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

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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 prove 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.