## Annual Index

A	reasons, 349
Abundant case law, 509	state aid restructuring and rescue,
Abuse of administrative power, 261-63	349-53
Abuse of dominant position agreement, 35	Alaska Communications Systems (ACS), 375–79
anti-monopoly law (AML), 254–56	Anticompetitive agreements, 218, 253–54
Article, 82, 36	Anticompetitive effects of exclusion, 462
definition, 221	Anti-competitive foreclosure
effects-based approach, 487	actual and potential, 493
EU competition policy, 35-39	cogent and convincing evidence of,
forms-based approach, 485	497–99
price-cost predation, 37-38	consumer harm, 491–93
private enforcement of competition	definition, 478–79, 489
law, 219	enforcement scenarios, 494-95
sacrifice, 38–39	evidence of dominant firm's conduct,
typology of, 225	495–97
Administrative agencies enforcement,	foreclosure, 489–91
268–69	Anticompetitive practices, 427, 459-61
Administrative reconsideration law	Anti-Monopoly Enforcement Authority
(ARL), 266	(AMEA), 258
Admissibility of evidence	Anti-monopoly law (AML)
case law, 532-33	aim and scope of, 251-52
Court of First Instance (CFI), 534-38	Article 3, 252
and inadmissibility, 533	Article 7, 258, 260
Agency for the Cooperation of	Article 12, 252
European Regulators (ACER), 605	Article 13, 253, 264, 266
Ailing financial institutions	Article 14, 264, 266
Community Guidelines, 347, 350-51	Article 17, 260, 264
facilitators of economy, 355-58	Article 19, 264
legal framework for risk crisis, 359-65	Article 21, 265

Annual Index. World Competition 32, no. 4 (2009): 639–650. 6 2009 Kluwer Law International BV, The Netherlands

Article 25, 265	refusal to supply, 480–82
Article 26, 265	split assessment shortcomings, 482-84
Article 29, 258	standard assessment, 472-73
Article 37, 262	Article 82 EC
Article 50, 254, 266-67	abusive conduct, 'exclusionary'
Article 51, 269	abuses, 79
Article 53, 265	v. Article 81EC, 73
Article 81 TEC, 254	decisional practice and policy
enforcement, 263-69	declarations, 75–79
issues and perspectives, 269-70	DG Competition's review, 78
retrospective analysis, 249-51	EC Commission, 71–72
substantive provisions, 253-63	economic analysis, 36
Antitrust enforcement	effects-based approach, 79
American Antitrust Institute (AAI),	guidance, 72, 78
190–91	objective of, 71, 78
competition enforcement and	'prejudice to consumers,' 82
administration, 192-93	Article 82 EC enforcement
competition policy, 190	anti-competitive foreclosure, 488-99
continuity and change, 191	case law of Community courts,
Federal Trade Commission (FTC), 189	501-03
policy recommendations,	EX ANTE speculation, 499-501
substance and ideology, 193-94	Article 82 reform
Antitrust law	dominant position assessment, 287-89
contract law and, 215, 218	foreclosure criteria, 289–91
dominant position exploitation, 254	Guidance Paper scope, 287
European Community (EC), 199–200, 202, 214	transparency and administrability, 284–85
private enforcement of, 201, 207,	transparency deficit, 285-87
216, 220	uniformity in ECN, 301-02
Antitrust Modernization Commission	Attributed price-cost test, 55
(AMC), 55	Authoritative joint dominance, 224–25
Article 81 applications	Average avoidable cost (AAC), 295
anticompetitive foreclosure, 478-79	Average total cost (ATC), 295
block exemption regulations, 470	Average variable cost (AVC), 295
dominance, 478	
effects-based approach, 477-78	В
elements of economic assessment, 474	D 1 1 506
	Balancing markets, 596
form-based broad interpretation, 473	Balancing markets, 596 Banco de Crédito Nacional (BCN),
form-based broad interpretation, 473 hardcore restrictions, 470–72	Banco de Crédito Nacional (BCN), 617–18
form-based broad interpretation, 473 hardcore restrictions, 470–72 market share thresholds, 469–70	Banco de Crédito Nacional (BCN), 617–18 Banking and financial markets
form-based broad interpretation, 473 hardcore restrictions, 470–72	Banco de Crédito Nacional (BCN), 617–18

