



What does competition law regulate?

Competition law regulates actions that may harm the process of competition between firms. As such, it seeks to protect and promote the beneficial outcomes of competition, such as increased price competition, and enhanced quality and innovation.

There are four main types of conduct that may be regulated by competition law:

- 1. Anti-competitive agreements, decisions or concerted practices:** the most well-known example of this type of conduct is an agreement between competitors to fix prices or share markets. It can also include other types of agreements, such as an agreement between a manufacturer and a seller of a product or service which specifies that it may not be sold below a certain price.
- 2. Abuse of a dominant market position:** where a firm acquires substantial market power (or a “dominant position”) it may use that power in a way that harms competition. For example, it may reduce its prices to below cost in order to drive a competitor out of the market, or it may use its dominant position in one market to protect itself against competition in another market, for example by tying or bundling products together.
- 3. Mergers:** in some circumstances, mergers can restrict competition by creating bigger firms which may be in a position to harm competition, for example by controlling prices and/or restricting supply. Most systems of competition law enable a competition authority to investigate mergers that could be harmful to the competitive process.
- 4. Public restrictions of competition (including “state aid”):** the state may create restrictions of competition, for example through certain legislative or regulatory measures, or as a result of providing financial support such as subsidies.

What are the legal rules governing competition in the EU?

The EU competition rules are contained principally in the TFEU. The main provisions are:

Article 101 TFEU: prohibits anti-competitive agreements, decisions and concerted practices.

Article 102 TFEU: prohibits the abuse of a dominant position.

Articles 106-109 TFEU: regulates public restrictions of competition (including “state aid”).

The provisions of the TFEU are supplemented three main ways:

1. Secondary legislation which gives effect to the competition rules in specific circumstances. For example, the rules concerning the regulation of mergers are contained in the EU Merger Regulation.
2. The European Commission has published a number of notices or guidelines on the interpretation of the relevant rules.
3. The provisions of the TFEU are interpreted and applied by the EU’s courts.

What steps can be taken to pursue a suspected breach of EU competition law?

If you are considering taking further steps in relation to conduct that you suspect to be a breach of EU competition law, there are two main routes available:

Public enforcement: this would involve making a complaint to a competition authority (such as the European Commission or a National Competition Authority), asking them to investigate a suspected infringement of competition law.

Private enforcement: this would involve bringing litigation in relation to a suspected breach of competition law, and seeking a remedy such as damages or an injunction.



For more information:

see sections 2 and 5 of DFF’s *Short guide to competition law for digital rights litigators*.