case law concerning each issue with most of the Turkish decisions available in English for the first time In addition to these practical issues the book s comparative approach will prove to be of great value With its clear answers to questions about what transactions are subject to merger control what criteria are used in assessing those transactions and the main issues that a foreign company should be aware of while merging with another foreign company with effect in Turkey and or EU the book will be of immeasurable value for lawyers and their business clients dealing with multijurisdictional merger cases Interested academics and policymakers will also find much here to attract their attention

Merger Control in the European Union Edurne Navarro Varona, 2005 This second edition of *Merger Control in the EU* provides the reader with an exhaustive analysis of the European Community rules relating to merger control including the new EC Merger Regulation 139/2004 of 20 January 2004 which entered into force on 1 May 2004 and the latest interpretive notices adopted by the European Commission A brand new addition to the book is the companion website which will maintain the currency of the main work after publication a service that is free of charge to all who own a copy of the book The European Commission has exclusive competence to authorise or prohibit concentrations which have a Community dimension Bearing in mind the economic relevance of these operations decisions made by the Commission have an extraordinary market impact This work is an invaluable and precise instrument for legal practitioners and economists as well as for those undertakings involved in merger operations or acquisitions It will enable them to become acquainted with the Commission s

policy in this field and to guide themselves through the complex procedure of notification in Brussels It will also be useful for those merger operations which are required to follow the procedure of notification to the national competition authorities in EU Member States since the Commission's guidelines inspire to a large extent the acts and decisions of the national authorities in this field This book analyses the issues related to merger control not only from a legal standpoint but also from an economic one It is a product of the authors knowledge and experience in Brussels as officials of DG Competition in the Commission and as lawyers defending the interests of undertakings involved in the notification procedure

European Merger Control Catalin Stefan Rusu, 2010-01-01 Twenty years of experience have inevitably brought to light challenges and tensions in the enforcement of the European merger control system Some of these challenges have been faced some have been solved and some remain latent This very valuable study starts from the proposition that the EU has never fully acknowledged those fundamental challenges which relate to the rationale behind merger control in Europe The author shows how the Commission's focus on adapting the rules of merger control to the economic realities of the future business environment although designed with a view to facilitating European integration has compromised attainment of legal certainty transparency and welfare enhancement In its detailed evaluation of the future market structure prediction process embedded in European merger control policy this book approaches two rock bottom far reaching questions In what ways does merger control promote consumer and societal welfare Is the Commission able to correctly predict the outcome of any given concentration transaction These considerations take the reader through a deep and searching analysis that calls into question the very credibility and transparency of the system leading to alternatives which promise a new clarity of purpose and procedure The author describes how these recommendations can be integrated into the functioning framework of the European project Taken fully into account along the way is a wide spectrum of relevant source material including the following applicable articles and chapters of the founding and subsequent European Treaties secondary European legislation concerning competition and merger activity domestic competition laws guidelines notices and action plans competition law reviews statements of intentions draft legislative attempts speeches on the enactment and purpose of merger control Member States views concerning European merger control as expressed during Council negotiations officially available concentration related statistics and a wide ranging literature review covering both the legal and economic sides of merger control Throughout the author substantiates theoretical assertions with case law examples clearly exposing doctrines arising from such cases as Continental Can Phillip Morris Rothmans and the Airtours Schneider and Tetra Laval trilogy A unique feature of the analysis draws on the author's personal experience while working for a Brussels competition law firm This book is a remarkable compound of academic guide to the roots and rationales of the European Merger Control System practical guide to the day to day intricacies of merger control enforcement and raw guide for decision makers and merger control law enforcers It will be of immense value in all three contexts

Merger Control in the United Kingdom and

European Union Celli, 1997-01-08 Merger Control in the United Kingdom and European Union clearly and concisely sets out the rules and procedures governing mergers at both national and European Union EU levels This how to guide assists practitioners involved in mergers by identifying whether a transaction will come under the UK or the EU system who needs to be notified when and how notifications need to be filed under the UK or the EU system the various stages of the process Because in this area policy rather than merely legal rules plays a central role Merger Control in the United Kingdom and European Union also identifies the various strands and developments of merger policy in Whitehall and in Brussels The book has been fully updated to take account of the new legislative and interpretative measures introduced by the European Commission in December 1994 on the application of the EC Merger Regulation as well as the UK statutory instruments enacted in March 1996 to amend merger control and competition rules and recent developments involving mergers in the privatised utilities Also included in this single volume are the texts of the relevant UK and EU legislation This guide will interest all businesses involved in or contemplating transactions which could come under the rules as well as lawyers bankers accountants and other professional advisers and policymakers and observers of this developing area of law and policy