Blacklisted and hardcore restrictions, 470–72	Competition and Consumer Protection Act of 2007, 426
Block exemption regulations, 470	Competition authorities
Brazil	anticompetitive effects of
competition law, 613-16	exclusion, 462
emerging economy, 612	anticompetitive practices, 459-61
enforcement of competition law, 626	banks/financial institutions, 454–55
triangular institutional model, 624	capital requirements, 453
Brazilian Central Bank (BACEN), 617–18	deterrence, 461–62
Brazilian National Authority for	economic and financial crisis, 460-61
Telecommunications (ANATEL),	financial instruments, 452
616–17	incentives, 453
Broadband dominance analysis, 378-79	instrument regulation, 453-54
, ,	intervention mechanism, 457
С	merger control, 462–63
California	structural conditions, 463
crisis, 233–34	types of dangers, 455-56
Commission's proposal, 231-32	Competition culture
competition in energy market, 230-31	lack of, 610, 612, 627
Canada, merger review process	National competition authority
intentions, 114	(NCA), 609–11
tri-partite scheme, 114–15	Competition enforcement, 86-87,
Collective dominance, 100	97, 486
Commercial banks, 355–58	Competition law
Competition Act, game theory	anticompetitive agreements, 218
cases section 100, 119-20	banking and financial markets, 450
cases under section 92 of ACT, 118-19	Brazilian system, 613–16
general issues, 117–18	deterrence of anticompetitive
production orders under section 11 of	behaviour, 217
ACT, 120–21	dominant position abuses and
rules for merger review, 113-15	remedies, 219
Competition advocacy	European Union, 458
Brazilian competition authorities, 625	implementation of, 459-63
business community and consumers,	Competition policy, 190
622–24	Competition Tribunal Act
National competition authority	the Commissioner, 125–29
(NCA), 612–13	competition solicitors bar, 129-33
National regulatory agencies	merging parties, 122-25
(NRAs), 616–19	rules for merger review, 113-15
prerequisites, 611	statutory scheme, 115-17
public opinion, 627	Competitive neutrality
state's and local authorities, 619-22	consequences of lacking, 404

definitions of, 395–97	Control of protectionist practices,
and distorted competition, 397, 398,	458–59
404	Corrective justice recommendations
economic concept, 394–95	anticompetition, 343-44
firming up, 397–98	critique, 337–38
policy responses, 405–06	deterrence, 345
sources, 398–400	private antitrust actions, 341-42
supply and demand-based effects,	theory of efficient breach and game
402-04	theory, 342–43
transmission mechanism of, 401	Corroboration, 550
Concerted practice, 510–11	Court of First Instance (CFI), 468
Conditional rebates	admissibility of evidence, 534-38
classification of categories, 44	British Airways, 82–83
definitions of, 43	British Gypsum, 76
efficiencies, 64–65	case law of, 527
equally efficient standard, 47–48	Cimenteries judgment, 542–43
foreclosure effects, 48	'effective competition',84
not under Per Se rules, 46–47	GlaxoSmithKline, 84–85
pro-competitive, 45–46	IMS Health case, 81–82
Conscious parallelism, 222	Michelin II and Irish Sugar, 76–77
Consumer welfare, 68	Microsoft, 83, 171–72
concept of EC Commission, 80	presumption of innocence, 512
Director General of Competition, 79	Van den Bergh, 81
European competition law, 73	Creative destruction, 452
'transfer of wealth,' 81	Critical customer concept, 100
Contract law	
and antitrust law, 215	D
and competition law, 162, 201	Decisional practice, abusive conduct
features and scope of, 214	anti-competitive effects, 75–77
paradigm of, 220	DG Competition, 79
private enforcement of competition	EC Courts, 78–79
law, 217–19	Defensive patent strategies, 186
and restitution law, 220–21	Commission's definition of, 187
Competence of Court of appeal,	dominant firm, 187–88
307–12	purpose of, 169
act of unfair competition, 307	DENATRAN case, 626
antitrust infringement, 306–07	Deterrence, 461–62
Italian price-fixing cartel case, 307–10	Devenish case
predictable and rational allocation,	Court of appeal's decision, 333–37
310–12	summary of Courts' decisions, 332–33
Conselho Administrativo de Defesa	trial Court's decision, 333
Econômica (CADE), 613–27	DHL case, 588–91
Economica (ChDL), 013-27	D11D case, 500 71

