

# focus

News and views

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## Sources for

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# EU Competition Law

There are many resources for EU competition (antitrust) law, both hard copy and online. Online resources include both free internet sites and subscription databases, such as *Lexis*, *Westlaw* and *Justis*. Much of the EU material on these databases is also available free-of-charge on the web, but the commercial databases have broader coverage, are easier to use and offer better search facilities (at a price). This article concentrates on free web resources and widely available printed sources that may be found in a European Documentation Centre (EDC).

### The legal framework

Articles 81 and 82 of the EC Treaty prohibit agreements which restrict competition and abuse of dominant position. The Treaty empowers the Commission to apply these rules<sup>1</sup>, and since 1 May 2004, all national competition authorities have been empowered to apply them too. The European Court of Justice (ECJ) and national courts may also directly apply these prohibitions.

The Commission has jurisdiction to examine certain mergers (concentrations) between large firms and to impose restrictions if they are anti-competitive, and also monitors state subsidies, which may distort competition.

### EU Legislation

Treaties and secondary legislation are published in the *Official Journal of the European Union* (OJ), which is available in hard copy, as a CD Rom and online.

*Official Journal of the European Union*

[www.europa.eu.int/eur-lex/lex/JOIndex.do?ihm\\_lang=en](http://www.europa.eu.int/eur-lex/lex/JOIndex.do?ihm_lang=en) >>

<sup>1</sup> The Commission can impose fines on companies that have infringed EU competition rules.



## Quick links to fundamental legislation (free online resources)

*EC Treaty Articles 81-89*<sup>2</sup>

- Restrictive agreements and concerted practices: Art 81 EEC
- Abuse of dominant position: Art 82 EEC
- State Aid: Articles 87 and 88 EEC
- Public undertakings: Art 86 EEC

Published in the consolidated text of the Treaty, OJ C325 24.12.2002

[www.europa.eu.int/eur-lex/lex/en/treaties/dat/12002E/pdf/12002E\\_EN.pdf](http://www.europa.eu.int/eur-lex/lex/en/treaties/dat/12002E/pdf/12002E_EN.pdf)

## Regulations

Mergers

*Regulation (EC) No 139/2004* (supersedes Regulation No 4064/89)

[www.europa.eu.int/eur-lex/pri/en/oj/dat/2004/l\\_024/l\\_02420040129en00010022.pdf](http://www.europa.eu.int/eur-lex/pri/en/oj/dat/2004/l_024/l_02420040129en00010022.pdf)

On the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty

*Regulation No 1/2003* (replaces Regulation No 17)

[www.europa.eu.int/eur-lex/pri/en/oj/dat/2003/l\\_001/l\\_00120030104en00010025.pdf](http://www.europa.eu.int/eur-lex/pri/en/oj/dat/2003/l_001/l_00120030104en00010025.pdf)

Block exemptions

*Follow the links to Vertical and Horizontal Agreements*

[www.europa.eu.int/comm/competition/antitrust/legislation](http://www.europa.eu.int/comm/competition/antitrust/legislation)

## Commission notices

*Agreements of minor importance* (also known as De minimis Notices)

[www.europa.eu.int/comm/competition/antitrust/deminimis/](http://www.europa.eu.int/comm/competition/antitrust/deminimis/)

## Cases

Cases may be cases brought before the EU Commission - Competition Directorate-General (DG Competition) or they may be court cases.

Cases before DG Competition may result in a Commission decision, which will be published in the L series of the *Official Journal*. Commission decisions may be subsequently challenged in court. Court cases result in judgments.

In addition to cases heard before the European Court of Justice (ECJ) and the Court of First Instance (CFI), remember to look for competition cases in national courts.

It is important to know whether you are looking for a DG Competition decision or for a court judgment; if the latter, be aware that there is more than one court.

## Competition notifications and Commission decisions

It is DG Competition's policy to publish all public information relating to competition cases on its website.

*DG Competition website*

[www.europa.eu.int/comm/competition/index\\_en.html](http://www.europa.eu.int/comm/competition/index_en.html)

Notifications of Commission competition investigations are published in the C series of the *Official Journal* and decisions are published in the L series of the *Official Journal* (see above under **EU Legislation**).

*Official Journal*

[www.europa.eu.int/eur-lex/lex/J0Index.do?ihmlang=en](http://www.europa.eu.int/eur-lex/lex/J0Index.do?ihmlang=en)

Selected notifications and decisions are also published in the *Common Market Law Reports Antitrust Reports* [CMLR] 1988- available in print and through subscription databases.

There may also be press releases, freely available from *Rapid*, the Commission's press release database. These may be searched by broad topic category (e.g. competition), date range, type of document reference or key word.

