Subject Index

A Akzo Nobel Chemicals and Akcros Chemicals v. Commission, 26 All India Online Vendors Association (AIOVA), 408–409 All India Organisation of Chemists and Druggists (AIOCD), 288, 296 Amazon AmazonBasics, 402 Amazon Prime, 403 Cloudtail, 393, 397–398, 401 corporate structure, 397 data exploitation as e-commerce platform, 401–402 exclusivity, 394 FBA, 404–405 GoP Business Model, 399–400, 402–405 integration across multiple business lines, 404–405 investigations against, 407–409 Pillow Pets, 401 Press Note violation, 391–392 TISPRO Regulations violation, 391 willingness to forgo profits, 402–403	Anti-monopoly Law (AML), 499, 510, 512–519, 532–533 Antitrust Criminal Penalty Enhancement and Reform Act, 38 Antitrust Damages Directive 2014/104/ EU, 347 Antitrust laws, 7, 36, 44, 47, 49, 51, 70, 261–281, 473, 530 Antitrust Modernization Commission, 475 Articles 101 and 102 TFEU enforcement balance between fundamental rights and effective balancing exercise, 17–22 contribution of, 14–15 legal professional privilege, 15–17 reconciliation of, 17–22 by EC companies as targets, 7–8 enforcement powers, 6–7 EU Courts, role of, 11–12 fundamental procedural rights, 8–9 fundamental procedural rights in EU law, 9–11 Hearing Officer, role of, 12–14
willingness to forgo profits, 402-403	Hearing Officer, role of, 12-14
AML. See Anti-monopoly Law (AML)	by EU Member States, 22 granting procedural rights above EU
AM & S Europe v. Commission, 15–17, 24 Anti-cartel, 54	level, 24–34
Antimonopoly Act, 180–183	reducing procedural rights below EU
Anti-monopoly Commission (AMC), 512	level, 22–24
Anti-monopoly enforcement authorities	overview, 5–6
(AMEAs), 498, 509–510	Asnef-Equifar v. Ausbanc, 205–206

'Subject Index'. World Competition 43, no. 4 (2020): 547–560. $\ \, \mathbb C$ 2020 Kluwer Law International BV, The Netherlands

Attorney-client privilege	Bronner, 422, 428, 438, 440-442
Germany, 364–366	
US, 363–364	C
AT&T–Time Warner case, 142	Capabilities approach of well-being, 204-
Audio-visual industry. See US media	205
industry, mergers in	Cardinal proportionality, 65
Avastin case. See Roche/Novartis case	Cartel
	academic training and, 55
В	anti-cartel, 54
Banking Regulation Act, 412	cognitive biases, 44, 50-51
Behavioural economics, 377–379	corporate fraud, 39, 45-47, 52, 58
and breaking-up big tech companies,	cost/benefit analysis, 37
379–382	balancing benefits and costs, 45-47
Better Regulation Guidelines, 197–198	detection probability, 43-44
Big tech companies	participation benefits, 41–43
breaking-up, 373-383	participation costs, 37–41
self-preferencing and, 418	'Cracking down on cartels' campaign,
Bilateral trade agreements, 524, 531–537,	54
540-541	damages standing rights, 211-216
Blackouts, 145–147	disciplining levers, managers, 47
Bounded rationality, 377–379	external, 53-60
Breaking-up big tech companies, 373–383	internal, 48–53
Brexit and competition law	effects on trade tariffs, 522
government's commitment to	external company solutions, 53
competition and, 111-112	competition culture, 54-55
businesses vs. consumers, interests of,	criminal sanctions, 55-58
112–114	whistle-blower procedures, 58-60
public interest, role of, 114-116	fines (see Proportionality of cartel fines)
implications of analysis, 126	gender difference and, 46
CMA leadership, 127–128	global cartel enforcement, 61-86
imperative and voluntary changes,	internal company solutions, 48
128–132	compliance and internal audit
industrial strategy, 126–127	programs, 50–51
politics, role of, 132	corporate culture and management
