Private Enforcement Of Antitrust Law In The Eu Uk And Usa

Competition is recognised as a key driver of growth and innovation. Competition ensures that businesses continually improve their goods and services whilst striving to reduce their costs. Anti-competitive conduct by businesses, such as price-fixing, causes harm to the economy, to other businesses and to consumers. It is small businesses and the consumer who ultimately pay the price for anti-competitive conduct. A coherent competition policy that is both effectively implemented and effectively enforced is essential in driving growth and innovation in a market economy. The importance of competition was recently emphasised when the EU/ECB/IMF 'Troika' included a number of competition specific conditions to the terms of Ireland's bailout. Both Irish and Community law recognise the right for parties injured by anti-competitive conduct to sue for damages. This right to damages, in theory, allows those that have suffered loss to recover that loss whilst helping to deter others from taking the illegal route to commercial success. However private actions for damages in Ireland are rare. This book asks what the purpose of private competition litigation is and questions why there has been a dearth of this litigation in Ireland. The author makes a number of suggestions for reform of the law to enable and encourage private competition litigation. The author takes as his starting point the European Commission's initiative on damages actions for breach of the EC antitrust rules and compares the position in Ireland to that currently found in the UK and US.

Enhancing private litigation as a means of boosting the detection of anti-competitive behaviour and of remedying the harmful consequences of these practices on consumers has been at the forefront of the EU Commission agenda for a long time. Starting fr

This book explores how the EU’s enforcement of competition law has moved from centralisation to decentralisation over the years, with the National Competition Authorities embracing more enforcement powers. At the same time, harmonisation has been employed as a solution to ensure that the enforcement of EU competition rules is not weakened and the internal market remains a level playing field. While employing a comparative law argument, the book, accordingly, analyses the need for harmonisation throughout the different stages of development of the EU’s competition law enforcement (save Merger control and State Aid), the underlying rationale, and the extent to which comparative studies have been undertaken to facilitate the harmonisation process from an historical perspective. It also covers the Directives, such as the Antitrust Damages Directive and the ECN+ Directive. Investigating both public and private enforcement, it also examines the travaux préparatoires for the enforcement legislation in order to discover the drafters’ intent. The book addresses the European and the Member States’ perspectives, namely, the Central and Eastern European (CEE) countries, as harmonisation proceeds through dialogue and cooperation between the two levels. Lastly, it explores the extent to which harmonisation of the competition law enforcement framework has been accepted and implemented in the Member States’ legal systems, or has led to the fragmentation of the national systems of the CEE countries.

Companies in Europe and Japan are increasingly the target of private antitrust litigation. These lawsuits are being facilitated by favorable case law, legislative changes, and a growing awareness of antitrust remedies in all layers of society. This book analyzes and compares this burgeoning area of litigation in the European Union and Japan. It examines the legal framework for these actions and takes stock of the hundreds of actions for damages and injunctive relief that have been brought in Japan and the EU. It also looks at the novel contexts in which private litigants are invoking antitrust violations, such as in derivative suits and in actions to challenge arbitral awards. Finally, the book assesses the impact of private litigation on the enforcement of antitrust law and shows how Japan's experience can be useful for Europe and vice versa in shaping future reforms.

'This comprehensive and well written volume surveys the private enforcement provisions of virtually every country in the world that has a competition law recognizing private actions. It is a first-of-its-kind, incredibly valuable undertaking. In addition to individual country surveys this book includes valuable comparative studies of private enforcement as well as theoretical and empirical analysis of its effects. Every competition lawyer with a multinational practice will benefit from owning it.' - Herbert Hovenkamp, University of Iowa, US

Over the past fifteen years, the optimal enforcement of EU competition law has become a major concern. This book contains a unique collection of articles by lawyers and economists on current issues in the public and private enforcement of competition law. Public enforcement has been strengthened in numerous ways – for example, through the introduction of a leniency programme and a substantial increase in fines for competition law violations. At the same time the EU Commission has been promoting private enforcement – for example, by developing a legal framework that grants victims of EU antitrust law infringements access to compensation. The contributions in this book address a range of topics in the area of competition law enforcement, including the role of fines and leniency programmes in public enforcement; access to evidence and the quantification of damages in private enforcement; and the interaction between public and private enforcement of competition law in Europe.

