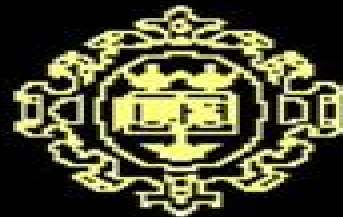

EXCLUSIVE RIGHTS AND
STATE MONOPOLIES
UNDER EC LAW

ARTICLE 86 (FORMER ARTICLE 90)
OF THE EC TREATY

JOSÉ LUIS BUENDIA SIERRA



OXFORD

State Monopolies Under Ec Law

David Vaughan



State Monopolies Under Ec Law:

State Monopolies Under EC Law Françoise Blum, Anne Logue, 1998-04-27 The European Union has strict laws embodied in the EC Treaty and in particular Article 90 on the conduct of competition within Europe in order to ensure that monopolies are not allowed to distort competition The rules of the Treaty are complemented by directives dealing with the main utility sectors State Monopolies Under EC Law which is in two Parts takes the reader through this law relating to state monopolies its application and its development Part 1 details the legal position of state monopolies under Article 90 and associated Articles and discusses the relevant case law with particular reference to the important decisions of Sacchi Terminal Equipment and Corbeau Part 2 gives provides an in depth analysis on the application of this law as it affects specific utility sectors in particular energy telecommunications broadcasting postal transport In conclusion State Monopolies Under EC Law provides a vital guide to both Article 90 and its application for lawyers corporate and industry advisers and EC consultants *Exclusive Rights and State Monopolies Under EC Law* Jose Luis Buendia Sierra, 2023 The understanding of Article 86 formerly 90 of the EC Treaty is vital to competition lawyers working in Europe The author provides a detailed examination of this Article and the law concerning exclusive rights and State monopolies *Exclusive rights and state monopolies under EC law* José Luis Buendía Sierra, 1999 Exclusive Rights and State Monopolies Under EC Law José Luis Buendia Sierra, 1999 The understanding of Article 86 formerly Article 90 of the EC Treaty is vital to any competition lawyer working in Europe Writing with first hand experience of dealing with Article 86 cases at DG IV the author provides the first such detailed examination of this Article and the law concerning exclusive rights and State monopolies Clearly written with penetrating analysis of the relevant case law this study pays attention to all the key areas including the definition of exclusive rights and economic activities the remedial possibilities offered by the often neglected Article 31 formerly Article 37 the application of Article 86 1 in conjunction with the competition rules Article 82 formerly Article 86 proportionality in the context of Article 86 2 and decisions and directives under Article 86 3 and their relationship with harmonization directives With practical insights and intelligent solutions to many of the problems posed by the applications of these rules *Exclusive Rights and State Monopolies under EC Law* will become an indispensable work for all practitioners in this field The Regulation of the State in Competitive Markets in the EU Erika Szyszczak, 2007-08-31 This book looks at the changing role and nature of the regulation of State intervention in the liberalised and privatised markets of the European Union It examines how the traditional role of the State is now challenged by European Union law and the implications for traditional public services provided by the State For the first time in an academic work the book brings together the interaction of the Internal Market and the Competition rules of the European Union when they are applied to State economic activity Individual chapters examine specific rules which address squarely the permissible role of State activity in competitive markets for example an examination of the State aid rules the rules in Article 86 EC regulating State monopolies and the controversial

application of Articles 81 and 82 EC to the State Other chapters examine the processes of privatisation and liberalisation with case studies on the postal sector utilities and telecommunications

