The prevention of price-based exclusionary conduct in the context of merger control –
A comparative analysis of the European, German and French perspective

Markus Welzenbach

Summary

The preservation of an effective competition is based on different pillars, both preventive and
repressive. The sanctioning of price-based exclusionary conduct such as margin squeezes falls
within the scope of the ex-post control of anti-competitive practices. However, such ex-post
control is only partially suitable for preventing a dominant undertaking from squeezing out its
competitors. For this reason, the aim of this thesis is to examine whether merger control
provides for the necessary tools to prevent the emergence of such abusive behaviour in the
future.

In the first part of this thesis, the issue of identifying possible price-based exclusionary conduct
during merger control proceedings is addressed. The thesis focuses particularly on the problem
of how to proof such future strategies. On the basis of a critical evaluation of the different
methods of producing evidence in the current practice of the authorities, the author proposes an
own solution which seeks to enable a better prevention of exclusionary strategies.

The second part of the thesis deals with the treatment of such strategies through structural and
behavioural remedies, while comparing the European, French and German practice in terms of
merger remedies. The core of the thesis is a detailed analysis of the different possibilities to
elaborate the content of behavioural remedies. Therefore, the thesis examines not only the
suitability of different substantive provisions, but also of several procedural mechanisms that
aim at ensuring the proper implementation of the commitments.