Disgorgement principle, 329–30 Dissonance competition law enforcement, 86 'effective competitive structure', 87 'exploitative' abuses, 88 'restriction of competition, 89 Distortion of competition, 393, 404 Dominance, 99, 222 Dominant carrier regulations, 372 Dominant position assessment the Commission, 288–89	impact-based approach, 469 multifunction/multilevel enforcement, 263–66 public v. private, 266–68 'English clauses,' 101 Entrepreneurialism, 357 EU competition policy abuse of dominance, 35–39 efficiencies, 32–35 SLC test impact, 28–32 closeness of substitution, 29–30
Guidance Paper, 287–88 Downstream markets, 596	vertical mergers, 28, 33, 34 2009 EU energy market reforms context, 594–95
E Economic analysis Article 82EC, 36 of predation, 37	energy sector inquiry and third legislative package, 595–98 reactions, 597–98 remedies, 596–97
Effective unbundling functional equivalency, 603–04 ownership unbundling, 599–603	European Commission guidelines, 468 European competition law consumer welfare, 73, 75
Effects-based test, 69–70 Effects-based assessment	economic analysis, 27 ex post enforcement of, 111
abuses of dominance, 487 agreements and unilateral conduct of dominant firms, 465–66 Article 81 application, 477–78 loss of legal certainty, 466	European Competition Network (ECN), 301  European Convention for the Protection of Human Rights and Fundamental Freedoms (ECHR), 513
Empowering authorities allocating competencies, 605 regulating conduct, 605–06 regulating structure, 606–08	European Court of Human Rights (ECtHR), 513–14 European Court of Justice (ECJ), 71 dominant position abuse, 254–55
Energy sector antitrust policy, 196 competition and market integration, 229 healthcare industry, 197 liberalization, 230 privatization of, 235 renewable, 238–39 strategic importance of, 227 Enforcement of AML administrative agencies, 268–69	Courage v. Crehan, 204, 421 definition for voidness, 202 enforcement mechanisms, 416 and European Commission, 410 patent holder, 169 private action rights, 420 prohibitions under Article 81(1) of EC, 415 'seeks to reconcile the Member States', 258

European Network Transmission System	deterrence tool, 341
Operator (ENTSOs), 605	gain-based remedies, 340–41
Evidence in cartel case	Financial crisis, consequences
admissibility of, 532–38	of, 451–52
attitude of the undertaking, 551–52	Form-based approach, 467
categories of, 528–31	Forbearance petitions
Court of First Instance (CFI), 520–21	ACS broadband dominance analysis,
Court's attitude, 519–21	378–79
determination factors, 544–50	ACS narrowband dominance analysis,
economic analysis of, 557–60	376–77
fines, 552–57	ACS narrowband unbundling analysis,
holistic approach, 539-40	375–76
inculpatory and exculpatory evidence,	broadband regulatory relief, 385
528–29	broadband services, 387-88
object of, 507	broadband unbundling rules, 380-82
oral evidence, 530-31	competition principles, 369
Evidence value determination	competitive broadband analysis, 386
contemporaneous documents, 545-47	economic conditions, 383-84
corroboration, 550	Federal Communications
general principle, 544–45	Commission, 390–91
Exclusionary pricing practices assessment	fibre-based networks, 386-87
AAC benchmark definition, 295	in analytical frameworks, 374
conditional rebates, 294	intermodal model theory, 388–89
efficient competitor test, 292, 299-300	market and enterprise interstate
general cost benchmark, 296–99	telecommunications services, 371
LRAIC benchmark, 298	market definitions, 370-71
predatory pricing, 293	market power in internet broadband
7 7 6	access, 389–90
F	narrowband unbundling rules and
Facilitators of economy	Telecommunications Act of 1996,
commercial banks, 355–58	379–80
fiscal multiplier, 356	predictive judgement, 388
money velocity, 357	Supreme Court brand X decision and
Federal Communications Commission	Internet access, 382–83
(FCC)	Foreclosure criteria, Article 82
federal regulations, 371–72	the Commission, 290–91
geographic scope of analysis, 371	Guidance Paper, 290
predictive judgement, 388	purpose of, 289
retail special access services, 377	Foreclosure of competitors, rebates
traditional dual jurisdiction model, 372	price-cost tests, 50–55
Federal Trade Commission (FTC),	proposed alternative approach, 60–62
restitutionary remedies	suction effect test, 56–60
restrictionary remedies	suction effect test, 50 00

