

# **Making European Merger Policy More Predictable**

Stefan Voigt and  
André Schmidt

# **Making European Merger Policy More Predictable**

**Ian Pickup**



## **Making European Merger Policy More Predictable:**

**Making European Merger Policy More Predictable** Stefan Voigt, André Schmidt, 2005 Analyses European Merger Control with regard to its capacity to generate predictability among the concerned parties The authors show both theoretically and empirically that there have been serious shortcomings with regard to the predictability of competition policy They assess the reforms of European Merger Control *Does EU Merger Control Discriminate against Small Market Companies?* Mika Oinonen, 2010-07-20 Although the question posed by the title of this book has generated considerable debate the essential issue remains open and largely blurred While some believe that there is no so called small market problem others discern discrimination against small market companies i e companies with a strong position in their home markets but a modest position in the European and global markets and a consequent need for changes in competition law The author of this enormously helpful work here sets the stage for meaningful discussion by analysing the EC Merger Regulation s objectives economic foundations and application practice to present a reasoned view of the issues that can be considered relevant for such a discussion Considering their effect on the small market problem the author scrutinizes such factors as the following the Commission s methodology for delineating relevant markets in merger assessments unnecessary prohibition caused by overestimation of the market power of small market mergers erroneous approval of cases that should actually be prohibited impact of the so called Harvard and Chicago schools of competition theory and their key policy implications process related alternative views of competition and new synthesizing approaches relevant criteria for a proper analysis of market power concentration measures and market shares barriers to entry price and profitability analyses and product definition v geographic definition of markets In a final chapter the author presents some tentative conclusions normative in nature concerning the problem and the relevant issues relating to it As the first in depth analysis of the issues that are actually involved with its particular diagnosis of the assessment of market power in considering the relevant issues for the problem this study brings into salience the terms of the debate on the problem and thus takes a giant step forward towards defining what needs to be done Competition lawyers policymakers and academics in Europe and elsewhere will find the discussion of great value **European Merger Remedies** Dorte Hoeg, 2014-11-01 As merger transactions become more complex so do the remedies involved This book seeks to identify and examine the most important aspects of merger remedies which have emerged and evolved in the European Commission s policy and practice over the past 20 years The in depth analysis of applicable provisions and guidelines is structured in accordance with a typical remedies lifecycle the negotiation submission assessment adoption implementation and enforcement of remedies Furthermore numerous conditional clearance decisions and judgments as well as studies and legal literature on the subject are described and put into a coherent analytical framework with the aim of providing as much nuance as possible in the evaluation of the Commission s past and present remedies policy and practice While the Commission indisputably has accomplished numerous

successes in its remedies enforcement over the years it has also encountered some significant obstacles and shortcomings along the way To this effect the final chapter in the book critically assesses whether the current framework which has remained unchanged since 2008 continues to provide an adequate regulatory response to today's remedies issues and challenges Where adjustments and improvements are deemed desirable or necessary possible measures are considered

**Law and Economics in European Merger Control** Ulrich Schwalbe, Daniel Zimmer, 2009-10 Co written by an expert lawyer and economist this book provides a thorough guide to the economic theory behind the regulation of mergers The economic theory is then used to analyse the current state of European competition law and test the success of the European Commission's search for a more economic approach to merger regulation