Merger Control Law in the European Union European Commission, European Commission. Directorate-General IV--Competition, 1998 The Commission has had specific merger control powers since the end of 1990 as part of its role under the Treaties in maintaining and developing effective competition within the common market The Commission has exclusive competence to deal with concentrations that have a Community dimension It provides a one stop shop within the European Union for the examination and control of such concentrations The main legal instruments governing Commission control over concentrations are a Merger Regulation of the Council an Implementing Regulation of the Commission and a number of interpretative notices of the Commission Directorate General IV and in particular its Directorate B the Merger Task Force is the Commission Service mainly concerned with the application of the merger control rules [The EU Merger Regulation](#)

Alistair Lindsay, Alison Berridge, 2012 This is the 4th edition of The EC Merger Regulation a detailed guide to the method of merger control in the European Union Fully revised for 2012 this comprehensive text describes how the European Commission determines approval of a notified merger thereby providing information and techniques to complete merger deals successfully for companies operating in the European Union

Merger control in the European Union Eurne Navarro Varona, 2005

Trademarks and Brands in Merger Control Damiano Canapa, 2016-06-23 The role of intellectual property rights in merger control procedures has not received the attention it warrants Most research has focused on the assessment of intellectual property rights in anticompetitive conducts rather than on how a firm can monopolise a market by accumulating such assets This is despite the fact that access to such assets whether used or unused is often a key factor if not the only one motivating mergers This book the first to address trademarks and brands from the perspective of merger control procedure studies the legal issues of the topic It provides a comprehensive response to the

question of how European and Swiss competition authorities should consider trademarks and brands when assessing a merger The author's thorough and critical approach addresses topics such as the in depth assessment of the legal and economic foundations of both trademarks and brands and merger control why trademarks and brands may be relevant to the assessment of mergers including the distinction between trademarks and brands the origin of the brands strength according to marketing sciences and how and why brands may provide market power to their holder the conditions under which the assignment or licence of a trademark may qualify as a concentration under the definition of the European Union Merger Regulation or of the Swiss Cartel Act the role played by trademarks and brands in the substantive assessment of a merger including the definition of the relevant markets different types of mergers and the invocation of the failing firm defence the provision of detailed guidelines describing the possible influence of trademarks and brands on the outcome of the merger assessment and the importance of trademarks and brands in the design and assessment of remedies At every stage of the study special attention is given to the decisions of both the European Commission and the Swiss Competition Commission As the first detailed analysis of the role of trademarks and brands in the assessment of mergers this book constitutes a deep and illuminating answer to the uncertainties regarding the outcomes of the assessment of mergers that derive from the more economic approach prevailing in European Union Law It cannot fail but capture the interest of practitioners businesspeople and academics whose work involves competition and intellectual property

Merger Control in Europe Ioannis Kokkoris, 2010-09-13 This book addresses the phenomenon of mergers that may result in non coordinated effects in oligopolistic markets Such cases are sometimes referred to as non collusive oligopolies or gap cases and there is a concern that they might not be covered by the substantive test that some Member States use for merger assessment Ioannis Kokkoris examines the argument that the European Community Merger Regulation Regulation 4064/89 did not capture gap cases and considers the extent to which the revised substantive test in Regulation 139/2004 deals with the problem of non collusive oligopolies The author identifies actual examples of mergers that gave rise to a problem of non coordinated effects in oligopolistic markets both in the EU and in other jurisdictions and analyses the way in which these cases were dealt with in practice The book considers legal systems such as United Kingdom United States Australia and New Zealand The book investigates whether there is any difference in the assessment of non collusive oligopolies between the various substantive tests which have been adopted for merger assessment in various jurisdictions The book also looks at the various methodological tools available to assist competition authorities and the professional advisers of merging firms to identify whether a particular merger might give rise to anticompetitive effects and explores the type of market structure in which a merger is likely to lead to non coordinated effects in oligopolistic markets