industrial policy, 116–118	methods, 52–53
institutional aspects, 120	layoff, 49–50
CMA, 120–124	remuneration, 49
sector regulators, 124–126	media coverage of, 54–55
likelihood of reform, 108-110	morality and, 46–47
overview, 107–108	as OFT enforcement, 123
regulations, prospects of, 119-120	overview, 35–36
UK and EU, future relationship (see	policy makers and, 55
UK-EU relationship)	price controls and, 288–290

risk aversion in, 45–46 temporal effect and, 45 Cartel effects and right to damages economic analysis, 216 coherence and optimal competition damages, 219–225 damages and overcharge, 226–231 framework, 216–219 EU law framework, 231–233 competition damages actions, objectives of, 234–238 consequences, 239–240 corrective justice, 237–238 deterrent effect, 234–237 effectiveness, principle of, 238–239 regulatory choices, 233–234 overview, 209–213 policy issue, 213–216 CBA. See Cost-benefit analysis (CBA) Charter of Fundamental Rights of the EU (Charter/CFREU), 9–11 Chicago Digital Competition Report, 380 China, injunctive relief of SEPs in AML violation, 514–519 approaches, 513–514 evolving landscape on, 509–513 proposals within AML, 513–519 CJEU. See Court of Justice of the European Union (CJEU) CK Telecoms UK Investments v. Commission, 447–471 Clayton Act, 141, 473–474, 476, 481, 485–487 Cloudtail, 393, 397–398, 401 CMA. See Competition and Market Authority (CMA) Code of Federal Regulations, 480 Comcast–NBCU case, 140–141 Comfort letter	guidance letters, 311–312 self-assessment, 310 generalized system of, 315–318 overview, 305–306 Regulation 1/2003, 309–312 Regulation 17, 307–309 revival of, 313–314 rise of, 307–309 Temporary Framework, 306, 313, 317 Commission v. Icap and Others, 11–12 Community law, general principles of, 10 Competition Act 1998 (CA1998), 108– 109, 111–112, 124, 130–131, 244– 247, 249, 255 Competition Act 2002, 286, 398–399, 412–414 Competition and Market Authority (CMA), 41, 54, 59, 108–109, 120, 243, 249 bilateral cooperation between DG Comp and, 252–258 enforcement agenda, 122–124 leadership of, 127–128 management issue, 120–121 sector regulators and, 124–126, 251 Competition Commission (CC), 109, 120 Competition Commission of India (CCI), 288, 395, 399–400, 405–412 Competition Disqualification Orders, 57 Competition law Brexit and UK, 107–133, 241–259 e-commerce entities and, 399 Amazon (case study), 399–405 case analysis, 405–409 conflict of interest, prevention, 411– 413 legislative framework, 410–414 recoupment requirement, 413–414 remedying mischief under, 411
	•

trade and, 521–542	overview, 474–477
Competition (Amendment etc.) (EU Exit)	DG COMP. See Directorate General for
Regulations 2019, 128, 245	Competition of the European
Competitive Impact Statement, 141	Commission (DG COMP)
Consequentialist proportionality, 65-66,	Directive on Actions for Competition
75–76	Damages, 211-212, 228, 231, 233,
Consumer welfare standard, 196–199	238–239
Content access providers (CAP), 139	Directorate General for Competition of
foreclosure threats for, 145	the European Commission (DG
Content providers (CoP), 139	COMP), 12, 249–250, 252–258
Contextual object test, 268-270, 278-280	Disclosure
Contingent valuation, 200	breach, consequences of, 368-371
Cost-based price controls, 286	conditions of, 357-361
Cost-benefit analysis (CBA), 194, 196, 205	costs of, 361-363
cartel, 37	in Europe, 351
balancing benefits and costs, 45-47	under EU Damages Directive, 353-
detection probability, 43-44	355
participation benefits, 41-43	in Germany, 351
participation costs, 37-41	attorney-client privilege, 364-366