**EC Competition and Telecommunications Law** Andreas Bartosch, Jens-Daniel Braun, 2009-01-01 This new volume updates the groundbreaking analysis of its first edition in 2002 when the EC common regulatory framework for electronic communications networks and services had just entered into force So much has changed in the intervening years that that this new edition bears little resemblance to its predecessor with every chapter either extensively altered or entirely new It remains however the most detailed and comprehensive overview available of the application of the EC Treaty's competition rules in the markets for telecommunications and audiovisual media and of the applicable regulatory framework In thirteen chapters each contributed by one or more noted legal authorities in the field the second edition of EC Competition and Telecommunications Law covers the full range of EC telecommunications law across all major areas of both institutional and substantive law both on the international and EC levels including the following State aid the merger control regulation justification for sector specific regulation in EC competition law network access authorizations and privileges and mobile telephony Relevant EC media and communications law and relevant aspects of EC competition law are dealt with in detail While some chapters focus on competition law others deal primarily with sector specific regulation There is practical guidance throughout on procedural matters alongside analysis of the substantive provisions Well known in its first edition this thoroughly revised and updated version continue to be vital reading for practitioners in particular those specializing in European competition law and for company and in house lawyers who are seeking advice on how European law affects their business As a detailed analysis of the basic legislative and regulatory framework of European telecommunications law it will be an invaluable reference work for lawyers judges regulators and policymakers in all the EC Member States as well as for students and teachers of European law

*Economics and the Enforcement of European Competition Law* Christopher Decker, 2009-01-01 The book is well written and readable by non economists The approaches questions methodology and basis for selection of cases interviewees are clearly explained and justified This book is a valuable contribution to the literature Rhonda Smith Competition and Consumer Law Journal Recent years have seen a trend toward an economics based approach to the enforcement of European competition law But what is meant by economics based and how does this approach sit with legal and enforcement practice

This book seeks to place in perspective the growing use of economics in European competition law enforcement by examining precisely how economics contributes to the enforcement activity of the European Commission and Courts Christopher Decker provides unique empirical insights as to how economic theory thinking techniques and data have featured in decision making in the area of co ordinated effects The role of economics is examined throughout the entire enforcement process from the decision to initiate an investigation to the design and implementation of remedies and its conclusions are of general relevance to all areas of competition law enforcement where economics is used Utilising a broad and multifaceted conception of economics this book is essential reading for academics and students interested in European competition law EC competition lawyers applied industrial economists and enforcement officials It will also be an invaluable tool for academic libraries and institutes government agencies law firms and economic consultancies

New Developments in Competition Law and Economics Klaus Mathis, Avishalom Tor, 2019-03-18 This book further develops both the traditional and the behavioural approach to competition law and applies these approaches to a variety of timely issues It discusses several fundamental questions regarding competition law and economics and explores the applications of competition law and economics In turn the book analyses the interplay of intellectual property rights and patents in various aspects of competition law and investigates the impacts that developments in information technology such as big data analytics have on competition law The book also discusses the impact of energy law reforms on energy markets from a competition law perspective Competition law is a classic field of economic analysis This is largely due to the fact that competition law uses terms such as market price and competition and must therefore rely on economic know how and analyses In the United States economic analysis has greatly influenced not just the scholarship on antitrust law but also judicial decisions and agency enforcement Antitrust law and economics are based on the traditional paradigm of neoclassical economics which relies on the assumption that the market players i e consumers and producers are rational This approach to competition law was later received in Europe under the banner of a more economic approach For the past two decades behavioural law and economics which seeks to generate better insights into legal phenomena by providing more realistic psychological foundations for economic models and to offer a multitude of applications in legislation and legal adjudication has challenged the traditional economic approach to law in general and more recently to competition law specifically

Economics in Antitrust Policy Mark Steiner, 2007 In the field of antitrust the freedoms to contract and compete can and do contradict Profit maximizing companies desire perfectly competitive input markets to minimize their costs but want monopolistic markets for their outputs to maximize their profits Consequently they have strong incentives to undermine competition in their output markets In a world without antitrust laws many companies would thus eliminate competition by using their freedom to contract either by entering into legally enforceable agreements which fix prices or divide up markets or by merging and acquiring rivals to gain market control Therefore guaranteeing and safeguarding companies abilities to compete comes at the