G Glass-Steagall Act, 360 Gramm-Leach-Bliley Act, 360 Guidance on Article 82EC consumer welfare, 72 EC Commission's review, 78 Guidelines on Vertical restraints (GVR), 94	Independent Systems Operator (ISO) decision-making power, 242 $\nu$ derogation, 245 financing issues, 241–42 functional equivalence of, 242–43 ownership unbundling, 241 Intellectual property and abuse of
H Horizontal joint dominance, 225 Hypothetical monopolist, 255  I Impact-based approach	dominance, 169 Microsoft case, 170–72 new products, 174–75 objective justification, 175–76 three scenarios, 177–79 two market system, 173–74 Intermodal model theory, 388–89
anticompetitive foreclosure, 478–79 enforcement, 469	International Competition Network's (ICN) report, 610
Incentive effect of state aid assessment level, 582–83 DHL case, 588–91 economic impact of, 584 Environmental Guidelines, 581–82 Guidelines on Risk Capital, 582 measurement of, 580–82 public policy, 587–88 R&D&I Framework, 581 and risky projects, 584–86 Incentives, game theory assurance game, 131 competition solicitors bar, 129–33 factors, 123 game theory analysis, 126–27 information asymmetry, 122 'litigate'/'not litigate', 131–33 merging parties Nash equilibrium, 132 objective, 125–26	J Joint dominance     'conscious parallelism,' 222     free-riding behaviour, 222–23     industrial economics, 223     non-null conjectural variations, 223–24     vertical and authoritative dominance,         224–25  Judicial review in cartel case     Article 6 of ECHR, 570–77     Community Courts, 567–68     complex economic assessments, 563–64     margin of assessment/margin of         discretion, 565     modern justice systems, 567     problems with, 568–69     standard of review and standard of         proof, 560–61
outcomes, 130 payoffs, 127–29 probability of success, 123–24, 128–29 Superior Propane, case law, 124–25 Inculpatory and exculpatory evidences, 528–29	K Kronoply case, 579  L Law 8884/94, 612, 615–20, 622–24 Legal framework for risk crisis
Inculpatory and exculpatory evidences,	

financial interdependence, 360 global financial crisis, 359–60 risk absorbers, 363 sui generis features, 365 trading interdependencies, 362	indispensability conditions, 170 new product concept, 171–72 objective justification, 172 Modernization regulation, European Union, 417, 422–23
Leniency Notice, 25–26	Multifunction/multilevel enforcement,
Liquid natural gas (LNG) supplies, 596	263–66
Long-run average incremental cost (LRAIC)	Multi-product rebates, 44, 54–55
exclusionary pricing practices	N
assessment, 298	Narrowband dominance analysis, 376–77
Guidance Paper definition, 295	Narrowband unbundling analysis, 375–76
Long-term supply contracts dominant suppliers, market position, 99–100	National Competition Authority (NCA) emerging economy, 609 private antitrust enforcement, 317–20
duration, 101–02	private litigation, 312–16
economic theory, 96–97	recommendations, 610
efficiency, 103–05	reform of Article 82, 314
European commission, 106–07	technical skills, 324–25
European Competition authorities,	US model of treble damages, 320-24
95–96	National regulatory agencies (NRAs),
'grandfathering' rights, 95	610
legal uncertainty, 108-09	
market characteristics, 98-99	O
monopolistic context, 94	Objective justification, 482–84
overall share of market covered by contracts, 102–03	Court of First Instance (CFI), 172 refusal to deal, 175–76
politics of liberalization, 109-11	Offence, definition of, 508
share of customer's demand tied,	'one time, last time' principle, 353
100-01	Oral evidence, 530–31
	Ownership unbundling, 597
M	consumer welfare, 236-38
Market concentration, 595–96	energy security, 239-40
Market building context, 92, 98, 108,	positive effects of, 247
109, 112	renewable energy sector, 238-39
Market integration, 596	third energy package
Market-share rebates, 65-66	functional equivalence of, 242–43
Market share thresholds, 469–70	ISO, 241–42
Mergers and Acquisitions (M & A), 256–58	pan-European regulatory regime, 244–46
Microsoft case	Over-regulating energy markets
effective competition, 171	allocating competencies, 605

