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MPI Studies on Intellectual Property, Competition and Tax Law

**5**

# **Abuse of Dominant Position: New Interpretation, New Enforcement Mechanisms?**

# Abuse Of Dominant Position New Interpretation New Enforcement Mechanisms Reprint

**Peter Cane, Joanne Conaghan**



## **Abuse Of Dominant Position New Interpretation New Enforcement Mechanisms Reprint:**

Collective Redress and EU Competition Law Eda Şahin, 2018-12-07 Exploring obstacles to effective compensation of victims of competition infringements this book categorises the types of victims harmed and the types of losses arisen from these infringements to identify to what extent there is a need for enhanced private competition law enforcement in the European Union EU and the best way to address this need It shows that there is a genuine need for facilitating consumer damages actions and that consumer claims are the only claims that can be pursued in a collective redress action In order to compensate consumers and overcome barriers to effective enforcement of their right to damages it structures a collective redress action for consumers by considering the following elements i the formation of the group ii the type of representative party iii funding mechanisms and iv calculation and distribution of damages *The Interplay between European and National Competition Law after Regulation 1/2003* Lúcio Tomé Feteira, 2015-12-08 If we can speak of the European Community's economic constitution we can assert that competition rules together with free movement rules form its core Notably implementation of the competition rules enshrined in Articles 81 and 82 EC changed radically with the enactment of Regulation 1 2003 which in effect dispensed with mandatory prior notifications and allowed national authorities to apply Article 101 3 TFEU directly Given that national legislations perceive certain types of unilateral conduct even if adopted by a non dominant undertaking as a potential source of anticompetitive effects an important question concerns the leeway enjoyed by national authorities under the exception to the convergence rule in Article 3 2 of Regulation 1 2003 and the consequent effect on both legal practice and policy issues In this lucidly argued book focusing on national competition provisions in Germany France Italy and the United Kingdom that deal with such conduct the author provides a detailed examination of how such considerations as the following are affected by Regulation 1 2003 prohibition of abuse of economic dependence or superior bargaining power the particular susceptibility of long term contracts prohibition of resale at a loss or below cost prohibition of boycott unlawful pressures threats and other coercive tactics adopted by undertakings and the role of unfair competition law The analysis follows a functional method of comparative legal analysis reviewing the most relevant norms in the selected jurisdictions particularly in what concerns their goals and function in the context of their respective legal systems Special attention is paid to two specific sectors the motor vehicle and the retailing industries which have most often triggered relevant legislation and case law in the jurisdictions covered Legal scholarship in the field is also drawn upon In its clarification of the meaning of Regulation 1 2003 this book allows practitioners to fully grasp its scope The author's thorough masterful analysis of the statutory framework of Article 3 of the regulation also reveals the variety of reasons why different Member States have different competition policies on the scope of the exception to the rule of convergence and in this way provides lawyers policymakers and academics with welcome insights on how major EU jurisdictions apply European competition law Coherence and Fragmentation in European Private Law Pia Letto-Vanamo, Jan Smits, 2012-08-31 One of

the most important characteristics of today's private law is that it increasingly flows from different sources. Next to national legislation and case law it is also shaped by European and supranational sources and rapidly becoming a mixture of differently oriented rules and principles. This development can be described as one from coherence to fragmentation. The aim of the new book is to consider how this important shift has worked out in different subfields of the law like in contract and property law in competition insurance marketing and private international law as well as in the law of intellectual property. This cross disciplinary approach shows how pervasive legal fragmentation has become and points out how to remedy the adverse effects it brings with it. The volume is therefore indispensable for anyone interested in how Europeanisation affects national private laws.

*The Foundations of European Union Competition Law* Renato Nazzini, 2011-12. Article 102 TFEU prohibits the abuse of a dominant position as incompatible with the common market. Here the difficulties of assessing abuse in terms of Article 82 in light of the objectives of EU competition law are addressed to establish a robust and workable analytical framework for abuse of dominance.