cost of restricting their freedoms to contract The states role in this task is a delicate one though government intervention itself necessarily limits the economic freedom of individuals and firms and limiting the freedom of contract has potentially detrimental effects on economic activity as well Hence antitrust policy must find the right balance between the two freedoms of competition and contract allowing competition to flourish while upholding the contractual freedoms necessary for a functioning market The policies in the U S and Europe used to protect competition with per se rules setting clear boundaries for the freedom to contract where it interfered with the freedom to compete Over the past decades improvements in economic analysis provided measurable dimensions for competition through measures like efficiency and welfare With these new and complex economic tools the aim of an antitrust policy moved away from an indirect mechanism which provided and enforced a strict framework of negative per se rules within which the competitive process was allowed to happen The current policies directly aim at promoting welfare by attempting to balance the welfare effects of individual business practices permitting contracts or mergers with benign effects and prohibiting contracts with detrimental effects on welfare in potentially every case These economic insights have promoted a better understanding of the competitive process and contributed to improved antitrust rules However in the actual enforcement of antitrust laws recent developments caused by the influence of economic analysis have had a detrimental impact on antitrust policy in both the U S and the EU First it increased the discretion of competition authorities lowering legal certainty for companies and increasing the potential for wrong decisions Second it gave companies incentives to waste resources on rent seeking activities by using economic analyses to demonstrate efficiencies in complicated and timely investigations and litigation And third the predominant use of economic analysis has massively increased the costs of enforcement This thesis is the first one to depict these negative effects caused by recent developments and shows that a policy with clear limitations through proposed per se rules would be superior for it would eliminate the illustrated negative effects

*The Governance of Global Competition* Oliver

Budzinski, 2008-01-01 highly recommendable to anyone interested in international competition policy Arndt Christiansen European Competition Law Review This book provides a comprehensive and refreshing analysis of the competition issues raised by the globalisation of markets It draws on a very wide range of economic and legal sources to assess the manifold proposals for controlling the competitive forces released by the freeing up of world markets All those interested in these important and largely unresolved issues will find it an invaluable source of reference Michael A Utton University of Reading UK and Dongbei University of Finance and Economics Dalian China The globalization of market competition and business behaviour fosters globalization of cartels and monopolising mergers that can lead to abusive and predatory strategies The globalization of competition therefore also demands an internationalization of competition policy However Oliver Budzinski is realistic in his assertion that supranational competition governance must be built upon the existing predominantly national regimes The resulting multilevel system of antitrust institutions and authorities he argues is problematic for the horizontal

and vertical allocation of competences This book employs the economics of federalism to create an analytical framework which can be used for comparative analysis of stylised competence allocation rules The result is a proposal for a sound international multilevel competition policy system that combines elements of both centralized and decentralized governance This book provides an innovative and unique perspective on international competition policy and will be of interest to economists legal scientists and competition authorities as well as academics and practitioners of international governance and international relations and politics

**Marketing Issues in Western Europe** Erdener Kaynak, 2012-11-12 Be prepared for the differences in marketing across European borders Europe is not a uniform market Each country is comprised of differing marketing systems of varying importance Marketing Issues in Western Europe Changes and Developments clears the fog from marketing practices and strategic issues for this crucial area of the business world This detailed examination of Western European industries and marketing practices not only clearly explores the shifting trends within the countries described but can also be seen as a bellwether for neighboring regions on the continent Respected international experts provide an up to date inside look at what the pressing concerns are and what unique strategies work for business in various sectors The European Union's birth can be traced back to 1951 when six countries of Western Europe banded together to form what was then known as the European Coal and Steel Community Since then Western Europe has played a significant role as the nucleus for the important marketing trends and industry changes for the entire EU Marketing Issues in Western Europe Changes and Developments provides conceptual frameworks illustrative case studies deep analytical insights into marketing issues detailed empirical data and thoughtful propositions for future testing International business researchers business and marketing consultants developmental agencies and companies prospectively interested in investment will find this book to be crucial for making decisions involving marketing in the countries of the EU or the rest of the continent Chapters are richly referenced and several include tables and charts to clearly illustrate data Marketing Issues in Western Europe Changes and Developments includes a thought provoking look at the multidimensional state of marketing in Western Europe a probing appraisal of Pan European marketing with a proposed conceptual framework a review of the marketing consequences of internal market unification an exploratory study of marketing practice and market orientation a penetrating look at the role of domestic animosity in consumer choice detailed research describing price strategy in the EU an exploration of the impact of fear appeal in a cross cultural context and more Marketing Issues in Western Europe Changes and Developments is a probing examination of the dynamic marketing developments in Western European countries to give you the insight needed to effectively prepare for the future