economic, 200–201	breach, consequences of, 369-371
Courage v. Crehan, 209-210, 231, 234-235	claimant's right, 358-359
Court of Justice of the European Union	costs on claimants, 362
(CJEU), 192–196, 198–199, 205, 244,	damages liability, 369-370
265, 319–320, 326–328, 338–343	defendant's right, 360
COVID-19, 257, 305–306	implementation, 355-357
comfort letter, 313-314	obstruction of evidence, 370-371
Temporary Framework, EC, 306, 313, 317	requirements under German law, 358–360
COVID-19 Cooperation, 313-314	restrictions on disclosure, 356
COVID-20, 305–318	right to disclosure, 355-356
Culpability correction, 80-81	§ 33g GWB, 355–356, 358–361, 368
Customer foreclosure, 146, 154	§ 33g (6) GWB, 365–366
	§ 33g (8) GWB, 369–371
D	§§ 142 ff. ZPO, 352
Deep bilateralism, 540-541	§ 242 BGB, 352–353
Department for Business, Energy and	vs. US, 360–363, 367, 371
Industrial Strategy (BEIS), 116	overview, 347–349
Department of Justice (DOJ), 507	protections against, 363-367
clearance process, 480-482, 496	in US, 349–350
merger regulation	attorney-client privilege, 363-364
Merger Guidelines, 482–485	breach, consequences of, 368-369
mergers, types, 485-488	immense cost risk for defendants,
remedies, 489–494	361–362

protections in, 363–364 requirements under US law, 358	recoupment requirement, 413–414 remedying mischief under, 411
vs. Germany, 360–363, 367, 371	definition, 387
work-product doctrine, 364	dynamic pricing model, 413
Discounting, 201	and FDI norms
DOJ. See Department of Justice (DOJ)	amendment, 387-389
Draft National e-commerce Policy, 412	circumvention of, 394-398
Drug Price Control Order (DPCO), 285	Press Note ambiguities, 390–394
Dual enforcement agencies	primer, 385–387
clearance process, 480–482, 496	remedying mischief under, 398–399
DOJ, 476–477	Flipkart
FTC, 477–480	acquisition by Walmart, 405–407 exclusivity, 394
E	investigations against, 407-409
eBay case, 508	TISPRO Regulations violation, 386,
ECN. See European Competition	391
Network (ECN)	inventory-based model, 386, 390
'ECN+ Directive' (Directive 2019/1), 22	marketplace-based model, 386
E-commerce entities	predatory pricing, 413-414
Amazon	Press Note
AmazonBasics, 402	cashbacks and non-exclusivity, 394
Amazon Prime, 403	equity participation, 393-394
Cloudtail, 393, 397-398, 401	post-Press Note scenario, 396-398
corporate structure, 397	pre-Press Note scenario, 395-396
data exploitation as e-commerce platform, 401–402	25% sales vs. 25% purchases, 390–393
exclusivity, 394	Economic and Monetary Committee of
FBA, 404–405	the European Parliament, 27
GoP Business Model, 399-400, 402-	Economic CBA, 200-201
405	Elimination of double marginalization
integration across multiple business	(EDM), 150–151
lines, 404–405	Ends proportionality, 66
investigations against, 407-409	Enterprise Act 2002 (EA2002), 38, 108-
Pillow Pets, 401	109, 111–112, 114–115, 117, 122,
Press Note violation, 391–392	124, 130–131, 249
TISPRO Regulations violation, 391	Enterprise and Regulatory Reform Act
willingness to forgo profits, 402-403	2013 (ERRA2013), 109, 120, 122,
and competition law, 399	124–125, 130
Amazon (case study), 399–405	Error cost framework, 159
case analysis, 405–409	Essential Commodities Act (ECA), 285
conflict of interest, prevention, 411–	EU competition law, 109–111, 524–525
413	hybrid restraints/tests under, 261–281
legislative framework, 410-414	principle of effectiveness, 238–239

and UK competition law (see UK-EU	EU Courts, role of, 11–12
relationship)	fundamental procedural rights, 8-9
