

INTERNATIONAL COMPETITION LAW SERIES

# The EC Merger Control Regulation: Rights of Defence

A Critical Analysis of DG COMP Practice  
and Community Courts' Jurisprudence

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Mihalis Kekelekis

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# Ec Merger Control Regulation Ec Merger Control Regulation

**C. John Cook, Christopher Stephen  
Kerse**



## **Ec Merger Control Regulation Ec Merger Control Regulation:**

Merger Control in the European Union Edurne Navarro Varona, 2005 This second edition of Merger Control in the EU provides the reader with an exhaustive analysis of the European Community rules relating to merger control including the new EC Merger Regulation 139/2004 of 20 January 2004 which entered into force on 1 May 2004 and the latest interpretive notices adopted by the European Commission A brand new addition to the book is the companion website which will maintain the currency of the main work after publication a service that is free of charge to all who own a copy of the book The European Commission has exclusive competence to authorise or prohibit concentrations which have a Community dimension Bearing in mind the economic relevance of these operations decisions made by the Commission have an extraordinary market impact This work is an invaluable and precise instrument for legal practitioners and economists as well as for those undertakings involved in merger operations or acquisitions It will enable them to become acquainted with the Commission's policy in this field and to guide themselves through the complex procedure of notification in Brussels It will also be useful for those merger operations which are required to follow the procedure of notification to the national competition authorities in EU Member States since the Commission's guidelines inspire to a large extent the acts and decisions of the national authorities in this field This book analyses the issues related to merger control not only from a legal standpoint but also from an economic one It is a product of the authors' knowledge and experience in Brussels as officials of DG Competition in the Commission and as lawyers defending the interests of undertakings involved in the notification procedure EC Merger Control Regulation Mihalis Kekelekis, 2006-01-01 Here for the first time is an in depth analysis of the rights of notifying parties and third parties in merger proceedings as reflected in the administrative practice of the Commission and the case law of the Community courts **The EU Merger Regulation** Alistair Lindsay, Alison Berridge, 2012 This is the 4th edition of The EC Merger Regulation a detailed guide to the method of merger control in the European Union Fully revised for 2012 this comprehensive text describes how the European Commission determines approval of a notified merger thereby providing information and techniques to complete merger deals successfully for companies operating in the European Union

**Merger Control in Europe** Nauta Dutilh, 2003-01-01 Rev edition of Merger control in the EU edited by Peter Verloop 3rd rev ed 1999 **EC Merger Control** C. John Cook, Christopher Stephen Kerse, 2005 This well known and highly respected text provides a complete guide to the regulation of mergers by the EU competition authorities Providing full coverage of merger control issues this fourth edition has been extensively revised to cover in depth the new EC Merger Regulations in force on 1st May 2004 which have transformed the EC merger regime It examines the obligations large firms businesses now face provides detailed discussion of the separate issues and sets out a series of proposals for working legally under the new regime Examines the new EC Merger Regulation in detail Explains the new procedures and tests companies and practitioners must now deal with Sets out strategies for working effectively in this new environment Includes the text of