Merger Control in Europe Nauta Dutilh, 2003-01-01 Rev edition of Merger control in the EU edited by Peter Verloop 3rd rev ed 1999 **EC Merger Control** Götz Drauz, Michael Reynolds, 2003 The European Commission adopted a comprehensive package of reforms to the EU

merger control regime in conjunction with the accession of the new Member States in 2004 This constituted the most radical reform of the regime since the previous Merger Regulation was adopted in 1989 aimed at better adapting it to a globalizing market and enlarging an increasingly integrated European Union The extensive reform to the regulation has provoked significant questions about the way in which the Commission treats major merger evaluations EC Merger Control provides a comprehensive and insightful account of the many important procedural and substantive aspects of the reform process with contributions from eminent specialists in the field of mergers including lawyers economists and representatives of the European Commission Court of First Instance US Department of Justice the World Bank and several competition authorities The papers in this book are based on the proceedings of the 2002 EC Merger Control conference organised jointly by the European Commission and the International Bar Association

Merger Control in the EU and Turkey Fevzi Toksoy, Bahadır Balki, Hanna Stakheyeva, 2022-05-11 As a country on the way to integration with the European Union EU Turkey has been following EU principles in establishing and improving its merger control regime as well as overall competition law keeping pace with changes in relevant EU legislation and case law This book presents for the first time a description and analysis of the relationship between the EU and Turkish merger control law and practice The second edition of the book considers the legislative changes that occurred in 2020 2021 including the reform of the Turkish Competition Law which introduced the significant impediment to effective competition SIEC test into the Turkish concentration control The authors all three both practicing lawyers and academicians in Turkey focus on comparing substantive procedural and jurisdictional issues and draw parallels on their regulation in the two jurisdictions These matters include the following determining whether a transaction shall be regarded as a notifiable merger hence be subject to control financial thresholds used for allocating jurisdictions extraterritoriality of merger control relationship between the SIEC test and the dominance test determination of the relevant market techniques used for assessment of horizontal and non horizontal mergers notification requirements procedural duties of competition authorities in relation to remedies third party rights gun jumping fines and other sanctions for failure to comply with merger control requirements and peculiarities of assessment of mergers in the Big Data world Each chapter provides an overview of the respective issues in the EU and Turkey projecting a clear understanding of the main similarities and differences in the two regimes A notable feature is an in depth analysis of applicable case law concerning each issue with most of the Turkish decisions available in English for the first time The book's comparative approach will prove to be of great value With its clear answers to questions about what transactions are subject to merger control what criteria are used in assessing those transactions and the main issues that a foreign company should be aware of while merging with another foreign company with effect in Turkey and or EU the book will be of immeasurable value for lawyers and their business clients dealing with multijurisdictional merger cases Interested academics and policymakers will also find much here to attract their attention

Handbook of Research in Trans-Atlantic Antitrust Philip Marsden, 2008-01-01 The book is

handsomely produced by Edward Elgar The notes contain more than citations and are well worth reading A welcome feature is that after each set of notes there is a list of the most important writings on the topic followed by a list of the most important cases Edward Elgar is well known in economic circles hence the endnotes to which economists are accustomed It has published several books on competition for lawyers over the last years and is a welcome entrant to the lawyers market Valentine Korah World Competition This extremely well done and important book collects writings by more than two dozen academics and practitioners on important topics in competition law This is an excellent book important for research by anyone who is serious about global or comparative competition policy European Law Review This Handbook assembles a valuable collection of insightful analyses dealing with many cutting edge issues arising in modern antitrust enforcement on both sides of the Atlantic Philip Lowe European Commission The contributions to this Handbook provide a comprehensive up to date treatment of antitrust law in the Americas and Europe I would recommend it to anyone who wants to learn about antitrust law and its administration in the major enforcement areas of the world This is bound to become an important reference for antitrust students and experts Keith Hylton Boston University US This comprehensive research Handbook brings together cutting edge legal and economic analysis into antitrust issues by leading experts from Europe the USA Canada Mexico and South America The Handbook of Research in Trans Atlantic Antitrust covers a wide range of areas including the meaning of consumer welfare mergers in monopsony markets unilateral effects private and criminal enforcement implementing competition policy in regulated sectors abuse of intellectual property rights competition remedies international enforcement cooperation complainants rights dominant firm pricing tying and bundling The Handbook also includes discursive consideration of the similarities and differences among the various regimes on either side of the Atlantic as well as a look to future trends and applications in regional and global contexts Offering a comparative view of pressing antitrust issues this Handbook will be of great interest to academics lawyers practitioners and officials