welfare standard under, 196-199	fundamental procedural rights in EU
EU Courts, 11–12	law, 9–11
EU Exit Regulations, 246	Hearing Officer, role of, 12-14
EU law	and cartel fines, 83
framework for cartel effects and right to	comfort letter (see Comfort letter)
damages, 234-238	guidance letter, 311-312
fundamental procedural rights in, 9-11	Informal Guidance Notice, 311
legal professional privilege in, 16	informational asymmetry between
EU Member States	Member States and, 95-96
Articles 101 and 102 TFEU	State aid law, 87–88
enforcement by, 22-34	Temporary Framework for COVID-19,
State aid, 87–106	306, 313, 317
EU merger control	European Competition Network (ECN),
burden and standard of proof, 464-466	5–34, 124, 249, 252
development	European Convention on Human Rights
Commission, 466–468	(ECHR), 11, 21
EUMR, 470–471	European Court of Justice (ECJ), 209-
General Court, 468–470	210, 231, 238
host mobile virtual operator, 463-464	European Economic Area (EEA), 16, 143
network sharing, 461-463	European Economic Community (EEC
overview, 447–448	Treaty), 198
in retail markets, 457	EU-Switzerland cooperation agreement,
closeness of competition, 459	254–255
competitive constraint, 457–459	Exclusionary abuse, 530
overall assessment, 459–460	Exploitative abuse, 530
SIEC test, 449, 530, 539	
closeness of competition, 452-453	F
significantly in, 449-451	Fair, reasonable and non-discriminatory
UPP test and efficiencies, 453-457	(FRAND) terms, 498, 518
EU Merger Regulation (EUMR), 315,	FBA. See Fulfilment-by-Amazon (FBA)
317, 449–450, 470–471	FDI. See Foreign direct investment (FDI)
Europe	Federal Rules of Civil Procedure (FRCP),
disclosure in, 351, 353–355	349–350
pay for delay in, 172–175	Federal Trade Commission (FTC), 508
European Coal and Steel Community	clearance process, 480-482, 496
(ECSC Treaty), 198	Merger Guidelines, 482–485
European Commission (EC), 72, 305	merger remedies, 489-494
Articles 101 and 102 TFEU	overview, 474–480
enforcement by	Federal Trade Commission Act (FTC
companies as targets, 7–8	Act), 473–474, 477–480
enforcement powers, 6–7	Flipkart

acquisition by Walmart, 405-407	§ 33g GWB, 355–356, 358–361, 368
exclusivity, 394	§ 33g (6) GWB, 365–366
investigations against, 407-409	§ 33g (8) GWB, 369–371
TISPRO Regulations violation, 386,	§§ 142 ff. ZPO, 352
391	§ 242 BGB, 352–353
Foreclosure, 143-147, 425	vs. US, 360–363, 367, 371
Foreign direct investment (FDI), 385-399	Global cartel enforcement, 61-86
Foreign Exchange Management Act, 407	Google Shopping, 418, 423, 437–438,
Fox-Walt Disney case, 142-143	440–441
FRAND. See Fair, reasonable and non-	GoP Business Model. See Growth over
discriminatory (FRAND) terms	Profit (GoP) Business Model
FRAND-encumbered SEP injunctions.	Gross-adds share, 457–458
See Injunctions on SEPs	Gross domestic product (GDP), 203
Free trade agreements (FTAs), 525, 531–	Growth over Profit (GoP) Business
533	Model, 399–400, 402–405
competition law in, 539–540	Guidance letters, 311–312
Korea–EU FTA, 532	Guidelines for Patent Infringement
substantive competition law in, 537–	Determination, 511
539	Determination, 611
French Competition Authority, 54, 57–58	Н
FTAs. See Free trade agreements (FTAs)	Harm-irrelevant retributivists, 64
FTC. See Federal Trade Commission	Hart–Scott–Rodino (HSR) Act, 475, 481
(FTC)	Hart-Scott-Rodino Antitrust
FTC v. Actavis, 165–172	Improvement Act, 482–483
Fulfilment-by-Amazon (FBA), 404–405	Hatch Waxman Act, 165–166, 178–179
Fundamental procedural rights, 5–34	Hearing Officer, 12–14
Tundamentai procedurai rigitis, 5-54	Herd effect, 378–379, 381–382
