

Non - compete clauses in the competition law of the European union and selected member states

This diploma thesis is focused on the use and regulation of non-compete clauses in the competition law of the European Union, the Czech Republic and Great Britain. The aim of this thesis is to analyse the applicable regulation and decision-making practice of the relevant authorities concerning the non-compete clauses in the selected jurisdictions, draw a comparison between them and, at the end of each chapter, make an evaluation to what extent does the relevant practice differ on the level of European law, the law of the Czech Republic or Great Britain. The thesis is mainly dedicated to the use of non-compete clauses in lease and acquisition agreements.

The first chapter is focused on the theoretical introduction to the matter, containing a short summary of the fundamental regulation and soft law of the competition authorities. The second chapter is centred around the analysis of decisions concerning the non-compete clauses in lease agreements. The individual decisions are examined and compared at the end of the second chapter. The comparison is made by using the division of the anti-competitive agreements to the categories of “*object-type agreements*” and “*effect-type agreements*”.

The third chapter is concentrates on the analysis of decisions dealing with the non-compete clauses in the acquisition agreements, including agreements relating to joint ventures. As the non-compete clauses form relatively common parts of the acquisition agreements, this thesis is only concerned with the decisions issued after the effectiveness of the current EU Merger Regulation. The analysis mainly deals with the ancillary restraints concept. Ancillary restraints refer to such restraints which are directly related to and necessary for the relevant concentration. At the end of the third chapter ensues a comparison of the analysed decisions and a conclusion, which among other things, focuses on the question of how the concept of ancillary restraints might help the competitors to prevent the non-compete clauses from being considered as anti-competitive agreements distorting competition.