**Business Networks Reloaded** Peter Krebs, Stefanie Jung, 2017-05-15 Business networks are an important economic phenomenon of increasing practical importance throughout Europe This volume examines business networks from an interdisciplinary perspective with many contributions dealing with a certain form of business network the so called cooperative or non hierarchical With regard to this specific form of cooperation the volume

presents new economic findings proposes a definition and discusses the governance structure of those networks Moreover this book explores whether the research results can also be applied to hierarchical centralized business networks With medium sized companies and all the more with large companies business networks also pose the question of the compatibility with anti trust law This collection dedicates three contributions to this important question They are complemented by chapters on liability of the network and its members towards third parties and contributions discussing duties of loyalty and the interpretation of agreements Drawing on new research from Italy Spain Germany and Norway this work illustrates the European legal perspective on business networks

**New Developments in UK and EU Competition Policy** Roger Clarke,Eleanor J. Morgan,2006-11-28 Major developments have recently taken place in competition and antitrust policy in both the UK and EU Following an informative overview this timely book presents authoritative accounts of recent changes and clear analyses of current policy As well as discussing new developments in policy towards monopolies mergers cartels and state aids it features chapters on the treatment of vertical restraints and regulated industries The book also includes a discussion of the relationship between competition policy and intellectual property rights and concludes with a forward looking assessment *EIB Papers* ,2006

**European Competition Law Annual 2010** Philip Lowe,Mel Marquis,2013-02-11 Every year top level market regulators academics and legal and economic practitioners contribute to the Annual Competition Workshop organised at the European University Institute in Florence The Co Directors of the Workshop are Philip Lowe Mel Marquis and Giorgio Monti Workshop participants address and critically analyse a particular set of topical issues in the field of competition law and policy The proceedings are published in Hart s European Competition Law Annual series This is the fifteenth in the ECLA series It encompasses numerous chapters that examine the field of merger control from a variety of perspectives In these chapters the contributors discuss legal and economic issues of substantive analysis procedure comity and best practices as well as matters relating to the litigation of merger cases particularly before the European Courts The discussion also benefits from the perspectives of policy makers and experts from Canada China Japan Korea the United States and other jurisdictions and regions Authors contributing to this book include John Boyce Calvin Goldman Andreas Mundt Rachel Brandenburger Klaus Gugler Lars Hendrik R ller Jochen Burrichter Barry Hawk Tadashi Shiraishi Maher Dabbah Scott Hemphill Irwin Stelzer Thomas Deisenhofer Seonghoon Jeon James Venit G tz Drauz William Kovacic Sven V lcker Kirsten Edwards Mel Marquis Vanessa Yanhua Zhang Adam Fanaki Abel Mateus Xinzhu Zhang

European Business Debra Johnson,Colin Turner,2005-08-12 This book examines the major challenges facing European business in the formative years of the new millennium It focuses on the links between the processes of regional integration and globalization leading to a reappraisal of what enterprises and policy makers need to do to secure the competitiveness of the European economy in the early years of the twenty first century In addition to dealing with conventional EU policy areas such as EMU and competition policy the book also covers important issues such as small and medium sized enterprises and



the information society which are often excluded. *Research Handbook on Global Merger Control* Ioannis Kokkoris, Nicholas Levy, 2023-05-09 Over the past 30 years merger control has become well established around the world with broad consensus around its ambit and objectives That consensus has fractured in recent years Enforcement today is at a critical juncture facing an array of challenges and calls for reform unprecedented in their scope and intensity Authored by leading legal practitioners economists enforcers and jurists this timely *Research Handbook on Global Merger Control* discusses those challenges and predicts how merger control is likely to evolve