G	Herfindahl-Hirschman Index (HHI), 484
Gap cases, 449	Heuristics, 377
-	Horizontal Cooperation Guidelines, 193,
General Block Exemption Regulation, 90 Germany, disclosure in, 351	316
•	
attorney-client privilege, 364–366	Horizontal Merger Guidelines, 415, 448–
breach, consequences of, 369–371	450, 452, 454–455, 467, 482–485
claimant's right, 358–359	Horizontal restraints, 271
costs on claimants, 362	Host mobile virtual operator, 463–464
damages liability, 369–370	Huawei v. InterDigital, 510, 513
defendant's right, 360	Huawei v. ZTE, 505–507, 511, 514
implementation, 355–357	Human well-being (HWB), 196, 199
obstruction of evidence, 370–371	analysis in Article 101(3) TFEU, 205
requirements under German law, 358–	capabilities, 206–207
360	discount rate, 205–206
restrictions on disclosure, 356	weighing and balancing, 207
right to disclosure, 355–356	objective, 196, 203

capabilities approach, 204–205	overview, 497–499
resourcist approach, 203	US enforcement, 507-509
subjective, 196, 199–200	Input foreclosure strategy, 425
economic CBA, 200-201	Institutional economics, 156–158
WBA, 198, 202	Integrated content providers (ICP), 139
Hybrid restraints/tests	Intellectual Property Basic Act, 181
accuracy and administrability rules, 262	Intellectual property rights (IPRs), 498,
EU competition law, 265-270	501, 512–513
US antitrust law, 262-265	Intellectual property system, 180–181
overview, 261–262	International cartel fines, proportionality
vertical price restraints with horizontal	current practices of sanctioning, 76–79
effect, 270	overall, 83–85
assessment of, 275–280	shortcomings, 79–82
under contextual object test, 278–280	International Competition Network (ICN), 62, 68
horizontal/vertical dichotomy, 271–273	International Raw Material (IRM), 213–215
hybrid, 273–275	Italian Competition Authority (ICA),
under structured rule of reason, 276–278	324–325
270	J
I	Japan Fair Trade Commission (JFTC),
ICA. See Italian Competition	164, 179
Authority (ICA)	Japan, pay for delay in, 164–165
India	under Antimonopoly Law, 180–183
e-commerce entities, mischief remedy,	intellectual property system, 180–181
385–414	likelihood of, 175–180
price controls in, 283-299	MHLW notification policy, 175-180
Indian Drugs and Cosmetics Act, 289	regulatory framework, 175–177
Industrial policy, 116–118	strategy, 177–180
In-house lawyers, 16, 26–31	Joint venture, 315
Injunctions on SEPs	
China, injunctive relief in	K
AML violation, 514-519	Korea–EU FTA, 532
approaches, 513–514	_
evolving landscape on, 509–513	L
proposals within AML, 513–519	Legal persons, 31–34
competition concerns, 499–502	Legal professional privilege, 15–17, 23–24
EU enforcement, 502	for in-house lawyers, 16, 26–31
Huawei v. ZTE, 505–507	Lisbon Treaty, 10
Motorola and Samsung cases, 503–505 Orange Book Standard case, 502–503	Lucentis, 322–323, 325–326, 329–334, 336–338, 342

M	National Pharmaceutical Pricing Policy
Market-based price controls, 286-287	(NPPP), 286
Means proportionality, 66	Natural persons, 7–8, 32–33
Medicines for Europe (MfE), 306, 313-	NBCU-Comcast case, 140-141
314	NCAs. See National competition
Mergers	authorities (NCAs)
control, 530	No-AG agreement, 170
in EU, 447–471	Non-Horizontal Merger Guidelines, 418,
in US, 473–495, 530	427, 462
dual enforcement agencies, 476-482	
in e-commerce entities, 411–413	O
in US media industry, 135-161	Objective well-being, 196, 203
MFN. See Most-Favoured Nation (MFN)	capabilities approach, 204–205
Ministry of Health, Labour and Welfare	resourcist approach, 203
(MHLW), 175–180	Office of Administrative Law Judges (ALJ).