Investing in EU Energy Security Henrik Bjørnebye, 2010-01-01 La 4e de couverture indique Since the introduction a quarter century ago of market based investments in the production of electricity and other critical services our awareness of the underlying issues affecting the supply and consumption of energy has changed radically No longer can Europe or any region rely on over capacity of electricity generation and inexpensive primary energy fuels or disregard the signs of potentially catastrophic climate change The author of this timely and sharply focused book shows that in the light of our current knowledge ensuring new investments and the right investments in electricity generation constitutes an urgent energy policy challenge facing the EU over the coming decades He accordingly makes the case for a serious reconsideration of the market facilitation and market intervention rules under electricity market legislation in the EU In the first detailed legal analysis of the EU s internal electricity market framework for investments in electricity generation facilities from the perspective of security of supply this book cover such legal issues as the following in precise detail applicability of the Treaty on the Functioning of the European Union TFEU security of supply as a ground for exemption on the basis of public security justifications of public intervention the applicability of EU State aid provisions to investments in energy security requirements imposed by EU law on Member States for ensuring cost efficient investments in European supply security facilitation of renewable energy sources and cogeneration in the environmental interest the Court of Justice s approach to Member State interventions the Court s decisions on restrictions on free movement in the environmental interest Member States right to launch tendering procedures for new generation capacity Member States right to impose public service obligations in the general economic interest on certain undertakings and relationship between the provisions of the TFEU and those of the Euratom Treaty in relation to investments in nuclear power generation Throughout the study in addition to his analysis of the decisions of the Court of Justice and the Court of First Instance the author takes into account legal literature and Union reports preparatory works and working papers The book demonstrates convincingly that today s energy supply challenges must be based on a broader balancing of security competitiveness and sustainability interests It suggests that the internal electricity market provisions of the Electricity Directive and the Security of Electricity Supply Directive would benefit from focusing more intensely on requiring investments in technologies and primary energy sources that will help mitigate climate change and reduce European energy import dependency and less on the need for ensuring cost efficient investments through market based means Through its detailed analysis of EU law in an area of great significance to both market participants and the public sector Investing in EU Energy Security will be welcomed by legal advisors whether working for the EU electricity industry or public agencies responsible for implementation of internal electricity market measures as well as by academics in this hugely important field of current research

Social Welfare and EU Law Michael Dougan, Eleanor Spaventa, 2005-07-11 The assumption that

Member States of the European Union enjoyed exclusive competence over social provision has been shaken by the realisation that they are now semi sovereign welfare states whose policy choices are subject to increasing scrutiny under Community law This book seeks to take stock of how Community membership is reshaping the legal environment of welfare provision across Europe Topics covered include the evolving economic and governance debates about Community intervention in social rights the relationship between public services and Community competition and state aids law the crucial developments which have taken place in the sphere of health care and recent judgments on free movement and equal treatment for Union citizens as regards national education and social assistance policies Social Welfare and EU Law provides a valuable collection of essays overall exploring the emergence of new models of social solidarity within the European Union

Services of General Economic Interest in EU Competition Law Lei Zhu, 2020-05-08 This book provides a comprehensive examination of the interaction between Services of General Economic Interest SGEI and EU competition law covering in particular Article 106 of the Treaty on the Functioning of the European Union TFEU and state aid rules It also takes the telecommunications postal service and transport sectors as case studies taking into account the technological economic and political backgrounds to these sectors The area of SGEI has undergone fundamental developments over the past three decades and the most recent changes in the Lisbon Treaty recognizing SGEI as a shared value and granting explicit competence to the EU mark its constitutional significance The key issue is how to balance economic values underlying competitive markets and non economic public service values such as universal access to essential services The essence of the question is the relationship between the market and the state This controversial issue is addressed through a critical analysis of a number of landmark EU Court judgments and Commission decisions over the decades Offering a clear appreciation of the evolution of the EU regulatory framework on SGEI that lays out the limits and boundaries within which the Member States define organize and fund SGEI the book is particularly aimed at academics with a research interest in the interaction between public services and EU competition law but as it also demonstrates clearly how the application of EU competition law has transformed the public utilities sectors it will be of interest to law makers legal professionals and policy makers as well Dr Lei Zhu is a Research Associate at the Institute of International Law at Wuhan University in Wuhan China He studied at the Institute for Competition Procurement Studies of the Bangor University Law School in Wales United Kingdom where he obtained his PhD in law in 2015

Regulating Competition in the EU Pernille Wegener Jessen, Bent Ole Gram Mortensen, 2016-04-20 Competition law in the EU includes a wide range of topics and has developed into a very comprehensive area of regulation This book covers the broader perspective of competition law giving an overview of a very complex domain of EU law Through all relevant sources of primary and secondary EU law the book presents the intricacies of the present competition framework for businesses and public entities It draws the lines between the different areas and between competition law and the internal market project The book covers all aspects of traditional EU competition law as well as issues not formally regulated