This book introduces the reader to key legal provisions and case-law related to the procedural and substantive issues that may arise in damages litigation for breach of anti-competitive agreements and abuses of a dominant position prohibitions. For the past decade, academic publications have focused on the proposal for a Directive on damages actions, then the Directive 2014/104/EU of 26 November 2014 itself, and finally the transposition texts. However, this understandable interest should not lead to overlook the fact that the Directive has been applied very little until now. This is mainly due to its application ratione temporis. In addition to the fact that Member States only transposed the Directive between the end of 2016 and 2018, Article 22 of the Directive provides that the substantive rules contained in the Directive cannot be applied to infringements subsequent to the national laws transposing them, while the procedural rules of the Directive apply to proceedings commenced on or after 26 December 2014. Thus, it is prior domestic law that continues to govern the vast majority of cases before national courts in the “Pre-Directive era.” In addition, a number of issues of the utmost importance have not been addressed by the Directive, such as questions of international jurisdiction or the quantification of “interests.” For these reasons, it seemed necessary not to limit this book to commenting on the Directive, important as it is, but to go beyond it. Directed by Rafael Amaro, this book contains the contributions from leading academics, attorneys, jurists and economists in the field of the private enforcement of competition law. It is composed of thematic chapters dealing with matters such as applicable law in international litigation, limitation, quantification of damages, from both a European Union and a national perspective, as well as national chapters presenting the state of play in several European States.

Private Enforcement of Antitrust Law in the United StatesA HandbookEdward Elgar Publishing

This book provides the first detailed examination of how private individuals and companies can enforce their rights under competition law against other private parties in the EU and UK. It provides a comprehensive analysis of the legal basis for private antitrust enforcement both under EC and the new UK law, and of the available procedures and remedies.

Die Arbeit diskutiert die Auswirkungen der Durchsetzung von Standard-Patenten für das Wettbewerbsrecht. Die formale Standardeinstellung hat das Potenzial, zu nahezu optimalen Investitionen in Forschung und Entwicklung und gleichzeitig zur schnellen Umsetzung innovativer Standards zu führen.

Private Enforcement of European Competition and State Aid Law Current Challenges and the Way Forward Edited by: Ferdinand Wollenschläger, Wolfgang Wurmnest & Thomas M.J. Möllers

The overlapping European Union (EU) regimes of competition law and State aid law both provide mechanisms allowing private plaintiffs to claim compensation for losses or damages. It is thus

of significant practical value to provide, as this book does, analysis and guidance on achieving enforcement of such claims, written by renowned authorities in the two fields. The book examines the two areas of law both from an EU perspective and from the perspectives of private enforcement in France, Germany, Italy, the Netherlands, Spain and the United Kingdom. In country reports for these major jurisdictions, as well as in more general and comparative chapters, the authors focus on such issues as the following: impediments to private enforcement; which entity is liable for damages; binding effect of decisions of competition authorities; limitation of actions; collective actions and pooling of claims; enforcement of the standstill obligation (Article 108(3) TFEU); remedies and information deficits; cooperation and coordination between national courts and the European Commission; transposition of the so-called Damages Directive (Directive 2014/104/EU) by the EU Member States; extent to which the strengthening of private enforcement of competition law has a spillover effect on State aid law; and prospects for harmonisation of State aid law. A concluding section identifies enforcement deficits and proposes ways to improve the existing legal framework. As an in-depth assessment of key obstacles and best practices in private enforcement actions, this highly informative and practical volume facilitates choice of the best forum for competition and State aid law cases. Academics and practitioners engaged with this important area of European law will appreciate the authors' awareness of the economic need and legal particularities which could generate an effective European system of private enforcement of legitimate claims under EU competition and State aid law.