*A Framework for European Competition Law* Christopher Townley, 2018-11-29 This book asks whether the current push to increase uniformity in substantive and procedural competition policy and enforcement in Europe as well as in related institutional structures is desirable It focuses on European Union EU competition policy and enforcement related to Articles 101 and 102 TFEU and the merger rules the equivalent rules in the Member States and the relationships between these different legal orders Uniformity has many benefits yet the advantages of diversity are also legion enabling more policy experimentation and innovation and improving the ability to accommodate national preferences Contrary to the overwhelming view of academics practitioners and regulators in this area the book argues that uniformity is insufficient and examines ways of achieving a better mix of uniformity and diversity the EU's motto is United in Diversity To achieve this better mix the book offers a new framework for European competition law Coordinated Diversity Finally this book discusses whether Coordinated Diversity fits with the current legal order in the EU as well as the EU constitutional settlement more generally and suggests some ways that it might be made compatible with this order with relative ease The book's impact could be significant changing the results in individual cases the way cases are argued and what information is relevant More importantly it builds the theoretical foundations for fundamentally altering the way in which the EU and the Member States competition authorities interact allowing space for disagreement and uncertainty The aim is to improve the efficiency and effectiveness of competition policy making and enforcement in Europe It should also increase the legitimacy in this field rebalancing towards the Member States Coordinated Diversity provides a new way of seeing the EU that better blends difference when this is demanded with uniformity and its benefits as necessary A timely and ambitious work this book will be read with interest by all practitioners and academics interested in EU competition law as well as the related fields of political science and economics

**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 *Competition Policy* Emmanuel Combe, 2021-11-22 *Competition Policy An Empirical and Economic Approach* Emmanuel Combe It is a truism of competition that paradoxically those who were responsible for yesterday's innovations and productivity become obstacles to future growth This is why competition law has been assigned such an important role in modern countries to detect and sanction anticompetitive practices that prevent the entry of new efficient competitors This utterly original book which thoroughly explains competition policy using economic analyses of European and U S antitrust cases illuminates the complex but crucial back and forth between economic theory and competition law practice Covering the full range of competition policy from antitrust cartels abuse of dominant position to merger control the book not only offers a general view of competition policy in Europe and the United States but also clearly explains the economic underpinnings that guide it thus illustrating how principles are applied in practice Issues and topics include the following economic approach of antitrust sanctions role of criminal sanctions and private actions factors favoring cartel formation and stability role of leniency policies vertical restraints in the age of e commerce economic assessment of R detecting and sanctioning predatory pricing exploitative and exclusionary abuses and impact of a horizontal vertical and conglomerate mergers on competition All the major fields of competition policy are clearly explained with many illustrative examples from case law There is also a chapter presenting an overview of competition policies around the world as well as the legal and institutional framework within which they operate At a time of increasing public concern regarding high industrial concentration especially in the digital sector the question of regulating competition is returning to the forefront Given that the concepts and tools of economic analysis are widely used by competition authorities this book gives lawyers a clear understanding of the objectives and instruments of competition policy It will thus enable corporate counsel academics and policymakers to apply or formulate competition law with increased precision in their day to day work *Revista de Direito Público - Ano VI, N.º 12 - Julho/Dezembro de 2014* Instituto de Direito Público, 2015-12-01 I DOUTRINA Alice Feiteira Como o direito e a sociedade foram vistos de c Cristina Queiroz O processo político da Catalunha Jo o Zenha Martins Auxílios de Estado pressupostos e novas leituras em torno do conceito de seletividade Jorge Duarte Pinheiro Religi o e Direito da Família Jorge Morais Carvalho Crise e Consumo Lu s Salgado de Matos Religi o e Poder Maria Eduarda Gonçalves e Maria In s Gameiro Tecnologias de Segurança Um Desafio aos Valores

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