in the TFEU section on competition rules the competition issues of the liberalised sectors and public procurement Among the matters covered are the following the substantive rules on Articles 101 and 102 TFEU the enforcement rules of these provisions merger control the liberalised sectors with focus on energy transport postal services and telecommunication state aid public undertakings and public procurement With its enhanced view of EU competition policy regulation and enforcement and its emphasis on specific industry sectors this book offers an unusually thorough view of aspects of competition law which play an essential role in regulating the conduct of undertakings and public authorities in the market It will be of special value to any lawyer policymaker or scholar active in European competition law *EU Constitutional Law* Koen Lenaerts, Piet Van Nuffel, 2021-12-17 This title is a comprehensive textbook of EU constitutional law setting out the structure values procedures and policies of the European Union It is a first point of reference for issues of EU constitutional law The book encompasses six major parts It contains an extensive analysis of the key constitutional principles governing the exercise of competences by the Union and the balance of power between the Union and its Member States followed by an in depth analysis of EU citizenship and the four freedoms followed by an overview of the main internal and external policy domains The third part addresses the role and workings of the various institutions European Council Council European Parliament Commission European Court of Justice and European Central Bank the position of the Member States of the Union and various other institutional matters Part four explores the various decision making processes addressing not only the legislative and executive decision making but also the budget CFSP and external action The fifth part looks at the legal instruments and the position of EU law in the EU and national legal orders with an attention to the key principles of primary and direct effect and the role of fundamental rights and the Charter of Fundamental Rights The final part sets out the complete and coherent system of judicial protection in the European Union offering an overview of the various courses of action before the EU courts and in the national legal orders to enforce EU law or to obtain judicial protection **Exclusive Rights and State Monopolies Under EC Law** José Luis Buendía Sierra, 1999 The Boundaries of EC Competition Law Okeoghene Odudu, 2006 This monograph addresses two problems surrounding the interpretation and application of Article 81 of the EC Treaty what is competition and how does Article 81 ensure that competition is protected After over 40 years of application and a period of modernisation decentralisation and reflection it is possible to understand Article 81 and what it seeks to achieve The monograph's aim is to reveal the intellectual order and rational structure underlying the law so as to enable the reader to understand Article 81 in a clear and rigorous manner This is done by breaking Article 81 down into its constituent elements and examining the function that each element serves Arguing that jurisdiction rests on a public private distinction both the substantive and the justificatory rules are cast to generate obligations appropriate for private actors to perform Actors and activities falling within the scope of Article 81 are subject to the substantive element prohibiting contrived reductions in output Since output reduction can co exist with cost reduction innovation and that these latter features are

desirable cost reduction and innovation operate to justify infringement of the substantive obligation. Thus this monograph argues that output cost and innovation are the only legitimate issues in an Article 81 analysis. It is in this sense that the monograph is concerned with the boundaries of Article 81 EC.

Constitutional Law of the European Union Koenraad Lenaerts, Piet Van Nuffel, Robert Bray, 1999. This work provides an up to date picture of the constitutional law of the European Union and the law governing forms of co operation among the Member States such as common foreign and security policy, police and judicial co operation in criminal matter such as Schengen. The book begins by describing the pathways for integration in the EU, outlining the substantive temporal and territorial jurisdiction of the EU. The authors provide an exposition of the objectives and tasks of the Community together with an analysis of the principles of legal basis, subsidiarity, proportionality and equal treatment. This is followed by an analysis of substantive European law with particular attention given to the principles of the internal market and EMU.

The New EU Public Procurement Directives Ruth Nielsen, Steen Treumer, 2005. 31 March 2004 the EU adopted two new public procurement directives: one for the public sector (2004/18/EC) and one for utilities (2004/17/EC). The new directives aim at simplification and modernisation of the previously existing directives, including adaptation to electronic purchasing techniques. On 4-5 November 2004 the Copenhagen Business School organised a European research conference on the new directives. The conference focused on a number of topics which are of particular interest within the field of procurement law in EU these years, including ECJ case law, utilities, electronic auctions, transparency requirements, competitive dialogue, framework agreements, use of social and environmental criteria, Partnering and Public Private Partnerships and concessions. This book contains contributions based on presentations given by a number of the international and Danish speakers at the conference.

