

Table of Contents

CHAPTER 1	Competitive Rivalry and Competition Law	1
	Introduction	2
	Competition	3
	Market Power	4
	Suppression of Competition	5
	Competition Law	8
CHAPTER 2	Products and Markets	19
	Introduction	19
	Products	20
	Markets	20
	Product and Market Relationships	22
CHAPTER 3	Relevant Markets and Market Shares	25
	Introduction	27
	Relevant Markets	29
	Different Types of Relevant Markets	37
	Determining the Relevant Market in Practice	48
	Examples of Relevant Market Definition in Merger Control Decisions	56
	Market Shares	59
	Illustration	63
CHAPTER 4	Undertakings and Competitors	69
	Introduction	70
	Undertakings	71
	Competitors	76
	Competitive Relationships	80
	Changes in Competitive Relationships	82
CHAPTER 5	Article 101 and Restrictive Agreements	85
	Introduction	88
	Article 101	90
	Agreement	93
	Affectation of Trade	99
	Restriction of Competition	100
	Appreciable Nature of Restriction of Competition	113

Table of Contents

Internal Market	115
Balancing Pros and Cons	116
Reading the Balance	124
Block Exemptions	129
Commission Guidelines	130
Commission Guidance on Specific Agreements	131
CHAPTER 6 Article 102 and Abuse of Dominance	133
Introduction	135
Article 102	137
Effect of Dominance on Relevant Market Definition	138
Dominant Position	139
All or Substantial Part of the Internal Market	145
Abuse	145
Appreciable Affectation of Trade Under Article 102	157
What to Look for in Assessing Business Agreements	158
CHAPTER 7 Agreements Typically Raising EU Competition Law Issues	161
Introduction	163
Cartels	164
Business Cooperation Agreements between Competitors	164
Vertical Restraints in Vertical Agreements	172
Technology Transfer Agreements	173
M&A and Other Agreements	174
CHAPTER 8 By Object and Hardcore Restrictions	177
Introduction	183
Concepts of by Object and Hardcore Restrictions	184
Cartels	187
Restrictions by Object in Cooperation Agreements between Competitors	193
Vertical Restraints Restricting Competition by Object	221
Restrictions by Object in Technology Transfer Agreements ..	249
Your Business Agreement Contains Restrictions by Object ..	263
CHAPTER 9 The EU Antitrust Safe Harbors	265
Introduction	274
Overview of EU Antitrust Safe Harbors	276
Connected Undertakings	279

Table of Contents

Small and Medium Sized Enterprises (SMEs)	282
NAAT Rule on Non-Appreciable Trade Effects	283
<i>De Minimis</i> Notice on Non-Appreciable Anticompetitive Effects	285
Block Exemption Regulations Generally	289
The Research and Development Block Exemption Regulation	293
The Specialization Block Exemption Regulation	310
The Vertical Block Exemption Regulation	319
The Technology Block Exemption Regulation	349
Soft Safe Harbors	370
CHAPTER 10 Restrictions of Competition by Effect	385
Introduction	389
General Considerations	392
Basic Questions for the Business Executives	397
Assessing Affectation of Trade between Member States	399
Assessing Appreciable Suppression of Competition	401
Assessing Efficiency Gains	430
Assessing Indispensability of the Restriction of Competition .	434
Assessing Pass On of Benefits to Consumers	443
Assessing Non Elimination of Substantial Competition	449
Conclusions	459
CHAPTER 11 Business Cooperation Agreements Between Competitors .	461
Introduction	470
General Considerations	472
Balancing the Positives and Negatives of Information Exchanges	474
Weighing R&D Cooperation in the Balance	501
Considerations Tipping the Scale for Production Cooperation	520
Balancing Factors for Purchasing Cooperation	540
Coming Out Ahead with Cooperation in Commercializing Competing Products	555
Agreement Combining Different Stages of Cooperation	574
Improving Compatibility with Standardization Agreements .	574
Checking Where the Scale Falls for Agreements on Standard Terms	585
Helping Save the Planet by Cooperating for Sustainable Development	593

Table of Contents

CHAPTER 12	Vertical Restraints in Distribution and Supply Agreements	613
	Introduction	619
	Reading the Balance on Vertical Restraints	620
	Types of Distribution Systems	635
	Assessment of Specific Vertical Restraints	662
	Agency Agreements	714
	IPR Provisions in Vertical Agreements	722
CHAPTER 13	Technology Rights Agreements Relating to Production ...	727
	Introduction	733
	Technology Rights Used in Production	734
	Weighing Technology Rights Transfer Agreements in the Balance	739
	Assessment of Specific Restraints in Licensing Agreements ..	750
	Settlement Agreements in Technology Rights Disputes	817
	Technology Rights Pools	820
CHAPTER 14	M&A, Subcontracting, IPR and Other Agreements	833
	Introduction	836
	Mergers, Acquisitions and Joint Ventures	837
	Subcontracting Agreements	887
	Agreements on Intellectual Property Rights	889
	Agreements in Specific Economic Sectors	893
	Agreements Not Covered by Specific Guidelines	893

Table of Contents

APPENDIX I	Articles 101 and 102 TFEU	895
APPENDIX II	Relevant Product Market Basic Questions	897
APPENDIX III	Relevant Geographic Market Basic Questions	903
APPENDIX IV	Connected Undertakings Basic Questions	907
APPENDIX V	NAAT Rule Basic Questions	911
APPENDIX VI	<i>De Minimis</i> Notice Basic Questions	915
APPENDIX VII	R&D BER Basic Questions	919
APPENDIX VIII	Specialization BER Basic Questions	929
APPENDIX IX	Vertical BER Basic Questions	933
APPENDIX X	Technology BER Basic Questions	937
APPENDIX XI	Information Exchange Basic Questions	941
APPENDIX XII	Concentration Basic Questions	947
APPENDIX XIII	EU Dimension Basic Questions	953
