

Unlocking the Power of Private Enforcement: European Competition and State Aid Law

Competition is the cornerstone of a thriving economy. It drives innovation, fosters efficiency, and benefits consumers by offering them a wide range of choices. The European Union recognizes the importance of fair competition and has put in place regulations to ensure a level playing field for businesses operating within its member states. These regulations, enforced both by the European Commission and national authorities, are aimed at preventing anti-competitive behavior and the abuse of dominant market positions.

While public enforcement plays a crucial role in upholding competition law, private enforcement has gained increasing importance in recent years. Private enforcement refers to legal actions taken by businesses or individuals who believe they have been harmed by antitrust violations or unfair state aid practices. By allowing private parties to seek compensation for damages and seek the cessation of anti-competitive practices, private enforcement serves as a powerful tool in upholding European competition and state aid laws.

Private Enforcement Mechanisms

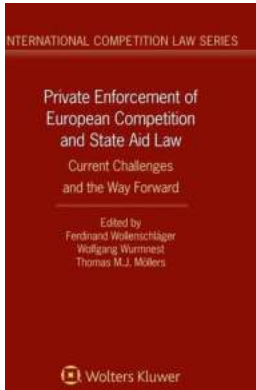
The European Union has established several mechanisms to facilitate private enforcement of competition and state aid laws.

Private Enforcement of European Competition and State Aid Law: Current Challenges and the Way Forward (International Competition Law Book 82)

by Thomas M.J. Möllers (1st Edition, Kindle Edition)

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Screen Reader	: Supported
Enhanced typesetting	: Enabled
Word Wise	: Enabled
Print length	: 639 pages



Stand-alone Actions

Stand-alone actions allow victims of anti-competitive behavior or unfair state aid practices to seek compensation in national courts. These actions can be initiated by businesses or individuals who have suffered harm as a result of such practices. The burden of proof lies with the claimant, who must demonstrate that the violation occurred and caused harm.

Follow-on Actions

Follow-on actions are legal proceedings that follow a decision by the European Commission or a national competition authority that a violation of competition or state aid law has occurred. These actions enable victims to seek compensation by relying on the established findings of the competition authority. Follow-on actions are often seen as more straightforward compared to stand-alone actions, as the antitrust violation has already been confirmed by a competent authority.

Collective Actions

Collective actions, also known as class actions, allow a group of victims of anti-competitive behavior or unfair state aid practices to file a joint lawsuit. These collective actions can be particularly effective in situations where individuals or

small businesses may not have sufficient resources to pursue individual legal proceedings. Collective actions empower victims to bring claims against violators collectively, increasing the deterrence effect on potential wrongdoers.

Advantages of Private Enforcement

Private enforcement offers several advantages that complement public enforcement efforts:

Additional Deterrence

Private enforcement serves as an additional deterrent against anti-competitive behavior. The fear of facing legal action and potential damages can dissuade businesses from engaging in illegal practices, further promoting fair competition.

Compensation for Damages

Private enforcement allows victims of anti-competitive behavior or unfair state aid practices to seek compensation for actual damages suffered. This compensation can help businesses and individuals recover financial losses and restore confidence in the market.

Evidence Discovery

Private enforcement often involves extensive evidence discovery, which can shed light on secret or hidden anti-competitive practices that may have otherwise gone unnoticed. This information can be crucial in building stronger cases and exposing unscrupulous conduct.

Strengthening Public Enforcement

Private enforcement can complement public enforcement efforts by providing valuable information and evidence to competition authorities. Successful private

actions can contribute to the development of case law and enforcement practices, further strengthening the regulatory framework.

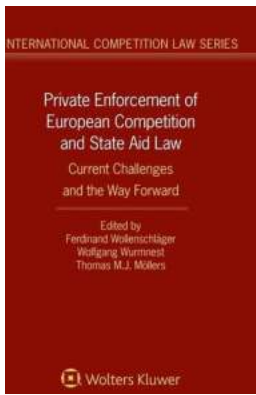
The Future of Private Enforcement

Despite its advantages, private enforcement in the European Union has faced challenges, such as the high cost and complexity of legal proceedings. In response, the European Commission has taken steps to facilitate private actions, including the adoption of the Directive on Antitrust Damages Actions.

The directive harmonizes certain aspects of national laws relating to private enforcement, making it easier for victims to bring claims across member states. It introduces mechanisms to facilitate access to evidence, strengthens the protection of leniency statements, and provides guidelines on quantifying damages.

The directive, along with ongoing efforts to improve collective redress mechanisms, aims to create a more favorable environment for private enforcement. By incentivizing victims to come forward and by streamlining procedures, the European Union seeks to empower businesses and individuals to uphold the principles of fair competition and combat anti-competitive behavior.