The Oxford Handbook of Transnational Law offers a unique and unparalleled treatment and presentation in the field of Transnational Law that has become one of the most intriguing and innovative developments in legal doctrine, scholarship, theory, and practice today. This in itself constitutes an ambitious editorial project, not only within law and legal doctrine, but also with regard to an increasing interest in an interdisciplinary engagement of law with social sciences - including sociology, anthropology, political science, geography, and political theory. Closely tied into the substantive transformation that many legal fields are undergoing is the observation that many of these developments are driven by changes in an increasingly global legal practice today. The concept then, of 'transnational law' aims at capturing the distinctly border- crossing nature even of those legal fields which had for the longest been time been seen as having merely 'domestic' relevance. This shift also requires a conscious effort among law school classroom instructors, casebook authors, and curriculum reformers to adapt their teaching content to these circumstances. As the authors of this Handbook make clear, this adaptation requires a close dialogue between a scholarly investigation into the transnational 'concept of law' and the challenges faced by practicing lawyers, be that as solicitor, in-house counsel, as judges, or as bureaucrats in a globalized regulatory and socio-economic environment. While the main thrust is on the transnationalization of legal doctrine and legal theory, with a considerable contribution from and engagement with social sciences, the Handbook features numerous reflections on the relationship between transnational law and legal practice.

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.

The globalization of trade has made it necessary to establish an international network of competition laws. Accordingly, more than a hundred jurisdictions have now introduced some kind of competition law provisions into their national legislation. However, it is notorious that enforcement in many countries is weak, erratic, hampered, or sometimes even nonexistent.

Provides a new conceptualization of competition law as economic inequality and its interaction with efficiency become of central concern to policy and decision-makers.

Private Enforcement of Antitrust Law in the United States is a comprehensive Handbook, providing a detailed, step-by-step examination of the private enforcement process, as illuminated by many of the country's leading practitioners, experts, and scholars. Written primarily from the viewpoint of the complainant, the Handbook goes well beyond a detailed cataloguing of the substantive and procedural considerations associated with individual and class action antitrust lawsuits by private individuals and businesses. It is a collection of thoughtful essays that delves deeply into practical and strategic considerations attending the decision-making of private practitioners. This eminently readable and authoritative Handbook will prove to be an invaluable resource for anyone associated with the antitrust enterprise, including both inexperienced and seasoned practitioners, law professors and students, testifying and consulting economists, and government officials involved in overlapping public/private actions and remedies.

The decentralisation of competition law enforcement and the stimulation of private damages actions in the European Union go hand in hand with the increasingly international character of antitrust proceedings. As a consequence, there is an ever-growing need for clear and workable rules to co-ordinate cross-border actions, whether they are of a judicial or administrative nature: rules on jurisdiction, applicable law and recognition as well as rules on sharing of evidence, the protection of business secrets and the interplay between administrative and judicial procedures. This book offers an in-depth analysis of these long neglected yet practically most important topics. It is the fruit of a research project funded by the European Commission, which brought together experts from academia, private practice and policy-making from across Europe and the United States. The 16 chapters cover the relevant provisions of the Brussels I and Rome I and II Regulations, the co-operation mechanisms provided for by Regulation 1/2003 and selected issues of US procedural law (such as discovery) that are highly relevant for transatlantic damages actions. Each contribution critically analyses the existing legislative framework and formulates specific proposals to consolidate and enhance cross-border antitrust litigation in Europe and beyond.

However, the old buildings, traditions, and trades of early Bangkok retain their charm and character, and in spite of its occasional brashness and impulsive modernization, the

Thai capital retains a vibrancy in its anarchic orderliness which makes it one of the more endearing if sometimes confusing cities in South-East Asia."--BOOK JACKET.

This book provides the first detailed examination of how private individuals and companies can enforce their rights under competition law against other private parties in the EU and UK. It provides a comprehensive analysis of the legal basis for private antitrust enforcement both under EC andthe new UK law, and of the available procedures and remedies.The book then goes on to systematically survey all of the key issues of law and practice that arise in private antitrust litigation in the USA, such as locus standi, antitrust injury, methods of proof of damage, types of damage for which compensation is recoverable, and the principles of antitrustdamage calculation. In each case, the author draws upon his experience of such litigation as a practitioner in the USA to set out detailed practical conclusions as to how the same issues should be addressed in the EU and UK.