Patent system imperfections functions of patents, 165–66 Preliminary Report findings defensive patent strategies, 169 patent clusters and its applications, 167–68 secondary patents, 168 Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Price formation, 596 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust damages, 317–20 exclusive competition, 307 antitrust infringement, 306–07 Italian price-fixing cartel case, 307–10 predictable and rational allocation, 310–12 NCA in private litigation, 312–16 advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust law, 210 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 220–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution principles, 215 subsequent contracts validity ν public enforcement, 266–68	regulating conduct, 605–06 regulating structure, 606–08	damage to reputation, Bluvacanze case, 320
Patent system imperfections functions of patents, 165–66 Preliminary Report findings defensive patent strategies, 169 patent clusters and its applications, 167–68 Secondary patents, 168 Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Price formation, 596 Private action rights competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  act of unfair competition, 307 antitrust infringement, 306–07 Italian price-fixing cartel case, 307–10 predictable and rational allocation, 310–12 NCA in private litigation, 312–16 advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Private antitrust litigation advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition law ancillary contracts, 212 and contract law anticumpetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 210–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity ν public	regulating structure, 000 00	
Patent system imperfections functions of patents, 165–66 Preliminary Report findings defensive patent strategies, 169 patent clusters and its applications, 167–68 secondary patents, 168 Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 51–53 Price formation, 596 Private action rights competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  act of unfair competition, 307 antitrust infringement, 306–07 Italian price-fixing cartel case, 307–10 predictable and rational allocation, 310–12 NCA in private litigation, 312–16 advantages of cooperative device, 316 Private antitrust litigation of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity ν public	Р	
functions of patents, 165–66 Preliminary Report findings defensive patent strategies, 169 patent clusters and its applications, 167–68 secondary patents, 168 Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition aw objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust infringement, 306–07 Italian price-fixing cartel case, 307–10 predictable and rational allocation, 310–12 NCA in private litigation, 312–16 advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition arcillary contracts, 212 and contract law antitrust law, 220 baraning power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitution and contract law remedies, 220–21 restitution and contract validi		
Preliminary Report findings defensive patent strategies, 169 patent clusters and its applications, 167–68 secondary patents, 168  Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement		
defensive patent strategies, 169 patent clusters and its applications, 167–68 secondary patents, 168 secondary patents, 168 Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 competition enforcement, 423–25 competition enforcement, 423–25 competition enforcement, 423–25 competition prioricedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations, 310–12 NCA in private litigation, 312–16 advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement estitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement estitution law accillance advantages of cooperative device, 316 contract and restitutio	-	e
patent clusters and its applications, 167–68 secondary patents, 168 Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement in subsequent contracts validity ν public subsequent contracts validity ν public		
secondary patents, 168 Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Price formation, 596 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement, 423–25 deficiency contracts, 212 antitrust law, 219–20 deterrence of ant		310–12
Patent thicketing definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 competition enforcement, 423–25 competition enforcement, 423–25 competition enforcement, 423–25 competition alw objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust litigation of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215	167–68	NCA in private litigation, 312-16
definition of, 167 divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust intigation of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 217 'partic civile' mechanism, 314–15 private antitrust litigation advantages of cooperative device, 316 contract and restitution law of admage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position ab	secondary patents, 168	advantages of cooperative device,
divisional applications, 167–68 Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partie exitle' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partie exitle mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partie civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private entitrust litigation advantages of cooperative device, 316 contract and restitution law advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partie civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competitive auroillery and contract law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 220 follow-on contracts law remedies, 215–	Patent thicketing	316
Percentage-based rebates, 66 Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcament of competition law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215	definition of, 167	'partie civile' mechanism, 314–15
Permanent Forum of Discussion of the Competition Policy (FPC), 622–23 Poland 2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust litigation advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217 'partie civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 220 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity ν public	divisional applications, 167–68	quantification of damage, 312
Competition Policy (FPC), 622–23  Poland  2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26  Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10  Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53  Private action rights competition enforcement, 423–25 competition enforcement, 423–25 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  advantages of cooperative device, 316 contract and restitution law, 201 legal certainty, 211, 217  'partie civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity ν public	Percentage-based rebates, 66	Rüggerberg-Schinkel model, 315
Polandcontract and restitution law, 2012007 Act, 432legal certainty, 211, 217competition enforcement, 423–25'partie civile' mechanism, 314–15efficiency concept, 425–26quantification of damage, 312Politics of liberalizationRüggerberg-Schinkel model, 315European Commission, 110–11Private enforcement of competition law'more-economic' approach, 109–10ancillary contracts, 212Price-cost testsanticompetitive agreements, 218multi-product rebate, 54–55anticompetitive agreements, 218single-product rebate, 51–53bargaining power, illegality andPrivate action rightsinequality of, 219–20competition enforcement, 423–25deterrence of anticompetitivecompetition law objectives, 425–26behaviour, 217enforcement proceduresdominant position abuses andAntimonopoly Office (AMO),remedies, 213–14, 219429–30EC antitrust law, 219–20Article 29 of 2007 Act, 431follow-on contracts, 209–11Article 33.5 of 2007 Act, 430market power abuse, 215–16international trading relationsmullity and restitutionary claims, 201–09anticompetitive practices, 412restitution and contract law remedies,Sherman Antitrust Act, 411220–21US Supreme Court, 412–13restitution principles, 215Private antitrust enforcementsubsequent contracts validity ν. public		-
2007 Act, 432 competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private action rights, 211, 217 'partic civile' mechanism, 314–15 quantification of damage, 312 Rüggerberg-Schinkel model, 315 Private enforcement of competition law ancillary contracts, 212 and contract law ancillary contracts, 21	* * * * * * * * * * * * * * * * * * * *	-
competition enforcement, 423–25 efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private enforcement of competition law ancillary contracts, 212 and contract law ancillary contracts, 212 and contract, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity ν public		
