



Private Antitrust Damages Actions in the US, Germany and at the European Community Level. Americanisation or Europeanisation of Antitrust Laws and Their Extraterritorial Enforcement Under Recent Reform Initiatives

Ursa Müller

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The author analyses the systems of private antitrust damages actions in the United States of America, Germany and at the European Community level. Treble damages actions in the US have set the international standard for private antitrust damages claims. However, the re-evaluation of private antitrust enforcement by the American Modernization Commission and its consecutive proposals revived the debate for changing the interplay between public and private antitrust enforcement across the Atlantic. The revised German antitrust code explicitly promotes private damages actions after the European Court of Justice's landmark decision in *Courage v. Crehan*. The endorsement of a private antitrust litigation culture by the European Commission in its recent White Paper required a novel examination of this area of competition law. This dissertation contributes to the current discussion by identifying similarities and remaining differences in the concerned jurisdictions. The author highlights the respective roles and functions of private damages claims in the institutional framework of antitrust enforcement in the reviewed legal systems. The prerequisites for such claims are discussed and remedies for remaining and potential pitfalls suggested. Key aspects are the quantification of damages, the treatment of the passing-on defence and the admissibility of indirect purchaser claims. The author eventually exposes the significance of extraterritorial jurisdiction with regard to private antitrust litigation as antitrust authorities have increasingly been targeting international cartels. Consequently, the assumption of extraterritorial subject matter jurisdiction has been a recurring issue of particular relevance for subsequent private damages actions. In light of a predictable similar dependence on public enforcement by claimants in private follow-on damages actions in Germany and at the European Community level, the author discusses potential solutions for diverging approa ...

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