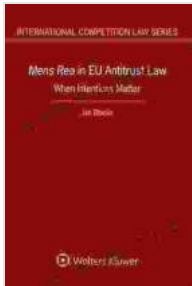


Mens Rea in EU Antitrust Law: International Competition Law



Mens Rea in EU Antitrust Law (International Competition Law)

★★★★☆ 4.7 out of 5

Language : English
File size : 665 KB
Text-to-Speech : Enabled
Screen Reader : Supported
Enhanced typesetting : Enabled
Word Wise : Enabled
Print length : 272 pages



This book provides a comprehensive analysis of the mens rea requirement in EU antitrust law. It examines the historical development of the mens rea requirement, the different theories of mens rea, and the case law of the European Court of Justice and the General Court. The book also discusses the implications of the mens rea requirement for the enforcement of EU antitrust law and for the liability of individuals and companies.

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The mens rea requirement is a fundamental principle of criminal law. It requires that the prosecution prove that the defendant had a guilty mind when they committed the crime. In the context of EU antitrust law, the mens rea requirement means that the Commission must prove that the undertaking or individual intended to infringe the competition rules.

The mens rea requirement is important for a number of reasons. First, it ensures that only those who intended to infringe the competition rules are punished. Second, it provides a defence for those who did not intend to infringe the competition rules, but who nevertheless did so. Third, it helps to ensure that the enforcement of EU antitrust law is fair and proportionate.

Historical Development of the Mens Rea Requirement

The mens rea requirement has a long history in EU antitrust law. The first mention of the requirement can be found in the 1962 case of *Consten and Grundig v Commission*. In this case, the Court of Justice held that the Commission must prove that the undertakings concerned had "knowingly and intentionally" infringed the competition rules.

The mens rea requirement was further developed in the 1974 case of *Hoffmann-La Roche v Commission*. In this case, the Court of Justice held that the Commission must prove that the undertaking concerned had "deliberately" infringed the competition rules.

The mens rea requirement has been consistently applied by the Court of Justice and the General Court in subsequent cases. In the 2003 case of

Akzo Nobel Chemicals v Commission, the Court of Justice held that the Commission must prove that the undertaking concerned had "knowingly and intentionally" infringed the competition rules.

Theories of Mens Rea

There are a number of different theories of mens rea. The most common theories are:

- **Intentional mens rea:** This theory requires the prosecution to prove that the defendant intended to commit the crime.
- **Reckless mens rea:** This theory requires the prosecution to prove that the defendant was aware of the risk that their conduct would result in the crime, and that they nevertheless proceeded to act.
- **Negligent mens rea:** This theory requires the prosecution to prove that the defendant failed to take reasonable care to avoid committing the crime.

The mens rea requirement in EU antitrust law is based on the intentional mens rea theory. This means that the Commission must prove that the undertaking or individual intended to infringe the competition rules.

Case Law

The Court of Justice and the General Court have developed a substantial body of case law on the mens rea requirement in EU antitrust law. Some of the most important cases include:

- *Consten and Grundig v Commission* (1962): The Court of Justice held that the Commission must prove that the undertakings concerned had

"knowingly and intentionally" infringed the competition rules.

- *Hoffmann-La Roche v Commission* (1974): The Court of Justice held that the Commission must prove that the undertaking concerned had "deliberately" infringed the competition rules.
- *Akzo Nobel Chemicals v Commission* (2003): The Court of Justice held that the Commission must prove that the undertaking concerned had "knowingly and intentionally" infringed the competition rules.
- *T-Mobile Netherlands v Commission* (2014): The General Court held that the Commission must prove that the undertaking concerned had "knowingly and intentionally" infringed the competition rules.

These cases show that the Court of Justice and the General Court have consistently applied the intentional mens rea theory in EU antitrust law. This means that the Commission must prove that the undertaking or individual intended to infringe the competition rules.

Implications for Enforcement

The mens rea requirement has a number of implications for the enforcement of EU antitrust law. First, it limits the ability of the Commission to sanction undertakings or individuals who did not intend to infringe the competition rules. Second, it provides a defence for those who did not intend to infringe the competition rules, but who nevertheless did so.

The mens rea requirement also helps to ensure that the enforcement of EU antitrust law is fair and proportionate. This is because it prevents the Commission from punishing undertakings or individuals who did not intend to infringe the competition rules.

The mens rea requirement is a fundamental principle of EU antitrust law. It ensures that only those who intended to infringe the competition rules are punished. It also provides a defence for those who did not intend to infringe the competition rules, but who nevertheless did so. Finally, it helps to ensure that the enforcement of EU antitrust law is fair and proportionate.

This book provides a comprehensive analysis of the mens rea requirement in EU antitrust law. It examines the historical development of the mens rea requirement, the different theories of mens rea, and the case law of the European Court of Justice and the General Court. The book also discusses the implications of the mens rea requirement for the enforcement of EU antitrust law and for the liability of individuals and companies.



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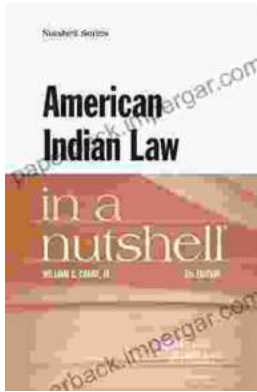
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