efficiency concept, 425–26 Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Price formation, 596 Private action rights competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive appreach, 12–13 Private enforcement of competition law ancillary contracts, 212 and contract law anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 Private antitrust enforcement subsequent contracts validity $\nu$ public		
Politics of liberalization European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Private action rights competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive apreements, 218 anticompetitive agreements, 218 anticompetitive	-	-
European Commission, 110–11 'more-economic' approach, 109–10 Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Price formation, 596 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive agreements, 218 anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 Private antitrust enforcement		-
'more-economic' approach, 109–10  Price-cost tests  multi-product rebate, 54–55  single-product rebate, 51–53  Price formation, 596  Private action rights  competition enforcement, 423–25  competition law objectives, 425–26  enforcement procedures  Antimonopoly Office (AMO),  429–30  Article 29 of 2007 Act, 431  Article 33.5 of 2007 Act, 430  international trading relations anticompetitive agreements, 218  antitrust law, 220  bargaining power, illegality and inequality of, 219–20  deterrence of anticompetitive behaviour, 217  dominant position abuses and remedies, 213–14, 219  EC antitrust law, 219–20  follow-on contracts, 209–11  market power abuse, 215–16  international trading relations anticompetitive practices, 412  Sherman Antitrust Act, 411  US Supreme Court, 412–13  Private antitrust enforcement  ancillary contracts, 212  and contract law anticompetitive agreements, 218  anticompetitive agreemete, 218  anticompetitive bargeing anticompetitive processes  and remedies, 213–14, 219  behaviour, 217  dominan		
Price-cost tests multi-product rebate, 54–55 single-product rebate, 51–53 Price formation, 596 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement single-product rebate, 54–55 anticompetitive agreements, 218 anticus, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21	-	-
multi-product rebate, 54–55 single-product rebate, 51–53  Price formation, 596 Private action rights competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive agreements, 218 antitrust law, 220 bargaining power, illegality and inequality of, 219–20 deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement subsequent contracts validity $\nu$ public		•
ringle-product rebate, 51–53  Price formation, 596  Private action rights  competition enforcement, 423–25  competition law objectives, 425–26  enforcement procedures  Antimonopoly Office (AMO),  429–30  Article 29 of 2007 Act, 431  Article 33.5 of 2007 Act, 430  international trading relations  antitrust law, 220  bargaining power, illegality and  inequality of, 219–20  deterrence of anticompetitive  behaviour, 217  dominant position abuses and  remedies, 213–14, 219  EC antitrust law, 219–20  follow-on contracts, 209–11  market power abuse, 215–16  nullity and restitutionary claims, 201–09  restitution and contract law remedies,  220–21  US Supreme Court, 412–13  Private antitrust enforcement  subsequent contracts validity $\nu$ public		
Price formation, 596  Private action rights  competition enforcement, 423–25  competition law objectives, 425–26  enforcement procedures  Antimonopoly Office (AMO),  429–30  Article 29 of 2007 Act, 431  Article 33.5 of 2007 Act, 430  international trading relations anticompetitive practices, 412  Sherman Antitrust Act, 411  US Supreme Court, 412–13  Private antitrust enforcement, 423–25  deterrence of anticompetitive behaviour, 217  dominant position abuses and remedies, 213–14, 219  EC antitrust law, 219–20  follow-on contracts, 209–11  market power abuse, 215–16  nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215  Private antitrust enforcement subsequent contracts validity $\nu$ , public		
Private action rights  competition enforcement, 423–25  competition law objectives, 425–26  enforcement procedures  Antimonopoly Office (AMO),  429–30  Article 29 of 2007 Act, 431  Article 33.5 of 2007 Act, 430  international trading relations  anticompetitive practices, 412  Sherman Antitrust Act, 411  US Supreme Court, 412–13  Private antitrust enforcement  inequality of, 219–20  deterrence of anticompetitive  behaviour, 217  dominant position abuses and  remedies, 213–14, 219  EC antitrust law, 219–20  follow-on contracts, 209–11  market power abuse, 215–16  nullity and restitutionary claims, 201–09  restitution and contract law remedies,  220–21  restitution principles, 215  Private antitrust enforcement  subsequent contracts validity $\nu$ public		
competition enforcement, 423–25 competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  deterrence of anticompetitive behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity $\nu$ public		
competition law objectives, 425–26 enforcement procedures Antimonopoly Office (AMO), 429–30 Article 29 of 2007 Act, 431 Article 33.5 of 2007 Act, 430 international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  behaviour, 217 dominant position abuses and remedies, 213–14, 219 EC antitrust law, 219–20 follow-on contracts, 209–11 market power abuse, 215–16 nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity $\nu$ public		
enforcement procedures  Antimonopoly Office (AMO), 429–30  Article 29 of 2007 Act, 431  Article 33.5 of 2007 Act, 430  international trading relations anticompetitive practices, 412  Sherman Antitrust Act, 411  US Supreme Court, 412–13  Private antitrust enforcement  dominant position abuses and remedies, 213–14, 219  EC antitrust law, 219–20  follow-on contracts, 209–11  market power abuse, 215–16  nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21  restitution principles, 215  subsequent contracts validity $\nu$ public		_
Antimonopoly Office (AMO), remedies, 213–14, 219 429–30 EC antitrust law, 219–20 Article 29 of 2007 Act, 431 follow-on contracts, 209–11 Article 33.5 of 2007 Act, 430 market power abuse, 215–16 international trading relations nullity and restitutionary claims, 201–09 anticompetitive practices, 412 restitution and contract law remedies, Sherman Antitrust Act, 411 220–21 US Supreme Court, 412–13 restitution principles, 215 Private antitrust enforcement subsequent contracts validity $\nu$ public		
Article 29 of 2007 Act, 431 follow-on contracts, 209–11 Article 33.5 of 2007 Act, 430 market power abuse, 215–16 international trading relations nullity and restitutionary claims, 201–09 anticompetitive practices, 412 restitution and contract law remedies, Sherman Antitrust Act, 411 220–21 US Supreme Court, 412–13 restitution principles, 215 Private antitrust enforcement subsequent contracts validity $\nu$ , public		-
Article 29 of 2007 Act, 431 follow-on contracts, 209–11 Article 33.5 of 2007 Act, 430 market power abuse, 215–16 international trading relations nullity and restitutionary claims, 201–09 anticompetitive practices, 412 restitution and contract law remedies, Sherman Antitrust Act, 411 220–21 US Supreme Court, 412–13 restitution principles, 215 Private antitrust enforcement subsequent contracts validity $\nu$ public		
Article 33.5 of 2007 Act, 430 market power abuse, 215–16 international trading relations anticompetitive practices, 412 restitution and contract law remedies, Sherman Antitrust Act, 411 220–21 restitution principles, 215  Private antitrust enforcement subsequent contracts validity $\nu$ public		
international trading relations anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  nullity and restitutionary claims, 201–09 restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity $\nu$ public		
anticompetitive practices, 412 Sherman Antitrust Act, 411 US Supreme Court, 412–13 Private antitrust enforcement  restitution and contract law remedies, 220–21 restitution principles, 215 subsequent contracts validity $\nu$ public		-
Sherman Antitrust Act, 411  US Supreme Court, 412–13  Private antitrust enforcement  220–21  restitution principles, 215  subsequent contracts validity $\nu$ public	_	· · · · · · · · · · · · · · · · · · ·
Private antitrust enforcement subsequent contracts validity $\nu$ public		220–21
Private antitrust enforcement subsequent contracts validity $\nu$ public	US Supreme Court, 412–13	restitution principles, 215
antitrust damages, 317–20 enforcement, 266–68		subsequent contracts validity v. public
	antitrust damages, 317-20	enforcement, 266-68

