Diagonal competence conflicts between European competition law and national regulation—a conflict of laws reconstruction of the dispute on book price fixing


Abstract

This contribution attempts to reconstruct methodologically, with the help of conflict of laws tools, the dispute between European competition law and national cultural policy in the case of book price fixing in the German language area. On the basis of the cross-section clause for culture, which is interpreted as a renvoi to national cultural policy, a wide interpretation of the exemption in Article 81(3) EC Treaty is advocated, in order to cope with the double function of books as economic and cultural goods. Since the private price fixing scheme applied in Germany and Austria may be considered as a legitimate implementation of national cultural policy, it is submitted that the legal scrutiny under competition law should, as regards the allocation of burden of proof and the reduction of the Commission's scope for discretion, be assimilated to the doctrinal system of the basic freedoms.

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(European Commission, 2014) RTE’s advertising scheme conflicted with Article 102 of the TFEU, as it is illegal to “abuse a dominant position in a particular market to squeeze out smaller competitors” (European Commission, 2014). A review of the trade agreement concluded in 2012 between the EU and Colombia and Peru reveals two major problems of contemporary international law. The first problem is the undemocratic nature of the negotiation, conclusion and ratification of agreements preventing democratically elected bodies from adopting the domestic rules desired by the people they represent. This book is designed as a working tool for the study and practice of European Competition Law. 2.1 EU competition law is of critical importance to the interpretation and application of the UK competition rules. Competition Act. 2.2 The Competition Act prohibitions are modelled upon those contained in Articles 101 and 102 TFEU. To minimise divergence between the application of the respective prohibitions, Section 60 of the Competition Act incorporates into UK law. 2.12 The Modernisation Regulation imposes a specific duty on courts to refrain from taking a decision which may conflict with a decision contemplated by the Commission. This may require the court to stay proceedings or to refer questions for a preliminary ruling to the European Court of Justice (ECJ) under Article 267 TFEU. European Competition Network.