relevant legislation including the Merger Regulations Features a table of EU merger decisions      **The EC Merger Regulation** Alistair Lindsay, 2003 EC Merger Regulation is a specifically practical mergers book It provides a working guide to the most crucial EC Merger Regulation issues with the purpose of supplying Competition and EC law practitioners with the key information and effective techniques they need to complete merger deals successfully Throughout it is alive to the practical issues involved and discusses them in lawyers terms A highly practical rather than theoretical treatment supplying clear answers to lawyers questions about the process Focuses on what lawyers negotiating the EC Merger Regulation process need to know to steer a deal through effectively Analyses the way in which the Commission reaches its decisions Examines the practical lessons from the substantial volume of case law and jurisprudence in this area      EC Merger Control Götz Drauz, Michael Reynolds, 2003 The European Commission adopted a comprehensive package of reforms to the EU merger control regime in conjunction with the accession of the new Member States in 2004 This constituted the most radical reform of the regime since the previous Merger Regulation was adopted in 1989 aimed at better adapting it to a globalizing market and enlarging an increasingly integrated European Union The extensive reform to the regulation has provoked significant questions about the way in which the Commission treats major merger evaluations EC Merger Control provides a comprehensive and insightful account of the many important procedural and substantive aspects of the reform process with contributions from eminent specialists in the field of mergers including lawyers economists and representatives of the European Commission Court of First Instance US Department of Justice the World Bank and several competition authorities The papers in this book are based on the proceedings of the 2002 EC Merger Control conference organised jointly by the European Commission and the International Bar Association      **Merger Control in Post-Communist Countries** Jurgita Malinauskaite, 2010-11 This book provides a critical analysis of merger control regimes in the former socialist countries with small market economies looking at the unique challenges facing these economies The book will analyse the merger control regimes in Estonia Latvia and Lithuania Slovenia and Slovakia      **Merger control law in the European Union** European Commission. Directorate-General for Competition, 2004      **A comparative analysis of EU and US transnational mergers regulation** Dimitris Liakopoulos, 2017-12-22 Document from the year 2017 in the subject Law Civil Private Trade Anti Trust Law Business Law grade A language English abstract The major problem associated with the regulation of transnational mergers which affect several national markets is the allocation of jurisdiction Each country concerned may wish to exert jurisdiction and apply its national competition law to regulate the anti competitive effects a merger may have in its territory However this approach may lead to risks of inconsistent decisions regarding the legality of mergers Indeed the national competition laws applied by the regulating authorities may diverge in several aspects which raise the likelihood of inconsistency The authors advocates the creation of an international merger control framework IMCF for the regulation of transnational mergers This framework will rest on an informal and a formal pillar The former includes non legally binding

competition principles Consistency of these principles with the concepts of legitimacy and efficiency as well as the presence of peer reviews and assistance programmes should lower the risk of non implementation The formal pillar includes bilateral cooperation agreements which apply to merger affecting the countries which have concluded the agreements As essential pre condition for the application of bilateral agreements the level of cooperation achieved by such agreements should be at least equal to that ensured by the informal pillar The last part of the study addresses and examines the long and complex processes in merger and acquisition M A transactions M A arbitration faces certain difficulties during the transaction Such difficulties the author seeks to underline Two main problems of arbitration in M A transactions particularly have been covered Firstly the problem of consent in consolidation of parallel proceedings during M A transactions and secondly parties consent that validate arbitration agreements clauses in assignment or succession after M A transactions have been completed The author also tries to clarify the content of consent of parties to a transaction Finally a criticism of parallel proceedings is enhanced

*E.C. Merger Control* C. John Cook, Christopher Stephen Kerse, 2000 A guide to competition law this edition presents case law merger decisions and notifications and key legislation Specific developments include Regulation 447/98 introducing supplementary thresholds for Community dimension with convoluted multiple criteria a revised implementing Regulation with amended CO form revised notices to interpret the new Regulation a statement entitled Information on the assessment of full function JVs pursuant to the competition rules of the EC which impacts significantly on the area of joint venture revised organizational arrangements within DGIV for the treatment of JVs

**Does EU Merger Control Discriminate against Small Market Companies?** Mika Oinonen, 2010-07-20 Although the question posed by the title of this book has generated considerable debate the essential issue remains open and largely blurred While some believe that there is no so called small market problem others discern discrimination against small market companies i e companies with a strong position in their home markets but a modest position in the European and global markets and a consequent need for changes in competition law The author of this enormously helpful work here sets the stage for meaningful discussion by analysing the EC Merger Regulation s objectives economic foundations and application practice to present a reasoned view of the issues that can be considered relevant for such a discussion Considering their effect on the small market problem the author scrutinizes such factors as the following the Commission s methodology for delineating relevant markets in merger assessments unnecessary prohibition caused by overestimation of the market power of small market mergers erroneous approval of cases that should actually be prohibited impact of the so called Harvard and Chicago schools of competition theory and their key policy implications process related alternative views of competition and new synthesizing approaches relevant criteria for a proper analysis of market power concentration measures and market shares barriers to entry price and profitability analyses and product definition v geographic definition of markets In a final chapter the author presents some tentative conclusions normative in nature concerning the problem and the relevant issues relating to it As the