Pro-competitive rebates, 43, 45, 46,	R
50, 68	Rebates
Proofs in cartel case	anti-competitive effects, 64-66
abundant case law, 509–10	Commission policy documents, 43
Article 2 of EC Regulation 1/2003,	EC competition law, 48
512	safe harbors, 66-69
Article 81(1) infringement, 512	three-step test, 49-50
concerted practice, 510-11	Recital 28 of General Block Exemption
Court of Justice, 524–25	Regulation, 581
definition/justification of	Reconciliation, practice and rhetoric
offence, 508	competition enforcement, 86
Dyestuffs cases, 525	'effective competitive structure,' 87
evidentiary presumption, 513	'exploitative' abuses, 88
legal and evidential burden, 515,	restriction of competition,' 89
518–19	Refusal to deal
principle of presumption of	Microsoft case, 170-72
innocence, 522	new products, 174-75
reasonable probability, 554-55	objective justification, 175–76
in Spain, 523	three scenarios, 177–79
tactical burden of proof, 515–16	two market system, 173-74
T-Mobile case, 509	Refusal to supply
Protection of competition	presumptions of legality, 480–82
form-based approach, 467	truncated analysis, 480
fragmented market structure, 466	Regulation No. 139/04
Prudential regulation, 450	Article 81, 252
Public antitrust enforcement and private	Article 82, 252
actions	merger operation, 256
antitrust prohibitions, 5-6	Renewable energy sectors, 238-39
deterrence and punishment, 6–11	Resale price maintenance (RPM)
economic and psychological issues,	agreements, 195
11–12	Restitutionary remedies
exemplary/punitive damages, 21-22	case study: Devenish case, 332-37
Leniency Notice, 25–26	Community competition law and
payment of compensation, 19-21	restitution, 331–32
private demand, 22-23	critique, 337–38
public enforcement file, 17–19	disgorgement principle, 329-30
separate-tasks approach, 12-15	English law, 328
substantive law impact, 23-25	jurisdiction, 339–41
violation, binding effect, 16-17	Office of Fair Trading (OFT), 327
	recommendations, 341-45
Q	restitution and competition law,
Quantification of damage, 312	330–31

