

Comparative Analysis of US Antitrust Law and EC Competition Law

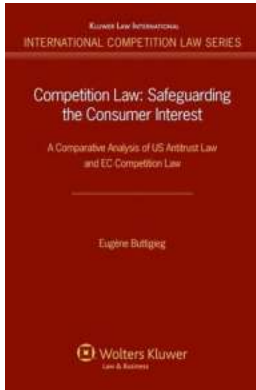
In the dynamic world of global business, competition law plays a crucial role in ensuring fair competition and preventing anti-competitive practices. This article aims to provide a comprehensive comparative analysis of the antitrust laws in the United States and the competition laws in the European Union.

The United States antitrust law and the European Union competition law, known as EC competition law, have distinct approaches and objectives, yet they share the common goal of promoting and protecting competition in their respective jurisdictions. Understanding the similarities and differences between these two frameworks is essential for businesses operating across borders as it helps them navigate legal complexities and avoid potential legal pitfalls.

Historical Background

Both the US antitrust law and EC competition law find their roots in the late 19th and early 20th centuries, driven by concerns about monopolistic practices and the concentration of economic power. The Sherman Antitrust Act of 1890 marked the beginning of the US antitrust law, while the EC competition law evolved through a series of treaties and regulations, culminating in the establishment of the European Commission in 1957.

Competition Law: A Comparative Analysis of US Antitrust Law and EC Competition Law: Safeguarding the Consumer Internet. A Comparative Analysis of Uk Antitrust ...



Competition Law Series Book 40)

by Eugène Buttigieg (Kindle Edition)

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Text-to-Speech : Enabled
Screen Reader : Supported
Enhanced typesetting: Enabled
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Print length : 444 pages



Objectives and Scope

The US antitrust law aims to protect consumers and promote fair competition by preventing practices that hinder market competition, such as monopolies, price-fixing, and anti-competitive mergers. On the other hand, EC competition law focuses on maintaining an open and competitive market within the European Union, ensuring the free movement of goods and services, and preventing the abuse of dominant market positions.

The scope of both laws extends to various sectors, including telecommunications, finance, healthcare, and technology, reflecting the changing dynamics of global markets.

Enforcement Mechanisms

In the United States, antitrust enforcement is conducted primarily by two federal agencies: the Department of Justice (DOJ) and the Federal Trade Commission (FTC). These agencies investigate anti-competitive behavior, file lawsuits, and impose penalties on violators. Private parties can also bring legal actions under

the US antitrust law, seeking compensation for damages caused by anti-competitive practices.

In the European Union, the enforcement of EC competition law is the responsibility of the European Commission, which investigates suspected breaches of competition rules and can impose fines and other remedies on companies found guilty of anti-competitive behavior. Additionally, national competition authorities of EU member states also actively participate in enforcing competition rules within their jurisdictions.

Key Differences

While the US antitrust law and EC competition law share a common objective, there are notable differences that shape their enforcement and outcomes. One significant difference lies in the approach to dominance. In the United States, monopoly power alone is not illegal, but the abuse of that power through anti-competitive practices is prohibited. In contrast, EU competition law considers the abuse of a dominant market position as illegal, irrespective of whether it was achieved through anti-competitive practices.

Another distinction is the burden of proof. In the United States, the burden of proving anti-competitive behavior lies with the government, requiring a higher level of evidence. On the other hand, in the European Union, the burden of proof generally lies with the company accused of anti-competitive behavior, making it easier for the authorities to take action.

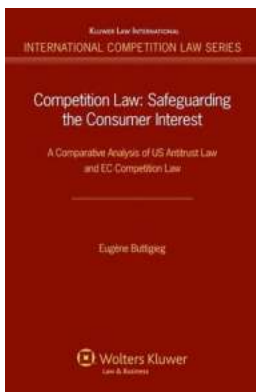
Importance for Global Businesses

As multinational corporations expand their operations across borders, understanding and complying with both US antitrust law and EC competition law becomes critical for success. Failure to do so can result in severe financial and

reputational consequences, including substantial fines, damage to brand image, and restrictions on market access.