first in depth analysis of the issues that are actually involved with its particular diagnosis of the assessment of market power in considering the relevant issues for the problem this study brings into salience the terms of the debate on the problem and thus takes a giant step forward towards defining what needs to be done Competition lawyers policymakers and academics in Europe and elsewhere will find the discussion of great value European Merger Control Catalin Stefan Rusu, 2010-01-01

Twenty years of experience have inevitably brought to light challenges and tensions in the enforcement of the European merger control system Some of these challenges have been faced some have been solved and some remain latent This very valuable study starts from the proposition that the EU has never fully acknowledged those fundamental challenges which relate to the rationale behind merger control in Europe The author shows how the Commission's focus on adapting the rules of merger control to the economic realities of the future business environment although designed with a view to facilitating European integration has compromised attainment of legal certainty transparency and welfare enhancement In its detailed evaluation of the future market structure prediction process embedded in European merger control policy this book approaches two rock bottom far reaching questions In what ways does merger control promote consumer and societal welfare Is the Commission able to correctly predict the outcome of any given concentration transaction These considerations take the reader through a deep and searching analysis that calls into question the very credibility and transparency of the system leading to alternatives which promise a new clarity of purpose and procedure The author describes how these recommendations can be integrated into the functioning framework of the European project Taken fully into account along the way is a wide spectrum of relevant source material including the following applicable articles and chapters of the founding and subsequent European Treaties secondary European legislation concerning competition and merger activity domestic competition laws guidelines notices and action plans competition law reviews statements of intentions draft legislative attempts speeches on the enactment and purpose of merger control Member States views concerning European merger control as expressed during Council negotiations officially available concentration related statistics and a wide ranging literature review covering both the legal and economic sides of merger control Throughout the author substantiates theoretical assertions with case law examples clearly exposing doctrines arising from such cases as Continental Can Phillip Morris Rothmans and the Airtours Schneider and Tetra Laval trilogy A unique feature of the analysis draws on the author's personal experience while working for a Brussels competition law firm This book is a remarkable compound of academic guide to the roots and rationales of the European Merger Control System practical guide to the day to day intricacies of merger control enforcement and raw guide for decision makers and merger control law enforcers It will be of immense value in all three contexts *The European Commission's Jurisdiction to Scrutinise Mergers* Morten Broberg, 1998-04-15 No major business or law firm can afford to disregard the European Commission's power in the control of mergers Since the Council of Ministers adopted the EC Merger Regulation in 1989 The power of the European Commission has increased steadily The

scope of the Merger Regulation now occupies a central role in many mergers taking place both inside and outside the European Community To come within the scope of merger regulation and thus within the Commission's jurisdiction a merger must possess a community dimension Despite the careful definition of this term in the Merger Regulation itself The concept has created problems in many cases The European Commission's Jurisdiction to Scrutinise Mergers offers a comprehensive up to date analysis of all aspects of the community dimension concept The most thorough examination of the Commission's jurisdiction to examine mergers under the EC Merger Regulation The European Commission's Jurisdiction to Scrutinise Mergers serves as a valuable guide for businesses their legal advisors and competition law enforcers in both the Commission And The Member States