Monopoly Regulation and Fair Trade Act	479
(MRFTA), 532–533	Office of Fair Trading (OFT), 109, 120-
Most-Favoured Nation (MFN), 271, 278-	124, 130
279, 306	Orange Book Standard case, 502-503
retail-MFN, 273–275	Ordinal proportionality, 65
RPM vs., 274	
structured rule of reason for assessment,	P
276–278	Paramount Decision, 138-139
Motion Picture Patents Company	Parsimony, principle of, 66, 75, 81
(MPPC), 137–138	Patent settlements. See Pay for delay
Motorola case, 503-505	settlements
	Pay for delay settlements
N	in Europe, 172–175
National cartel fine, 68	in Japan, 164–165
objectives of, 70–73	under Antimonopoly Law, 180-183
proportionality, 75–76	intellectual property system, 180-181
retributive proportionality, 73-75	likelihood of, 175-180
National Company Law Appellate	MHLW notification policy, 175–180
Tribunal (NCLAT), 405, 408-409	regulatory framework, 175–177
National competition authorities (NCAs),	strategy, 177–180
6	overview, 163–165
Articles 101 and 102 TFEU	in United States, 165–172
enforcement by, 22-34	Pillow Pets, 401
sustainability agreements, 189-190	Predatory pricing, 413–414
National List of Essential Medicines	Premerger Notification Program, 482
(NLEM), 285	Press Note, 386
National Pharmaceutical Pricing Authority	ambiguities
of India (NPPA), 285, 294	cashbacks and non-exclusivity, 394

equity participation, 393–394	mitigating/aggravating
25% sales vs. 25% purchases, 390-	circumstances, 70
393	relevant turnover, 68-69
post-Press Note scenario, 396-398	international
pre-Press Note scenario, 395-396	current practices of sanctioning, 76-
Price ceilings, 284–286	79
anti-competitive practices and, 291-292	overall, 83–85
market-based, 286, 292	shortcomings, 79–82
signalling effect, 292-294	national, 68
Price controls	consequentialist, 75–76
anti-competitive practices, 287-288	deterrence and retributive objectives
cartelization, 288-290	of, 70–73
plus-factors, 294-297	retributive, 73–75
price parallelism, 290-294	overview, 61–63
reduction strategy, 298–299	Punishment. See Proportionality
cost-based, 286	Purchaser case (PuC), 217
legal provisions, 286–287	
market-based, 286-287	Q
overview, 283–284	Quality of life, 198-199
price ceilings, 284–286	
anti-competitive practices and, 291-	R
292	Raising-rivals' costs strategy, 148, 157
market-based, 286, 292	Regional trade agreements (RTAs), 524,
signalling effect, 292-294	527, 534–537
Price fixing. See Cartel	Regulation 1/2003, 6-7, 27-28, 235, 306
Price parallelism, 290–294	309–312, 318, 426
Price Waterhouse Coopers (PWC), 40, 52	Regulation 17, 307-309, 314
Pro-competition, 427–428	Resale price maintenance (RPM), 271-
Proportionality	272, 276–279
cardinal, 65	MFN vs., 274
consequentialist, 65-66, 75-76	Retail-MFN, 273-275
culpability correction, 80-81	Retributive proportionality, 64-65
ends, 66	culpability correction, 80-81
legal theory, 63–67	international cartel, 80-81
means, 66	national cartel fines, 73-75
and multiple offences, 66-67	Revealed preference, 200
ordinal, 65	Risk aversion, 45-46
principle of, 63	Roche/Novartis case, 320-321
retributive, 64-65, 73-75, 80-81	analysis, 328-343
