

# European Community Merger Control: A Practitioner's Guide

by  
Barry E. Hawk  
Henry L. Huser

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# European Community Merger Control A Practitioners Guide

**Eugène Buttigieg**



## **European Community Merger Control A Practitioners Guide:**

**European Community Merger Control: A Practitioner's Guide** Barry Hawk, 1996-06-06 European Community Merger Control A Practitioner's Guide presents a current and comprehensive one stop review of jurisdictional procedural and substantive issues arising under the European Community's merger control system The treatise written by practitioners for practitioners presents legal economic and comparative analyses of the European system and real world solutions to enable antitrust advisors to guide their clients mergers acquisitions and joint ventures successfully through the Merger Regulation's sometimes turbulent regulatory waters *EC Merger Control Regulation* Mihalís Kekelekis, 2006-01-01 Here for the first time is an in depth analysis of the rights of notifying parties and third parties in merger proceedings as reflected in the administrative practice of the Commission and the case law of the Community courts European Merger Control Catalin Stefan Rusu, 2010-09-17 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 *EC Private Antitrust Enforcement* Assimakis Komninos, 2008-02-22 This book written by an academic cum practitioner with substantial experience in the field of antitrust enforcement presents the rise of private enforcement of competition law in Europe especially in the context of the recent modernisation and decentralisation of EC competition law enforcement In particular the study examines the role of courts in the application of the EC competition rules and views that role in the broader system of antitrust enforcement The author starts from the premise of private enforcement's independence of public enforcement and after examining the new institutional position of national courts and their relationship with the Court of Justice the Commission and public enforcement in general proceeds to deal with the detailed substantive and procedural law framework of private antitrust actions in Europe The author describes the current post decentralisation state of affairs but also refers to the latest proposals to enhance private antitrust enforcement in Europe both at the Community level where reference is made to the December 2005 Commission Green Paper on Damages Actions and its aftermath and at the national level where reference is made to recent and forthcoming relevant initiatives

**Does EU Merger Control Discriminate Against Small Market Companies?** Mika Oinonen, 2010-01-01 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 Competition Law and Economics* Roger van den Bergh, Peter D. Camesasca, 2001 The aim of this book is to explore the economic fundamentals of European competition law *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 **RETRACTED, The Regulation of Transnational**

**Mergers in International and European Law** Dimitris Liakopoulos, Armando Marsilia, 2009-12-07 The major problem associated with the regulation of transnational mergers which affect several national markets is the allocation of jurisdiction Each country concerned may wish to exert jurisdiction and apply its national competition law to regulate the anti competitive effects a merger may have in its territory However this approach may lead to risks of inconsistent decisions regarding the legality of mergers Indeed the national competition laws applied by the regulating authorities may diverge in several aspects which raise the likelihood of inconsistency Therefore it is desirable to opt for regulatory approaches which are more sensitive to the transnational nature of mergers and which allow cooperation between competition authorities A possible solution may be bilateral cooperation agreements through which two countries coordinate the enforcement activities of their national competition authorities However the benefits of these agreements are enjoyed only by the signatory parties The sole reliance upon bilateral agreements does not appear to be the optimal regulatory approach towards transnational mergers

**Mergers & Acquisitions: A Practitioner's Guide To Successful Deals** Harvey A Poniachek, 2019-02-20 One of the best new Corporate Finance books BookAuthority The survival and prosperity of any corporation over the long term depend on the company's ability to grow and develop through a process of investment restructuring and redeployment Since the late 19th century mergers and acquisitions MAs have become an essential vehicle for corporate change fuelled by synergies that could arise from expansion of sales and earnings reduction in cost and lower taxes and cost of capital MA transactions however are complex and risky and are affected by the state business cycle financial conditions regulations and technology Approximately two thirds of all MA deals fail This book seeks to provide an effective and comprehensive framework predominantly embedded in corporate finance for achieving greater success Written by academics and practitioners it integrates business strategies with formal analysis relating to MA deal making providing a coherent statement on MA by utilizing scholarly work with best practices by industry The authors provide extensive analytical review and applications of the following critical MA issues valuation leveraged buyouts payment methods and their implications tax issues corporate

