

Summary

The competition policy can be regarded as one of the important areas of the international trade enhancing effectivity of the elimination of trade barriers. In the absence of binding rules on competition at the global stage, the prevention of anti-competitive behavior plays a key role within the regional trading blocks. The thesis deals with one of the pillars of the competition law – rules on the abuse of dominant position – in the most integrated of those regional trading blocks –in the European Communities.

The EC Treaty contains provision on the abuse of dominant position in Article 82 that prohibits undertakings from committing an abuse of dominant position held within a substantial part of the common market where that abuse has an effect on trade between Member States. It does not prevent undertakings from being in a dominant position but from engaging in the the anticompetitive behavior which weakens the already weak competitive structure of the market.

The thesis occupies itself with the main features of legal regulation of the abuse of dominant position in the EC law as set in Article 82 with special respect to the decisions of relevant competitive authorities. It is divided into three parts – introduction, regulation of abuse and conclusion.

The introduction explains the role of competition policy for the international trade. It also determines different market situations in relation to the market power of producer or supplier and it sets the main objectives of the thesis.

The actual content of the thesis is contained in the second part composed of ten chapters. The opening chapter defines the role of competition policy in the EC law and enumerates its sources of law.

The need to interpret Article 82 with regard to the EC objectives provided for in Article 2 is explained in chapter 2.

The scope of local, personal and local applicability is laid down in the following chapter. Special attention is paid to the term undertaking in the context of Article 82 as *an every entity engaged in an economic activity*. The broad approach of the EC competitive authorities is demonstrated in the number of examples.

The scheme of Article 82 is explained in chapter 4 as well as its five elements that must be established before prohibition applies. The five elements are then explored in detail in following separate chapters. These five elements are:

- one or more undertakings,

- dominant position,
- the dominant position must be held within the common market or a substantial part of it,
- an abuse, and
- an effect on Member States.

Chapter 5 concentrates itself on the meaning of the term “more undertakings” and on the development of the collective dominance concept in the jurisprudence of EC institutions.

What is meant by “a dominant position” it is the issue of the chapter 6. The dominance does not exist in abstract. It always exists in relation to a market. In *Continental Can* the European Court of Justice stressed that *the definition of the relevant market is of essential significance* and insisted on this ever since. The definition of relevant market according to product and geography is contained in first part of this chapter. Its second part is dedicated to the assessing of dominance on the relevant market on the basis of its main indicators such as market share and barriers to entry.

Chapter 7 deals with the third element of Article 82 according to which the dominant position must be held within the common market or a substantial part of it.

But the dominance is not unlawful *per se*. Dominant undertaking bears the special responsibility not to distort the condition of competition on the market. What covers the flexible notion of “abuse” it is examined in detail in the chapter 8. It includes the explication of the difference between exploitative and exclusionary abuses, the special responsibility of dominant undertaking, an abuse as an objective concept, and the different categories of *objective justification*. It also considers whether the abuse needs to be causally connected to the dominant position and special situations when undertaking dominant on one market infringes Article 82 by its conduct on another.

General remarks on the abuse are followed by the examples of abusive practices in chapter 9. First, the abusive pricing policies such as excessive prices, predatory pricing, price squeezing, price discrimination and rebate schemes are considered. Then, the other types of abusive practices – exclusive contracts, tying and refusal to supply, are explored on the examples of the decisions of EC competitive authorities.

In chapter 10 the last element required for the application of Article 82 allowing its usage only if the abuse of a dominant position affects trade between Member States is outlined.

The conclusion resumes the main issues developed in the thesis and summarizes the approach to the abuse of dominant position by the EC competitive authorities.