*Europa Pressroom*

[www.europa.eu.int/press\\_room/index\\_en.htm](http://www.europa.eu.int/press_room/index_en.htm)

*Rapid Database*

[www.europa.eu.int/rapid/setLanguage.do](http://www.europa.eu.int/rapid/setLanguage.do)

## Court cases

Brief summaries of ECJ and CFI cases are published in the C series of the *Official Journal* (see above for web address).

Full text of ECJ and CFI cases is available in a variety of formats.

Hard copy transcripts

*Judgments and Opinions of the Court of Justice and Court of First Instance*

Official published text

*Reports of cases before the Court of Justice and Court of First Instance of the European Union* [ECR]

Commercial series

*Common Market Law Reports Antitrust Reports* [CMLR] 1988-  
*All England Law Reports European Cases* [All ER (EC)] 1995-

Free web sources for ECJ and CFI cases include the Court's own website Curia, and EUR-Lex.

*Curia website*

[www.curia.eu.int/index.htm](http://www.curia.eu.int/index.htm)

*EUR-Lex* (on the Europa website) provides a search form that enables you to search for Advocate General Opinions and judgments of the ECJ and CFI as published in the *European Court Reports* and as provisional texts disseminated earlier by the Court of Justice.

<sup>2</sup> The Articles of the EEC Treaty were re-numbered by the Treaty of Amsterdam from 1 May 1999.



Press conference on the Commission's Microsoft decision by Mario Monti, Competition Commissioner, 2004

*EUR-Lex* (case law search screens)

[www.europa.eu.int/eur-lex/lex/](http://www.europa.eu.int/eur-lex/lex/)

[RECH\\_jurisprudence.do](http://RECH_jurisprudence.do)

*DG Competition website*

National court competition law judgments are accessible from the DG Competition website.

[www.europa.eu.int/comm/competition/antitrust/national\\_courts/index\\_en.html](http://www.europa.eu.int/comm/competition/antitrust/national_courts/index_en.html)

### Merger notifications and Commission decisions

Notifications of and Commission decisions on mergers are published in the *Official Journal*, on the DG Competition website, and are available from subscription databases. Information is also frequently available in press releases (from *Rapid*) and selected decisions are included in the *Common Market Law Reports* (see above under **Court cases**).

### State Aid notifications and Commission decisions

State aid is one of the policy areas listed on the homepage of the DG Competition web-

site with links to legislation and the Decisions register.

*DG Competition State Aid Decisions (Register)*

[www.europa.eu.int/comm/competition/state\\_aid/register/](http://www.europa.eu.int/comm/competition/state_aid/register/)

### Further material

The following resources may help to identify and trace further relevant material.

*Directory of Community Legislation in Force*, last printed edition covers to January 2004 (previously published in hard copy, now only online).

[www.europa.eu.int/eur-lex/en/lif/index.html](http://www.europa.eu.int/eur-lex/en/lif/index.html)

Section 8 of the analytical register covers competition policy (broken down into smaller subdivisions, eg restrictive practices, dominant positions, concentrations, state aids, national trading monopolies).

*Bulletin of the European Union*, 1994-

[www.europa.eu.int/abc/doc/off/bull/en/welcome.htm](http://www.europa.eu.int/abc/doc/off/bull/en/welcome.htm)

A monthly official record of the activities of the EU Institutions. The index is cumulated monthly and annually. From 2007 the *Bulletin* will be available online only.

*Annual Report on Competition Policy*, 1972-1991- available online

[www.europa.eu.int/comm/competition/annual\\_reports/](http://www.europa.eu.int/comm/competition/annual_reports/)

*Références des notes de doctrine aux arrêts de la Cour de justice et du Tribunal de première instance des Communautés européennes*, 1997-  
[www.curia.eu.int/en/content/juris/index\\_note.htm](http://www.curia.eu.int/en/content/juris/index_note.htm)

Lists cases numerically with lists of citations to articles that discuss each case.

### Useful textbooks

Choice of textbooks is a matter of personal preference and likely to depend on availability, but here is a list of some textbooks that readers in the Bodleian Law Library find useful:

Bellamy, C and Child, G – *European Community law of competition*. 5th ed. 2001

Bishop, S and Walker, M – *The economics of EC competition law; concepts, application & measurement*. 2nd ed. 2002

Dabbah, M – *EC and UK competition law: commentary, cases and materials*. 2004

Goyder, D G – *EC competition law*. 4th ed. 2003

Jones, A and Sufrin, B – *EC competition law: text, cases, and materials*. 2nd ed. 2004

Korah, V – *An introductory guide to EC competition law and practice*. 8th ed. 2004

Korah, V – *Cases and materials on EC competition law*. 2nd ed. 2001

Middleton, K – *Blackstone's UK & EC competition documents*. 4th ed. 2005

Motta, M – *Competition policy: theory and practice*. 2004

Whish, R – *Competition law*. 5th ed. 2003

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The website of the Bodleian Law Library is at [www.ouls.ox.ac.uk/law](http://www.ouls.ox.ac.uk/law)