governance and the regulatory environment including antitrust in M A The book globalizes the M A model by extending it to cross border business risk and select hedging methods and addresses postmerger integration This book is intended as a reading text for a course in M A for undergraduates and MBA programs and for practitioners as a handbook European Legal Book Index ,2001 **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 International Competition Policy Advisory Committee to the Attorney General and Assistant Attorney General for Antitrust United States. International Competition Policy Advisory Committee,2000 *Regulating Competition in the EU* Pernille Wegener Jessen,Bent Ole Gram Mortensen,Michael Steinicke,Karsten Engsig Sorensen,2024-05-21 This revised and updated edition of a basic sourcebook and practice guide in EU competition law retains the first edition s significantly broader perspective on EU competition law than most books in the field It explains not only the traditional areas of competition law but also aspects of competition law that are of particular importance to practitioners With its comprehensive overview of relevant provisions

related to competition among others the authors shed clear light on the following topics and the interplay between these different areas of competition law the prohibition of agreements which restrict competition the prohibition of abuse of dominant position the rules on merger control the prohibition of State aid the liberalised sectors such as energy supply transport postal services and telecommunications and the rules on public procurement The chapters integrate an extensive number of sources including new acts new decisions and judgments and new Commission guidelines that help guide the interpretation of the underlying Treaty provisions With its enhanced view of EU competition policy regulation and enforcement and its emphasis on specific industry sectors this book offers an unusually thorough view of aspects of competition law which play an essential role in regulating the conduct of undertakings and public authorities in the market This new edition will continue to be of special value to any lawyer policymaker or scholar active in European competition law

Competition Law Eugène Buttigieg, 2009-05-19 Although it is commonly assumed that consumers benefit from the application of competition law this is not necessarily always the case Economic efficiency is paramount thus competition law in Europe and antitrust law in the United States are designed primarily to protect business competitors and in Europe to promote market integration and it is only incidentally that such law may also serve to protect consumers That is the essential starting point of this penetrating critique The author explores the extent to which US antitrust law and EC competition law adequately safeguard consumer interests Specifically he shows how the two jurisdictions have gone about evaluating collusive practices abusive conduct by dominant firms and merger activity and how the policies thus formed have impacted upon the promotion of consumer interests He argues that unless consumer interests are directly and specifically addressed in the assessment process maximization of consumer welfare is not sufficiently achieved Using rigorous analysis he develops legal arguments that can accomplish such goals as the following replace the economic theory of consumer welfare with a principle of consumer well being build consumer benefits into specific areas of competition policy assess competition cases so that income distribution effects are more beneficial to consumers and control mergers in such a way that efficiencies are passed directly to consumers The author argues that in the last analysis the promotion of consumer well being should be the sole or at least the primary goal of any antitrust regime Lawyers and scholars interested in the application and development and reform of competition law and policy will welcome this book They will find not only a fresh approach to interpretation and practice in their field comparing and contrasting two major systems of competition law but also an extremely lucid analysis of the various economic arguments used to highlight the consumer welfare enhancing or welfare reducing effects of business practices