Private enforcement of European competition and state aid law plays a vital role in promoting fair competition, offering compensation to victims, and uncovering hidden violations. By recognizing the power of private actions and introducing measures to facilitate such actions, the European Union is taking significant steps towards establishing a robust enforcement framework. As private enforcement continues to evolve, it promises to enhance the effectiveness of competition law, protect the interests of businesses and consumers, and foster a thriving European economy.



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Private Enforcement of European Competition and State Aid Law

Current Challenges and the Way Forward

Edited by: Ferdinand Wollenschläger, Wolfgang Wurmnest & Thomas M.J. Möllers

The overlapping European Union (EU) regimes of competition law and State aid law both provide mechanisms allowing private plaintiffs to claim compensation for losses or damages. It is thus of significant practical value to provide, as this book does, analysis and guidance on achieving enforcement of such claims, written by renowned authorities in the two fields.

The book examines the two areas of law both from an EU perspective and from the perspectives of private enforcement in France, Germany, Italy, the Netherlands, Spain and the United Kingdom. In country reports for these major

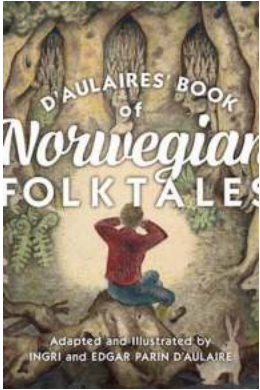
jurisdictions, as well as in more general and comparative chapters, the authors focus on such issues as the following:

- impediments to private enforcement;
- which entity is liable for damages;
- binding effect of decisions of competition authorities;
- limitation of actions;
- collective actions and pooling of claims;
- enforcement of the standstill obligation (Article 108(3) TFEU);
- remedies and information deficits;
- cooperation and coordination between national courts and the European Commission;
- transposition of the so-called Damages Directive (Directive 2014/104/EU) by the EU Member States;
- extent to which the strengthening of private enforcement of competition law has a spillover effect on State aid law; and
- prospects for harmonisation of State aid law.

A concluding section identifies enforcement deficits and proposes ways to improve the existing legal framework.

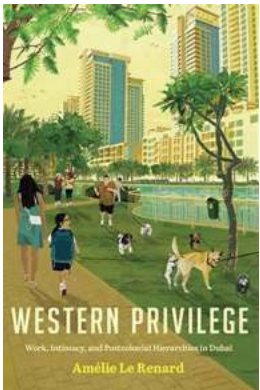
As an in-depth assessment of key obstacles and best practices in private enforcement actions, this highly informative and practical volume facilitates choice of the best forum for competition and State aid law cases. Academics and practitioners engaged with this important area of European law will appreciate the authors' awareness of the economic need and legal particularities which could

generate an effective European system of private enforcement of legitimate claims under EU competition and State aid law.



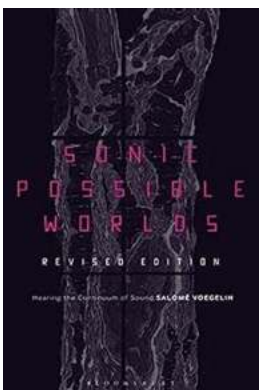
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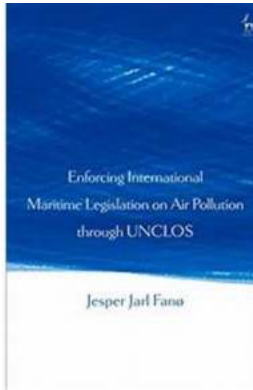
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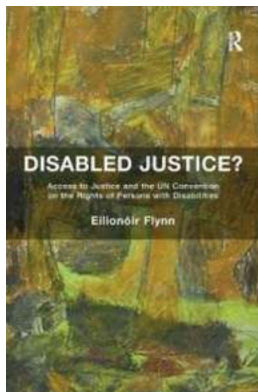
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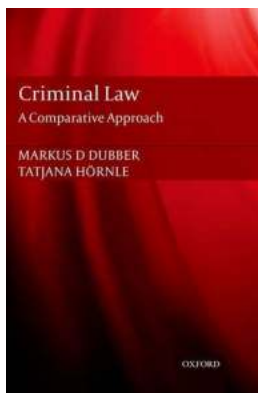
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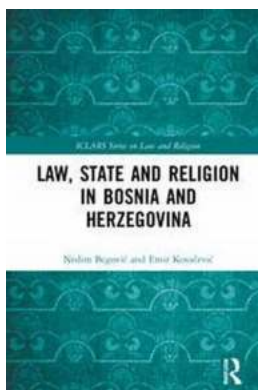
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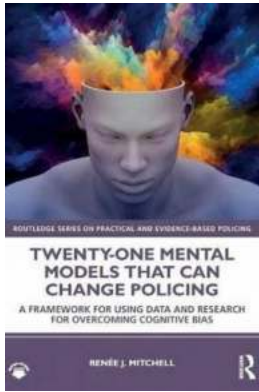
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