

Editors

Frédéric Jenny  
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# Competition Case Law Digest

A synthesis of EU, US,  
and national leading cases

5<sup>TH</sup> EDITION

Christian Ahlborn, Bernard Amory, Peter Armitage,  
Christian Bahr, Ciara Barbu-O'Connor, Christoph Barth,  
Cornelius Börner, Violetta Bourt, Leah Brannon,  
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# Competition Case Law Digest

A synthesis of EU, US and national leading cases

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Frédéric Jenny  
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# Foreword

Frédéric Jenny  
Nicolas Charbit  
Sonia Ahmad

This 5th edition of the Competition Case Law Digest provides readers with a synthesis of European and national leading antitrust cases from 1990 to 2022. It is a unique opportunity to draw comparisons between competition case law and policies in the European Union as a whole as well as in the Member States, and, in some instances, the United States.

Since the publication of the previous edition in 2020, the Covid-19 pandemic has disrupted every aspect of global commerce, including competition. This edition pays particular attention to the impact of the pandemic on competition law and policy in the EU, through contributions across thematic and business areas.

Even though the study cannot be fully comprehensive, the contributions illustrate how trends in competition law have evolved in critical substantive and procedural areas. Harmonization, whether regulated or “spontaneous”, has consistently been at the forefront of European integration, and continues to take center stage. The forty-four contributions included in this book reveal that while substantive law has been successfully harmonized in some areas, there are gaps in other aspects of national competition laws that have highlighted remaining conflicts, such as State aid and private enforcement.

Substantive and procedural topics including anticompetitive agreements, unilateral practices, mergers, state aid, as well as inspections, judicial review & fundamental rights are addressed in this edition, alongside vital sectors of business activity which have come under the competition law spotlight such as digital markets, life sciences and sustainability. Illustrative examples of ongoing and upcoming trends, alongside areas of potential conflict have been extracted from the analyses provided by the authors of the contributions.

## 1. Competition and Covid-19

Following the declaration of the Covid-19 pandemic by the World Health Organization in 2020, no country or business was left unaffected, even as the impacts were not uniform. Different parts of the economy were affected in different ways, with some sectors such as travel and hospitality seeing a steep decline in demand, while others like the digital and e-commerce sectors received a huge boost. To address the various shocks suffered by the market, *“the European Commission reacted swiftly. To assist Member States, it rapidly set up a hotline and a dedicated webpage on State aid rules and coronavirus. Following discussions with Member States, the European Commission adopted on 19 March 2020 the Temporary Framework to support the economy in the context of the COVID-19 outbreak in accordance with Article 107(3)(b) TFEU that allows aid to remedy a serious disturbance in the economy of a Member State. This legal basis was applied previously in the context of the mad cow disease and during the financial and economic crisis of 2008”* (Annabelle Lepièze, and Marguerite Soete).

In a similar vein, *“competition authorities have provided significant guidance regarding collaboration amongst competitors”* where *“significant under - or overcapacity has created incentives, or even the necessity, to collaborate in ways that may push the limits of competition law”*. At the same time, *“competition regulators are equally clear that companies that opportunistically cartelized, or engage in anti competitive behaviour such as price gouging will be dealt with harshly ... abuses of the flexible approach will meet a resolute response with marketplaces being monitored very closely, for example, through the creation of task forces and a call for whistleblowers.* (Christian Krohs, Andrea L. Hamilton and Max Küttner).

Finally, the interplay between intellectual property rights, competition law, public health and human rights came to the forefront again as *“in a pandemic situation, it is crucial to meet both the aim to encourage Research and Development (R&D) of new drugs and treatment by the pharmaceutical companies heavily reliant on IP, and the need to ensure access to safe medicines at an affordable price worldwide according to the fundamental human right to health”* (Gabriella Muscolo & Amalia Muzzatti).

Beyond the areas touched upon here, the impact of the pandemic on competition law, policy and enforcement is discussed in contributions interspersed throughout the Digest.

## 2. Convergence and Harmonization

In an important development, the European Commission published a proposal for the Digital Markets Act in December 2020, laying down harmonized rules aimed at regulating the behaviour of digital platforms acting as gatekeepers. What justifies this shift from ex-post antitrust intervention to ex-ante regulation - *“did competition law really fail? And if so: in which way(s) and why? Did the Commission and the national competition authorities fail to bring cases? Was the enforcement too slow, or did competition authorities fail to conclude their cases successfully?”* (Heike Schweitzer and Frederik Gutmann).