The Liberalization of State Monopolies in the European Union and Beyond Damien Geradin, 2000. The book explores the many legal and economic challenges emerging from the liberalization process engaged by the European Community with respect to state monopolies. It is divided into three parts. Taking a sectoral approach, the first part is devoted to expert analyses of the liberalization measures adopted by the Community in the areas of telecommunications, postal services, energy and air and rail transport. The objective is to provide a detailed and up to date review of the most significant developments that have taken place in these key industry sectors. The second part deals with more conceptual issues such as the impact of the liberalization process on consumer protection and public service obligations. It also analyzes the main issues emerging from the creation of strategic alliances in the telecommunications and aviation sectors. The third part takes a comparative and international law perspective. It examines the extent to which monopolies have been opened to competition in the United States and the lessons which may be drawn from the American experience. It also discusses the liberalization measures negotiated in the framework of the World Trade Organization with a special reference to the agreement recently concluded in the area of telecommunications. The papers written in the book are by leading experts on state monopolies and take a pluridisciplinary approach covering not

only legal but also economic and political science issues Competition Law and Regional Economic Integration Damien Geradin, 2004 Dealing with the interface between competition law and economic integration in the context of the Euro Mediterranean partnership this study maps out key policy issues that should be addressed for successfully implementing or strengthening competition law regimes in Mediterranean Partner countries This regional study is prepared by the joint World Bank European Commission Programme on Private Participation in Mediterranean Infrastructure PPMI European Access, 2001 *EU Competition Law: General Principles* David Vaughan, 2006-03 This work provides authoritative and comprehensive coverage of competition law in the EU It includes a detailed analysis of core Treaty articles and case law on the fundamental principles affecting commercial agreements abuse of dominant position and state involvement and its effect under competition law EC Competition Law Lennart Ritter, 2000 **The American and English Encyclopædia of Law** David Shephard Garland, Lucius Polk McGehee, James Cockcroft, 1900

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Table of Contents State Monopolies Under Ec Law

1. Understanding the eBook State Monopolies Under Ec Law
 - The Rise of Digital Reading State Monopolies Under Ec Law
 - Advantages of eBooks Over Traditional Books
2. Identifying State Monopolies Under Ec Law
 - Exploring Different Genres
 - Considering Fiction vs. Non-Fiction
 - Determining Your Reading Goals
3. Choosing the Right eBook Platform
 - Popular eBook Platforms
 - Features to Look for in an State Monopolies Under Ec Law
 - User-Friendly Interface
4. Exploring eBook Recommendations from State Monopolies Under Ec Law
 - Personalized Recommendations
 - State Monopolies Under Ec Law User Reviews and Ratings
 - State Monopolies Under Ec Law and Bestseller Lists
5. Accessing State Monopolies Under Ec Law Free and Paid eBooks

- State Monopolies Under Ec Law Public Domain eBooks
- State Monopolies Under Ec Law eBook Subscription Services
- State Monopolies Under Ec Law Budget-Friendly Options
- 6. Navigating State Monopolies Under Ec Law eBook Formats
 - ePub, PDF, MOBI, and More
 - State Monopolies Under Ec Law Compatibility with Devices
 - State Monopolies Under Ec Law Enhanced eBook Features
- 7. Enhancing Your Reading Experience
 - Adjustable Fonts and Text Sizes of State Monopolies Under Ec Law
 - Highlighting and Note-Taking State Monopolies Under Ec Law
 - Interactive Elements State Monopolies Under Ec Law
- 8. Staying Engaged with State Monopolies Under Ec Law
 - Joining Online Reading Communities
 - Participating in Virtual Book Clubs
 - Following Authors and Publishers State Monopolies Under Ec Law
- 9. Balancing eBooks and Physical Books State Monopolies Under Ec Law
 - Benefits of a Digital Library
 - Creating a Diverse Reading Collection State Monopolies Under Ec Law
- 10. Overcoming Reading Challenges
 - Dealing with Digital Eye Strain
 - Minimizing Distractions
 - Managing Screen Time
- 11. Cultivating a Reading Routine State Monopolies Under Ec Law
 - Setting Reading Goals State Monopolies Under Ec Law
 - Carving Out Dedicated Reading Time
- 12. Sourcing Reliable Information of State Monopolies Under Ec Law
 - Fact-Checking eBook Content of State Monopolies Under Ec Law
 - Distinguishing Credible Sources
- 13. Promoting Lifelong Learning
 - Utilizing eBooks for Skill Development

- Exploring Educational eBooks

14. Embracing eBook Trends

- Integration of Multimedia Elements
- Interactive and Gamified eBooks

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