

INTERNATIONAL COMPETITION LAW SERIES

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

SECOND EDITION

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Themistoklis K. Giannakopoulos



**Wolters Kluwer**  
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# Safeguarding Companies Rights In Competition And Antidumpingantisubsidies Proceedings

**Frauke Henning-Bodewig**



## **Safeguarding Companies Rights In Competition And Antidumping/anti-subsidies 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 anti-subsidies 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 fact-finding 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 the EU

**Unfair Competition Law** Frauke Henning-Bodewig, 2006-01-01 The book delineates with extraordinary clarity and 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 Europe

**Liner Shipping and EU Competition Law** Alla Pozdnakova, 2008-01-01 As of October 2008 liner shipping

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

**Directory 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

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