On the enforcement front, *“the Commission and NCAs are demonstrating greater intolerance to breaches of procedural rules by merging parties, including in particular*

*gun-jumping*” (Jay Modrall & Violetta Bour). Besides this evolution, some of the merger regulation trends identified in previous editions remain relevant, including the rising number of prohibitions and withdrawn mergers (primarily horizontal mergers, but vertical integrations are also in focus). New trends identified include “*increased intensity in the judicial review, although still a rarity, and industrial mergers fac[ing] harder times*” (Jens Munk Plum).

For antitrust cases, “*the European Commission has expanded its range of premiums with which it wants to persuade companies to cooperate. True to their proven “carrot and stick” approach, in future cases there should be financial incentives for cooperation also in areas in which accused companies – at least so far – cannot benefit from the leniency programme or a settlement discount... With this new procedure, the European model approaches that of American plea bargaining*” which offers opportunities for companies to earn a discount outside pure antitrust violations, thus closing a certain gap. (Anne-Laure-Hélène des Ylouses & Christian Bahr).

Finally, the last two years have also seen sustainability come to the forefront of the competition policy agenda. “*Most competition authorities (at least in Europe) are now thinking about the issue of sustainability and competition policy — although the degree of engagement varies considerably*” (Simon Holmes). The European Commission has stepped in to carry out a number of consultations on the topic, including “*How Competition Policy can better support the European Green Deal*”, on updating the Commission’s Horizontal Guidelines, as well as a view to updating its General Block Exemption for certain categories of state aid, and its “*Guidelines on State aid for Environmental Protection and Energy*”.

### 3. Divergence & Potential Conflicts

While harmonization has successfully been achieved in many areas, differences remain in others. An important example is apparent in State aid private enforcement. “*As opposed to antitrust private enforcement which is now shaped by EU legislative harmonization through the Damages Directive, the duties, obligations and powers of national courts in State aid private enforcement are shaped by the EU case law and soft law. In the realm of State aid, the Member States play a problematic role by arguably preventing the extension of private enforcement through harmonized rules throughout the EU*” (Jacques Derenne and Ciara Barbu O’Connor).

Another area of differing positions is found in the treatment of vertical restrictions, especially regarding e-commerce. “*While these differences are most noticeable between the EU and the US, national competition authorities within the EU have also taken substantially different positions concerning similar or identical categories of vertical restrictions*” (Pedro Gonzaga and Gabriella Erdei). At the centre of the debate is the EU Vertical Block Exemption Regulation (VBER) governing vertical restraints, which was evaluated by the European Commission in anticipation of its expiry in May 2022. The conclusions from the current discussions will have important implications for years to come.

\*\*\*

A growing awareness of the development of competition laws and cases in national jurisdictions has led to convergent effects with the approach of one jurisdiction potentially affecting those of others. As authorities are increasingly confronted with similar concerns, be it in the digital markets or sustainability debate, monitoring and comparing different national approaches is becoming crucial for practitioners and academics to understand and predict the future direction of competition law.

We trust that the e-Competitions initiative – with its online Bulletin and this Digest – contributes towards building a corpus of information on doctrine, legislation and precedent in the EU, US and worldwide, that constitutes a useful tool to better interpret the forthcoming challenges and direction of competition law.



# Publisher's Note

*e-Competitions* is the only online resource that provides consistent coverage of antitrust cases from 85 jurisdictions, organized into a searchable database structure. This database comprises over 20 000 case summaries from 1911-2022 by over 5 000 authors (as of Feb. 2022).

In 2011, the *e-Competitions* Bulletin launched a series of Special Issues covering various areas of competition law and business sectors covering not only the European Union and its Member States, but also, where relevant, US and other national case law. Since then, this initiative has proven to be a success. The quality and interest of the papers published in *e-Competitions* were such that the Board decided to collect the essays and release a book. As a result, the first 2013 edition of the Competition Case Law Digest was published. The fourth edition was released in 2020.

The 2022 edition of the Digest is a selection of 44 essays on European union, national and US case law covering cases up from 1990 to 2022.