Corporate Acquisitions And Mergers in the European Union Riccardo Celli,Philippe Noguès,Christian Peeters,Rebecca Evans,2024-04-17 Derived from Kluwer s multi volume Corporate Acquisitions and Mergers the largest and most detailed database of M due diligence contractual protection consideration and the impact of applicable company competition tax intellectual property environmental and data protection law on the acquisition process Corporate Acquisitions and Mergers is an invaluable guide for both legal practitioners and business executives seeking a comprehensive yet practical analysis of mergers and acquisitions in the European Union Equivalent analyses of M A law and practice in some 50 other jurisdictions all contributed by leading law firms are accessible on line at www.kluwerlawonline.com under Corporate Acquisitions and Mergers Merger Control and the Rule of Law R.A.A Khan,Gareth T. Davies,2012 This article asks whether competition law in particular the law on mergers should always be called law It concentrates on merger control in the European Union but draws on US experience and history to provide ideas and to contribute to the framework for the analysis The starting

point is that competition law is increasingly located not in courts but in agencies in the EU the European Commission These agency regulators take decisions based allegedly on economic theory but which are non predictable and nonreplicable they do not provide a tight enough reasoning process to serve as a guide to action in future cases Yet they are only marginally reviewable by courts Finally even insofar as identifiable and coherent rules exist for agency behaviour their rule like character is undermined by a culture of negotiation and compromise which means that the link between rule and decision becomes even more tenuous and even less apparent to the nonparty Over reliance on questionable economics as well as inadequately constrained agency behaviour suggests that merger control is now the domain of ad hoc decision making as much as it is of law

EU Competition Law Volume II: Mergers and Acquisitions Jones, Christopher, Weinert, Lisa, 2021-12-14 This book is a Claey's and Casteels title now formally part of Edward Elgar Publishing With extensive updating in the decade since the publication of the second edition and written by the key Commission and European Court officials in this area as well as leading practitioners the third edition of this unique title provides meticulous and exhaustive coverage of EU Merger Law *Merger Control of the European Union with Special Emphasis on the Remedies Accepted by the European Commission* Korim Balázs, 2014

The European Commission's Jurisdiction to Scrutinise Mergers Morten Broberg, 1998-04-15 No major business or law firm can afford to disregard the European Commission's power in the control of mergers Since the Council of Ministers adopted the EC Merger Regulation in 1989 The power of the European Commission has increased steadily The scope of the Merger Regulation now occupies a central role in many mergers taking place both inside and outside the European Community To come within the scope of merger regulation and thus within the Commission's jurisdiction a merger must possess a community dimension Despite the careful definition of this term in the Merger Regulation itself The concept has created problems in many cases The European Commission's Jurisdiction to Scrutinise Mergers offers a comprehensive up to date analysis of all aspects of the community dimension concept The most thorough examination of the Commission's jurisdiction to examine mergers under the EC Merger Regulation The European Commission's Jurisdiction to Scrutinise Mergers serves as a valuable guide for businesses their legal advisors and competition law enforcers in both the Commission And The Member States

Competition Policy in the European Union Michelle Cini, Lee McGowan, 2008-10-30 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

China and the European Union José María Beneyto, Chun Ding, Xinning Song, 2013-07-10 Any analysis of the current state of international affairs would require devoting a great deal of its efforts to the examination of the People's Republic of China its policies its capabilities its approaches as well as its position regarding a wide range of issues Not in vain the People's Republic of China is a rising power whose attitudes and policies will have a direct impact on the

future development of the international system and the international relations within. Thus the importance of the People's Republic of China status as a permanent member of the United Nations Security Council, the impressive growth of both its GDP and its Defence Budget over the last few years, and its relatively good performance through the global financial and economic crisis are all factors that might recommend to pay attention to the evolution of this country.

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