Proportionality of cartel fines	CJEU ruling, 326-328
features, methodology, 68	competition
absolute fine limit, 70	irreconcilability, 334

licensing agreement and third parties,	Standard essential patents (SEPs), 498
332–334	injunctions on (see Injunctions on SEPs)
malgré-moi, 328-332	Standard of living, 198
factual background, 321-324	Standard setting organizations (SSOs), 498
infringement decision by ICA, 324-325	501, 518
preliminary ruling, 326	State Administration for Market
unlawfulness issue, 334	Regulation (SAMR), 499
CJEU position on, 338-343	State aid
factual background, 336-338	assessment, 103-104
legal framework, 335-336	law, 87–88
RPM. See Resale price maintenance	optimal assessment rule
(RPM)	accuracy, components of, 101-102
RTAs. See Regional trade agreements	clarity, 104–106
(RTAs)	errors and complexity, 100-102
	suboptimal, 103–106
S	types, 100–101
Samsung case, 503–505	overview, 87–90
Self-preferencing	procedure, 92, 99–100
anticompetitive effects, 443-445	formal investigation, 94-95
Bronner-Van den Bergh Foods	informational asymmetries in, 95-99
doctrine, 438–442	103–105
bundling mechanism, 429	preliminary examination, 92-95,
competition on merits, 421-424	103–105
competitive advantages, 421-424	stages of, 92-95
definition, 418, 420-421	soft law, 91, 105
integration, 424–426	substantive provision, 90-92
pro-competitive effects, 427-428,	Type 1 error, 92
440	Type 2 error, 92, 98
as label, 418, 420	Stated preference, 200
as legal category, 428-431	Structural cooperative joint ventures, 307-
implications, 432-437	308
legal tests, 437-438	Subjective well-being, 196, 199-200
analysis of effects, 442-445	economic CBA, 200-201
indispensability, 438-442	WBA, 198, 202
overview, 417–420	Substantial impediment of effective
tying mechanism, 429, 431-437	competition (SIEC) test, 449, 457,
varieties of, 432-437	460, 463–464, 470, 530, 532–533, 539
Separate seller case (SSC), 217	analytical framework, 449
SEPs. See Standard essential patents (SEPs)	closeness of competition, 452-453
Sherman Act, 38, 181, 261–262, 265, 275,	significantly in, 449-451
279, 473, 476–477, 480	UPP test and efficiencies, 453-457
SIEC test. See Substantial impediment of	Substantial lessening of competition (SLC)
effective competition (SIEC) test	test, 530, 539

Substantive state aid provisions, 90–92	substantive competition rules
Supplier case (SuC), 217	convergence, 529–531
Sustainability agreement, quantifying	overview, 521–526
benefits	RTAs, 524, 527, 534–537
Article 101 TFEU, legal overview, 192-	substantive competition rules
196	anti-competitive agreements, 529
HWB, 199	convergence of, 529-531, 535
analysis in Article 101(3) TFEU,	dominant position, abuse of, 529-
205–207	530
capabilities approach, 204–205	in FTAs, 537-539
economic CBA, 200-201	merger control, 530
objective, 203–205	voluntary competition legislation, 527-
resourcist approach, 203	528
subjective, 199–202	Treaty on European Union (TEU), 10-11
WBA, 198, 202	Treaty on the Functioning of the
overview, 189–192	European Union (TFEU)
welfare standard under EU competition	Article 101
law, 196–199	enforcement, 5–34
	HWB analysis in, 205-207