The Digest is structured in three main parts: Part I deals with competition rules in general (unilateral practices, mergers...), whereas Part II is dedicated to policy, procedure and enforcement (judicial review, due process & fundamental rights, inspections, private enforcement...) and Part III to specific sectors (digital, energy & environment, pharma & healthcare...). Each essay consists of a synthesis of case summaries published in *e-Competitions* Special Issues. Each of these Special Issues gathers an average of 100 to 500 case summaries from the EU Member States and foreign jurisdictions.

This book offers a unique opportunity to draw comparisons between competition case law and policies. In this time of globalization of antitrust law, monitoring and comparing different national approaches to similar cases has become crucial for practitioners and academics to understand and predict the future direction of competition law at both EU and national level. This initiative to build a corpus of information on national doctrine, legislation and precedent in the EU, US and worldwide constitutes a useful tool to interpret the forthcoming challenges and direction of competition law.

We would like to express our sincere gratitude to the authors of the 44 essays as well as to the 1 720 authors of the case summaries quoted in this new edition of the Digest.

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**Herbert Hovenkamp – The Dean of American Antitrust Law, 2021**

**Frédéric Jenny – Standing Up for Convergence and Relevance in Antitrust, (Vol. I & II), 2019 & 2021**

**Albert Foer – A Consumer Voice in the Antitrust Arena, 2020**

**Richard Whish – Taking Competition Law Outside the Box, 2020**

**Douglas H. Ginsburg – An Antitrust Professor on the Bench (Vol. I & II), 2018 & 2020**

**Wang Xiaoye – The Pioneer of Competition Law in China, A. Emch, W. Ng (eds.), 2019**

**Ian S. Forrester – A Scot without Borders (Vol. I & II), A. Komninos (eds.), 2015**

**William E. Kovacic – An Antitrust Tribute (Vol. I & II), 2013 & 2014**

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## Practical Books

**Global Dictionary of Competition Law, D. Healey, W. Kovacic, P. Trevisan, R. Whish, Forthcoming 2022**

**Antitrust in the Pharmaceutical Sector, M. Cowie, G. Gordon M. Thill-Tayara, Forthcoming 2022**

**Competition Law Treatment of Joint Ventures, B Bleicher, N. Campbell, A. Hamilton, N. Hukkinen, P. Khan, Forthcoming 2022 (in collaboration with the IBA)**

**State Aid & National Enforcement, J. Derenne, D. Jouve, C. Lemaire, F. Martucci (eds.), Forthcoming 2022**

**Information Exchange and Related Risks – A Practical Guide, Z. Marosi & M. Soares (eds.), Forthcoming 2022 (in collaboration with the IBA)**

**Perspectives on Antitrust Compliance, A. Riley, A. Stephan, A. Tubbs (eds.), Forthcoming 2022 (in collaboration with the ICC)**

**Competition Inspections - A Global Jurisdictional Guide, N. Jalabert-Doury (ed.), Forthcoming 2022**

**Turkish Competition Law, G. Gürkaynak, 2021**

**Competition Law – Climate Change & Environmental Sustainability, S. Holmes, D. Middelschulte, M. Snoep (eds.), 2021**

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**Competition Inspections under EU Law – A Practitioner’s Guide, N. Jalabert-Doury, 2020**

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---

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**Buyer Power, I. Herrera Anchustegui, 2017**

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## General Interest

**Women and Antitrust – Voices from the Field (Vol I & II), E. Kurgonaite & K. Nordlander, 2020**

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## Conference Proceedings

**Antitrust in Emerging and Developing Countries – (Vol I & II), E. Fox, H. First, 2015 & 2016**

**Global Antitrust Law – Current Issues in Antitrust Law and Economics, D. Ginsburg, J. Wright, (eds.) 2015**

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Editors

Frédéric Jenny  
Nicolas Charbit

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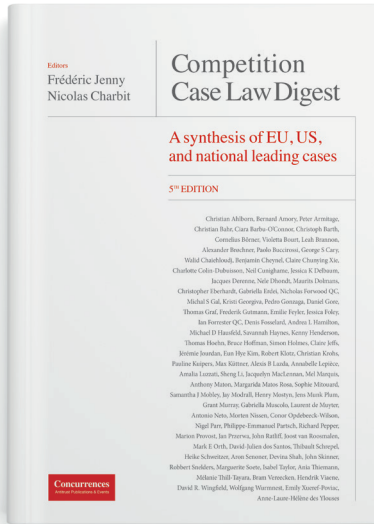
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