

Abstract

The purpose of this master thesis is to define the term “dominant position” of an undertaking under the EU Competition Law and to find out, what circumstances are decisive in order to be able to identify existence of a dominant position. The second part of the thesis focuses on actual problems connected with the dominant undertakings, namely the standardization and the effectiveness of the interventions of competition authorities into the actions of dominant undertakings on rapidly developing IT markets. The thesis deals with the concept of dominant position and does not address particular types of abusive behaviour enumerated in Article 102 (a) – (d) TFEU. The first chapter briefly describes the system of EU Competition Law. The focus is directed on agreements distorting competition (Art. 101 TFEU), abuse of dominant position (Art. 102 TFEU) and control of concentrations between undertakings (Council Regulation No. 139/2004). The second chapter looks at the term “dominant position” of an undertaking and its delimitations. The subchapters describe definition of relevant market, market share, market power and other market conditions which shall be taken into account in the dominant position analysis. Space is further devoted to the existing dominant position on the neighbouring market and to the concept of collective dominance. The end of the second chapter looks at the promotion of the more economic approach in the Article 102 cases. In the third chapter the influence of the intellectual property rights and standardization on the undertaking’s market position are considered. Subchapters define standardization and its positive and negative effects on competition. The *Rambus* case demonstrates the dangers of a non-disclosure of relevant patents in standard-setting process and subsequent charging of unreasonable royalties. The last chapter focuses on the specifics of the markets of “New Economy” and analyses different approaches of US and EU competition authorities towards the *Microsoft* case. In response to the European solution of this case there appeared opinions that EU Competition Law sanctions mere existence of the dominant position and that it would be desirable to revise the aims of Art. 102 TFEU in such a way to be able to properly evaluate specific features of the markets on which competitors compete through their innovations, which enhance consumer welfare.