Global businesses must carefully analyze their actions to ensure compliance with the applicable antitrust and competition law frameworks. Engaging legal counsel with expert knowledge in both US and EU competition law can provide valuable guidance to navigate complex legal landscapes and minimize risks.

The comparative analysis of US antitrust law and EC competition law reveals both similarities and differences between these two frameworks. While the objective of promoting fair competition remains the core principle, the scope, enforcement mechanisms, and legal standards vary to some extent. Navigating global markets successfully requires a deep understanding of these legal frameworks, assisting businesses in complying with the law and staying ahead of the competition.



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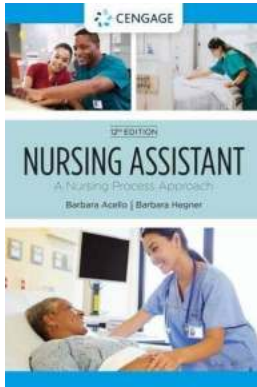
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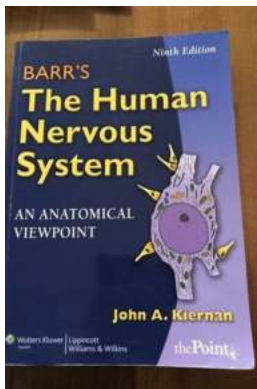
Although it is commonly assumed that consumers benefit from the application of competition law, this is not necessarily always the case. Economic efficiency is paramount; thus, competition law in Europe and antitrust law in the United States are designed primarily to protect business competitors (and in Europe to promote market integration), and it is only incidentally that such law may also serve to protect consumers. That is the essential starting point of this penetrating critique. The author explores the extent to which US antitrust law and EC competition law adequately safeguard consumer interests. Specifically, he shows how the two jurisdictions have gone about evaluating collusive practices, abusive conduct by dominant firms and merger activity, and how the policies thus formed have impacted upon the promotion of consumer interests. He argues that unless consumer interests are directly and specifically addressed in the assessment process, maximization of consumer welfare is not sufficiently achieved. Using rigorous analysis he develops legal arguments that can accomplish such goals as the following: replace the economic theory of ‘consumer welfare’ with a principle of consumer well-being; build consumer benefits into specific areas of competition policy; assess competition cases so that income distribution effects are more beneficial to consumers; and control mergers in such a way that efficiencies are passed directly to consumers. The author argues that, in the last analysis, the promotion of consumer well-being should be the sole or at least the primary goal of any antitrust regime. Lawyers and scholars interested in the application and development and reform of competition law and policy will welcome this book. They will find not only a fresh approach to interpretation and practice in their field – comparing and contrasting two major systems of competition law – but also an extremely lucid analysis of the various economic

arguments used to highlight the consumer welfare enhancing or welfare reducing effects of business practices.



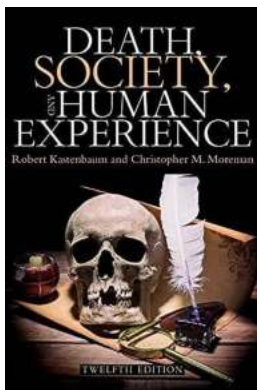
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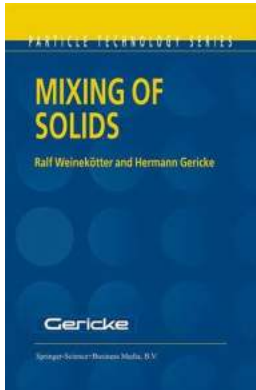
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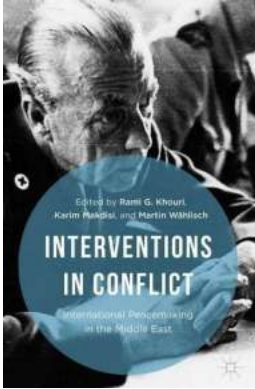
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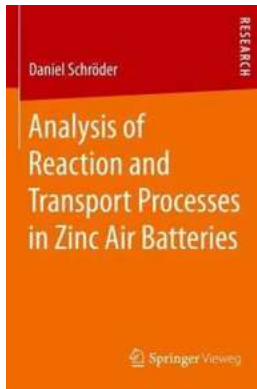
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