Joint Ventures and EU Competition Law Luís Morais, 2014-07-18 This book examines the treatment of joint ventures JVs in EU Competition Law and at the same time provides a comparison with US law It starts with an analysis of the rather elusive concept of JV encompassing both concentrative JVs subject to merger control and non concentrative JVs Although focused on possible definitions of joint ventures in terms of competition law it also includes a broader perspective

going beyond competition law on the different legal models of structuring cooperation links between undertakings At the core of the book is an attempt to build an analytical model for the assessment of JVs in terms of antitrust law especially as regards Article 101 of the TFEU The analytical model used proposes a set of sequential analytical levels taking into account structural factors and specific factors related to the main constituent elements of the functional programmes of JVs The model is applied to a substantive assessment of four main types of JVs identified on the basis of their prevailing economic function research and development JVs production JVs commercialization JVs and purchasing JVs Also covered are particular situations of joint ownership of undertakings falling short of joint control In the concluding part of the book recent developments in JV antitrust law are put into context within the wider reform of EU Competition Law The book is also comprehensively updated with the latest developments concerning the reform of the EU framework of horizontal cooperation between undertakings that took place at the end of 2010

The adaption of competition rules in new and future member states to European Union Law (V) Peter Behrens, 2015-02-13 Die Angleichung der Wettbewerbsregeln an das Unionsrecht sowie die Schaffung geeigneter Verwaltungsstrukturen ist für die Länder Zentral und Osteuropas nach langen Jahren der Planwirtschaft eine besondere Herausforderung im Rahmen des Beitrittsprozesses bzw der Nachbarschaftspolitik der EU Die Untersuchung ist der Angleichung des türkischen Kartellrechts an das Unionsrecht auf der Basis der Assoziationsvereinbarungen zwischen der Türkei und der EU gewidmet Vergleichend analysiert werden das Kartellverbot das Verbot des Missbrauchs einer marktbeherrschenden Stellung sowie die Zusammenschlusskontrolle einschließlich der Anwendungspraxis und deren Vereinbarkeit mit dem Unionsregeln wie sie von der Kommission und dem EUGH interpretiert werden Es handelt sich um eine umfassende wissenschaftliche Studie zum türkischen Kartellrecht auf dem aktuellen Stand der Rechtsentwicklung Sie ist hervorragend geeignet auch der Praxis als wichtige Informationsquelle zu dienen In englischer Sprache

*EU Competition Law* Alison Jones, Brenda Sufrin, 2010-10-14 New to this edition

*Communications in EU Law : Antitrust Market Power and Public Interest* Antonio Bavasso, 2003-01-01 Approaching the theme from an antitrust perspective and focusing on telecommunications and television broadcasting this volume examines how traditional European competition law doctrines and principles can be applied to this converging sector The application of antitrust rules to the communications sector is often one of the most controversial areas of law and policy The shift towards a more competition law oriented form of regulation is one of the main principles inspiring the recent reform of European sectorial regulation enshrined in the 2002 Electronic Communication Package The Package was adopted in 2002 and is in the process of being implemented throughout the Union This monograph provides a detailed description of the new regulatory package and highlights the interplay between regulatory provisions and EC competition law It then follows the pattern of a typical antitrust analysis containing chapters on the definition of relevant market in the sector and various forms of abuses of market power The book also critically examines the Commission's practice and policy in the field of merger control and considers its



relationship with wider regulatory policies Finally it analyses the sector from the perspective of the European public interest and the changed nature of communications as a public service      The Competitive Effects of Minority Shareholdings  
Panagiotis Fotis,Nikolaos Zevgolis,2016-04-07 The objective of this book is twofold First it presents the economics of minority shareholdings under both merger and antitrust law In particular economic analysis provides both an overall assessment of minority shareholdings in the context of concentrations and Articles 101 and 102 TFEU and the examination of the link between non controlling minority shareholdings merger control and antitrust law Second the book also provides a legal assessment and an analysis of selected case law According to settled European case law minority shareholdings are analysed not only under Regulation 139 2004 but also under Articles 101 and 102 TFEU Nevertheless according to current enforcement practice at European and international levels several national competition authorities have adopted different approaches The million dollar question is whether the existing regulatory framework is sufficient to cover all possible cases In summary the book will be a useful tool for students practitioners researchers economic and legal experts and competition authorities It provides a comprehensive survey of the subject which has been missing until now and answers many questions that have been raised in the literature in the last decades      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

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