

Independent competition authorities in the EU

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Abstract

In most Member States competition law powers have been granted to a more or less independent competition authority. The idea is that the application and enforcement of competition law should not be influenced by political and volatile considerations. However, some recent cases, most notably in the field of merger control, show that political considerations can creep into the decision-making process in competition law. In this paper we examine how the independence of the competition authorities in the United Kingdom, Germany, the Netherlands and the European Union *vis-à-vis* the political system has actually been regulated. We have not only looked at the independent position from the political sphere, but also at the internal design of the competition authority, i.e. how it is managed. It appears that none of the national legislators has opted for total independence. But the national competition authorities have been confronted with less political control than in the past. For the Commission, this is different, as the Commissioner for Competition does not act independently from other Commissioners, which causes an imbalance between the status of national competition authorities and the Commission. Therefore, it could be considered whether an advisory agency might be set up, having that task to issue recommendations in the field of European competition law.

Keywords

competition law; competition authority; independence; public interest; agency

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