**Merger Control in the EU and Turkey** Fevzi Toksoy, Bahadır Balki, Hanna Stakheyeva, 2022-05-11 As a country on the way to integration with the European Union EU Turkey has been following EU principles in establishing and improving its merger control regime as well as overall competition law keeping pace with changes in relevant EU legislation and case law This book presents for the first time a description and analysis of the relationship between the EU and Turkish merger control law and practice The second edition of the book considers the legislative changes that occurred in 2020-2021 including the reform of the Turkish Competition Law which introduced the significant impediment to effective competition SIEC test into the Turkish concentration control The authors all three both practicing lawyers and academicians in Turkey focus on comparing substantive procedural and jurisdictional issues and draw parallels on their regulation in the two jurisdictions These matters include the following determining whether a transaction shall be regarded as a notifiable merger hence be subject to control financial thresholds used for allocating jurisdictions extraterritoriality of merger control relationship between the SIEC test and the dominance test determination of the relevant market techniques used for assessment of horizontal and non horizontal mergers notification requirements procedural duties of competition authorities in relation to remedies third party rights gun jumping fines and other sanctions for failure to comply with merger control requirements and peculiarities of assessment of mergers in the Big Data world Each chapter provides an overview of the respective issues in the EU and Turkey projecting a clear understanding of the main similarities and differences in the two regimes A notable feature is an in depth analysis of applicable case law concerning each issue with most of the Turkish decisions available in English for the first time The book's comparative approach will prove to be of great value With its clear answers to questions about what transactions are subject to merger control what criteria are used in assessing those transactions and the main issues that a foreign company should be aware of while merging with another foreign company with effect in Turkey and or EU the book will be of immeasurable value for lawyers and their business clients dealing with multijurisdictional merger cases Interested academics and policymakers will also find much here to attract their attention

*The EC Merger Control Regulation: Rights of Defence* Mihalis Kekelekis, 2006

**EC Merger Control Regulation** O'Melveny & Myers LLP., 1996

**Merger Control in the United Kingdom and European Union**

Celli,1997-01-08 Merger Control in the United Kingdom and European Union clearly and concisely sets out the rules and procedures governing mergers at both national and European Union EU levels This how to guide assists practitioners involved in mergers by identifying whether a transaction will come under the UK or the EU system who needs to be notified when and how notifications need to be filed under the UK or the EU system the various stages of the process Because in this area policy rather than merely legal rules plays a central role Merger Control in the United Kingdom and European Union also identifies the various strands and developments of merger policy in Whitehall and in Brussels The book has been fully updated to take account of the new legislative and interpretative measures introduced by the European Commission in December 1994 on the application of the EC Merger Regulation as well as the UK statutory instruments enacted in March 1996 to amend merger control and competition rules and recent developments involving mergers in the privatised utilities Also included in this single volume are the texts of the relevant UK and EU legislation This guide will interest all businesses involved in or contemplating transactions which could come under the rules as well as lawyers bankers accountants and other professional advisers and policymakers and observers of this developing area of law and policy **EU and US**

**Antitrust Arbitration** Gordon Blanke,Phillip Louis Landolt,2011-01-01 EU and US Antitrust Arbitration is the first book that deals with how both of the world s leading antitrust systems US and EU law are treated in international arbitration In forty nine chapters written by renowned experts this book provides an in depth examination of all relevant topics from drafting arbitration clauses to arbitrability provisional measures the applicability of antitrust law in arbitrations dealing with economic evidence and experts in relation to antitrust law to relations with courts and regulators remedies and recognition and enforcement of arbitration awards dealing with antitrust issues Both antitrust and merger control are covered The perspectives of the arbitrator and the in house andquot userandquot of arbitration are included Two chapters outline and explain US antitrust law and EU antitrust law with special reference to matters particularly likely to arise in arbitration One chapter is devoted to ICC antitrust arbitrations and another to the emerging area of EU State aids in arbitration There are industry specific chapters such as on telecommunications and pharmaceuticals and much else In this substantial book practitioners will find helpful and easy to understand guidance to their questions on antitrust arbitrations **EC Merger Control and the Approximation of Competition Law in Bulgaria** Ekaterina Mateeva,2002



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