*Article 102 TFEU* Ekaterina Rousseva, Assimakis Komninos, 2025-10-30. In March 2023 the European Commission launched a process leading to the adoption of Guidelines for Article 102 of the Treaty on the Functioning of the European Union. Article 102 TFEU with regard to exclusionary practices i.e. practices that harm competitors and thus competition. The Guidelines are aimed at increasing legal certainty to the benefit of consumers, businesses, national competition authorities and national courts. In this in depth analysis of the role of Article 102 TFEU in EU law prominent scholars and practitioners trace the roots of this fundamental provision, identify the forces that have driven its development and examine its future challenges in the light of the forthcoming guidelines. While reviewing the case law and analysing how it has foreshadowed the new Commission Guidelines, the contributing authors discuss such issues and topics as the following: the evolution of the notion of abuse and the challenges for its assessment; the concept of competition on the merits; benefits and limitations of the effects based approach; the relationship between market power and market definition; the impact of the revised market definition notice on the assessment of abuse of dominance; categories of abuses and effectiveness of legal tests; particular abuses such as refusal to supply seen in the context of the essential facilities doctrine and self preferencing; presumptions and other evidentiary burden shifting tools in abuse of dominance cases; standards of proof and judicial review of abuse cases and judicial style in Article 102 TFEU cases. As a contextual tool to read the forthcoming Commission Guidelines on Article 102 TFEU, this book has no peers. Not only does it provide insight into what the Guidelines will look like but it also offers expert recommendations for an effects based framework for the enforcement of the law. The book will be widely welcomed by the entire competition law community including counsel for multinational enterprises.

**European Media Law** Oliver Castendyk, E. J. Dommering, Alexander Scheuer, 2008-01-01. Supplies an in depth commentary on EU media law with detailed analysis of all important legislation and court decisions. It leads European lawyers with vast knowledge and practical experience of media law provide detailed expert commentary.

**The New**

**Oxford Companion to Law** Peter Cane, Joanne Conaghan, 2008 For any reader needing a concise yet expert explanation of a subject in law the New Oxford Companion to Law is the ideal reference work Providing greater depth than can be found in legal dictionaries but always accessible to the non specialist entries in the Companion cover all areas of law and legal systems and are extensively cross referenced for ease of navigation The Companion draws upon the expertise of over 700 scholars and practitioners offering the widest possible range of perspectives on legal topics Consisting in over 1700 alphabetically arranged entries the Companion features The fundamentals of all the major areas of law such as criminal law tax and social security law human rights law family and employment law education law sports law international and EU law The role and workings of legal institutions such as parliaments courts law schools and international bodies such as the EU and the UN Leading cases famous trials and distinguished lawyers past and present Major events in legal history and major debates in legal theory Twenty pages of rich illustrations bringing the content to life The Companion will appeal to the interested citizen students applying for law courses at university law students and also to advanced readers who are already familiar with the law who will enjoy reading the engagingly written accounts of areas that they know as well as many that they don't

*Information Technology and the Law*, 1993      **Current Index to Journals in Education**, 1979      **Index to Theses with Abstracts Accepted for Higher Degrees by the Universities of Great Britain and Ireland and the Council for National Academic Awards**, 2006      **Some Considerations on Abuse of Dominant Position** Ovidiu Maican, 2007 Article 82 formerly 86 EC contains four essential elements an undertaking a dominant position an abuse of that position and the abuse must affect trade between member states The term undertakings is subject to the same broad interpretation as that applied to article 81 formerly 85 EC and covers the same activities both public and private The Community interest must be also taken into account Although it is not clear precisely what this element of article 86 requires it will clearly curtail the scope of the exception provided under this article Although abusive behavior of undertakings in a dominant position is prohibited it must be recalled that merely being in a strong position is not a problem in itself It is necessary for major players in a market to be aware of their position because practices which would not fall foul of article 82 formerly 86 EC where an undertaking is not dominant will do so where dominance is established A refusal to deal by a non dominant undertaking would not be an abuse within article 82 formerly 86 EC but it will be so where the undertaking is dominant

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