Despite several decades' worth of explicit directives, green papers, white papers, proposals, and communications from the European Commission, the actual enforcement of competition law across the Member States today is rife with shifting patterns that escape a clearly bounded framework. The underlying cause of this disarray, the authors of this deeply engaged work contend, lies in a host of legal uncertainties scattered around the intersection where private enforcement encounters the mechanisms of decentralized public enforcement--an area where a number of general as well as special questions of EU competition law, even its very goals and principles, rise into prominence.In this truly authoritative book, eleven well-known European jurists and academics, all experts in competition law, offer in-depth perspectives on these questions and reveal conflicts between EU competition law and enforcement regimes. The subjects on which they focus include the following: agreements and concerted practices; the effect on trade criterion; the quasi legislative role of the Commission; the need to preserve a central role for the preliminary ruling mechanism; burden and standard of proof issues; the role of experts; the abuse of a dominant position in the form of "margin squeeze"; the lack of transparency characterizing the European Competition Network; leniency programmes and the circulation of evidence; calculation of damages and the passing-on defence; peculiarities of antitrust enforcement in the e-communications sector; EU legislative competences in the audiovisual sector; specific features of the pharmaceutical sector; and recent enforcement in the financial services sector.A cumulative effect of the analysis and commentary emerges: that the issues of transparency and process of law raised in this book are profoundly related to the crisis of legitimation that the European Union is currently facing. For this reason the book will be of great interest not only to practitioners, academics, jurists, and officials in competition law, but to a wider legal community as well.

The European Commission's recent green paper on damages actions for breach of EC antitrust rules stirred a debate across Europe on the need for legal reform that would encourage private plaintiffs to claim compensation for losses suffered as a result of anticompetitive conduct. Prominent in the wake of that initiative was the international conference convened by the Max Planck Institute for Comparative and International Private Law in Hamburg in April 2006, the papers and proceedings of which are presented in this important book. Among the topics and issues raised and discussed here are the following: the 2001 Courage judgment of the European Court of Justice, in which the court decided that everyone who suffers losses from a violation of arts. 81 or 82 EC is entitled to compensation; relevance of the case law that contributes to general principles of European tort law; comparative analysis from the more comprehensive experience of national laws in the United States, Germany, France, and Italy; calculation of damages; passing-on of losses sustained in an upstream market to customers in a downstream market; procedural devices which may help to overcome the lack of implementation; duties of disclosure and the burden of proof; collective actions that may help to overcome the rational abstention of individuals; pitfalls of leniency programmes implemented by national competition authorities; and, issues of jurisdiction and choice of law. The lively debates that followed the presentations at the conference are also recorded here. Although more discussion will be needed before a viable legal framework in this area begins to emerge, these ground-breaking contributions by lawyers of various disciplines, jurists, economists, academics, and European policymakers take a giant step forward. For lawyers, academics, and officials engaged with this important area of international law, this book clearly improves our understanding of the economic need and legal particularities which could generate an effective European system of private antitrust litigation.

During the past decade, private enforcement of competition law has slowly taken off in Europe. However, major differences still exist among Member States. By harmonizing a number of procedural rules, the Damages Directive aimed to establish a level playing field among EU Member States. This timely book represents the first assessment of the implementation of the Damages Directive. Offering a comparative perspective, key chapters provide an up-to-date account of the emerging trends in private enforcement of competition law in Europe.

Recoge: 1. Substantive remedies - 2. Procesural issues - 3. Arbitration courts - 4. Criminal sanctions.

Since its formation the European Union has expanded beyond all expectations, and this expansion seems set to continue as more countries seek accession and the scope of EU law expands, touching more and more aspects of its citizens' lives. The EU has never been stronger and yet it now appears to be reaching a crisis point, beset on all sides by conflict and challenges to its legitimacy. Nationalist sentiment is on the rise and the Eurozone crisis has had a deep and lasting impact. EU law, always controversial, continues to perplex, not least because it remains difficult to analyse. What is the EU? An international organization, or a federation? Should its legal concepts be measured against national standards, or another norm? The Oxford Handbook of European Union Law illuminates the richness and complexity of the debates surrounding the law and policies of the EU. Comprising eight sections, it examines how we are to conceptualize EU law; the architecture of EU law; making and administering EU law; the economic constitution and the citizen; regulation of the market place; economic, monetary, and fiscal union; the Area of Freedom, Security, and Justice; and what lies beyond the regulatory state. Each chapter summarizes, analyses, and reflects on the state of play in a given area, and suggests how it is likely to develop in the foreseeable future. Written by an international team of

leading commentators, this Oxford Handbook creates a vivid and provocative tapestry of the key issues shaping the laws of the European Union.