unjust enrichment, 328–29	Substantive prohibitions, private action
Rüggerberg-Schinkel model, 315	rights
	abusive practices under Article 9, 428
S	Article 6 of 2007 Act, 427
Safe harbors, 66–69	2007 Polish Act, 426-27
Secondary patenting, 168	Substantive provisions of AML
consumer welfare, 184-85	administrative power abuse, 261-63
patent protection, 184	anticompetitive agreements, 253-54
patent thicket scenario, 186	dominant position exploitation,
refusal to license scenario, 185	254–56
Secretaria de Direito Econômico (SDE),	Mergers and Acquisitions, 256-58
613–15, 617, 619–27	Service of General Interest (SGI),
Secretariat of Economic Surveillance	258–60
(SEAE), 613–17, 620–27	Suction effect test
Security of savings, 356	administrability and certainty, 59
Security of supply, 104	by Commission, 56
Service of General Interest (SGI),	contestable share, 58-59
258–60	determination factors, 57-58
Single-product rebates, 44, 51-54	Supplementary protection certificate
Split assessment, 482-84	(SPC), 180
State aid, incentive effect	
assessment level, 582-83	T
DHL case, 588–91	Tacit collusion, 222
economic impact of, 584	Telecommunications Act of 1996
Environmental Guidelines, 581-82	local competition provisions, 372
Guidelines on Risk Capital, 582	and narrowband unbundling rules,
measurement of, 580-82	379–80
public policy, 587–88	Termination of an infringement, 542
R&D&I Framework, 581	T-Mobile case, 509
and risky projects, 584–86	Trade-Related Aspects of Intellectual
State aid restructuring and rescue	Property (TRIPS) agreement, 184
authorization of, 353	Transmission Systems Operators
conditions in, 350	(TSOs), 597
principle, 349	v. regulatory cooperation and
Strategic patenting	cooperation, 245
defensive patenting, 169, 187–88	vertically integrated, 238
observed changes, 165-66	Transparency, 596
patent clustering, 181–83	
plus factor, 180	U
in Preliminary Report, 179	Unconditional rebates, 44, 50, 60
secondary patenting, 184–86	Undistorted competition, 466–68
Subsidies, 586	Unfair Competition Act of 1993, 250

United Kingdom
liberalization and privatization, 234
third energy package, 234–36
United States
antitrust enforcement, 189–97
leniency policy, 264
'substantial lessening of competition,'
223–24
Unjust enrichment, principles, 328

Vertical Block Exemption Regulation (VBER), 94 Vertical foreclosure, 596

Vertical joint dominance, 224–25

W World Trade Organization (WTO), 250