

Abstract

This rigorous thesis entitled "Buyer Power and its Abuse in European Law" deals with the analysis of buyer power in European law from the perspective of legal theory (part one - theoretical) and analysis of legislative aspects of the abuse (part two - practical).

Attention is paid to the perspective of European law on the issue of buyer power and its abuse, both from the perspective of competition law and of the concept of buyer power, primarily pursuing objectives other than competition on the market.

In my rigorous thesis, I address the issue of market buyer power as a concept different from both market seller power and purchasing power, which refers to the extent to which consumers or firms have available money for spending and consumption.

The concept of market power has in fact two branches - seller power and buyer power. In my thesis, I prove that (i) they cannot be viewed as a mirror image and (ii) that buyer power is an umbrella concept covering monopsony and bargaining power.

Buyer power as the umbrella concept is a buyer's ability to exert pressure on its suppliers so as to lower prices or extract other concessions in two forms – monopsony and bargaining power.

Monopsony power is an inefficient purchasing behaviour that involves withholding demand to decrease the purchasing price paid while bargaining power is an efficiency enhancing purchasing behaviour that neutralizes seller market power and approaches purchasing prices towards the competitive level. However, bargaining power can be used anticompetitively and should also be under the scrutiny of competition law.

I also deal with countervailing buyer power as an efficiency defence raised by a selling undertaking claiming that its market power is neutralised due to the existence of a large buyer power.

In my rigorous thesis, I introduce the need to evaluate the dual effect of buyer power on competition. This is, buyer power will always have an impact in the upstream market. However, it may also have an impact on end consumer prices in a related downstream market.

As far as the concept of buyer power, primarily pursuing objectives other than competition on the market, I propose to separate concept of unfair commercial practices from concept abusing purchasing practices because they have different objectives and exists in different areas.

As for analysis of legislative aspects of the abuse in part two, the submitted thesis divides abuse of buyer power into three categories – exclusionary buyer power, exploitive buyer power and anticompetitive unfair purchasing practices as a sub-part of exploitive buyer power.

Finally, this rigorosum thesis extensively deals with a new Directive 2019/633 on unfair trading practices in business-to-business relationships in the agricultural and food supply chain, which entered into force on 30 April 2019 and that day I have chosen to conclude my rigorosum thesis.

Key words: Buyer power, European law, competition law.