T	legal overview of, 192-196
Technical access providers (TAP), 139	sustainability agreement benefits
TFEU. See Treaty on the Functioning of	under, 189–208
the European Union (TFEU)	Article 102, enforcement, 5-34
Throttling, 157	Type 1 error, 92, 159, 470
Time Warner-AT&T case, 142	Type 2 error, 92, 98, 159, 470
TISPRO Regulations, 385–386, 390, 397	Tyrie Proposals, 129–131
T-Mobile/Tele-Ring, 449, 457	
Trade and competition law	U
bilateral agreements, 524, 531–537, 540–541	UK competition law, Brexit and, 107–133, 241–259
FTAs, 525, 531-533, 537-539	UK Competition Network (UKCN),
harmonization	124–125
bilateral and regional cooperation,	UK-EU relationship
534–537	bilateral cooperation, 252, 257–259
of competition laws, 534-539	formal, 253
FTAs, substantive competition law	forms, 254–256
in, 537–539	informal, 253–254
localized, 524-525, 541	dimensions, 243-244
international trade, issues	competition authorities, 249-252
bilateralism and choice of standards,	competition law, 244-249, 256-259
531–534	no-deal scenario, 245-246
national competition laws and, 526-	post-Brexit, 245-249
529	pre-Brexit, 244

overview, 241–243	market development and structure for,
UK Fair Trading Act 1973, 114	137–140
United Kingdom European Union	net neutrality regulation, 156–158
Membership Referendum, 241, 244	overview, 135–137
United States	raising-rivals' costs strategy, 148, 157
Antitrust Division, 78, 142–143, 476	research questions, 158–161
antitrust law, 261–281, 473, 530	vertical integration of content delivery,
disclosure in, 349–350	138–139
attorney-client privilege, 363–364	Walt Disney–Fox case, 142–143
breach, consequences of, 368–369	US Patent and Trademark Office
immense cost risk for defendants,	(USPTO), 507
361–362	**
protections in, 363–364	V
requirements under US (case) law,	Van den Bergh Foods, 438–442, 445
358	Vertical Block Exemption Regulation,
vs. Germany, 360–363, 367, 371	278
work-product doctrine, 364	Vertical foreclosure, 144, 151
enforcement and injunctions on SEPs,	Vertical Guidelines, 278
507–509	Vertical price restraints, 271
merger regulation, 473–495, 530	with horizontal effect, 270
pay for delay in, 165–172	assessment of, 275–280
Sentencing Guidelines, 74	under contextual object test, 278–
Upward pricing pressure (UPP) test, 453–457	280
,	horizontal/vertical dichotomy, 271–273
US – Germany Antitrust Accord of 1976, 525	hybrid, 273–275
US media industry, mergers in	under structured rule of reason, 276–
AT&T–Time Warner case, 142	278
blackout threats, 145–147	Vertical restraints, 271, 273
Comcast–NBCU case, 140–141	vertical restraints, 2/1, 2/3
economic theories in analysis of, 143	W
coordinated effects, 154–156	Walmart, 405–407
entry barriers, 151–152	Walt Disney–Fox case, 142–143
foreclosure, 143–147	Webb–Pomerene Act, 214
innovation, effects on, 152–154	Well-being analysis (WBA), 198, 200
institutional economics, 156–158	Whistle-blower, 58–60
interdependency of regulations, 156–	Withdrawal Act 2018, 128
158	Work-product doctrine, 364
pricing strategies, 148–151	r
error cost framework, 159	Z
financer-distributor, 138–139	Zero-rating, 157
	0,