

Abuse of Dominant Position in the ICT Sector: A European Perspective

Abstract

The concept of abuse of dominant position refers to business practices in which a dominant market player may engage in order to maintain or strengthen its position in the market, and are prohibited under Article 102 of the Treaty on the Functioning of the European Union. This master's thesis provides insight into theory and decisional practice of abuse of dominant position within the EU with particular focus on the area of information and communication technologies (ICT).

The ICT industry belongs among the fastest developing, with many new powerful market players emerging, often creating entirely new markets for themselves. This is where a potential risk for an abuse of dominance occurs and why many of the breakthrough cases in the previous years have been related to this sector. Since not only their products but also their business models are innovative, the competition policy must advance accordingly.

This thesis firstly introduces the economic background and the policy objectives of contemporary EU competition rules. It is followed by a step-by-step examination of the assessment on the position of the investigated firm in the relevant market and the legality of the practice in question. Highlighted are the aspects which have been crucial for the assessment in the concerned technology sector cases as well as the challenges the regulation faces in the digital era. Particular attention is paid to the facts and controversies of the European Commission's recent and current investigations of Microsoft, Intel, Google, and the telecommunications operators.

Finally, the text identifies the latest developments in the decisional practice. Discussed are especially the challenges in defining the relevant market in multi-sided markets, and the recent approach to abuse which focuses more on the effects of the examined practices.