Contents

Contents

Dedication	V
Preface	VII
How to Use this Book	ix
Table of Cases	xix
Table of Legislation	xxxiii
1 wood of a so	
	(4)
1 Tatroduction	1
1 Introduction	1
	\$\frac{1}{2}
Introduction	1
Dual application of Community and national competition law	1
Wilhelm v. Bundeskartellamt	1
Judgment of the European Court of Justice	1
Notes and questions on the Judgment	3
Bayerische Motorenwerke AG v. ALD Auto-Leasing D GmbH	4
Ópinion	4
Notes and questions on the Opinion	_5
Article 5(2) in combination with the rules for free movement and	
competition	6
Notes and questions	6
Article 90 in combination with the rules for free movement or	
competition	6
Höfner and Elser v. Macrotron GmbH	7
Opinion	7
Notes and questions on the Opinion .	10
Judgment of the European Court of Justice	10
Notes and questions on the Judgment	10
Merci Convenzionali Porto di Genova v. Gabrielli	12
Opinion	12
Judgment of the European Court of Justice	13
Notes and questions on the Opinion and the Judgment Paul Corbeau	16
	16
Judgment of the European Court of Justice Notes and questions on the Judgment	10
rioles and questions on the judgment	10
9 Amalania af Amiala Of (1)	00
2 Analysis of Article 85(1)	20
Introduction	20
"Undertaking"	20
Viho Europe BV v. Commission	21
Judgment of the Court of First Instance	21
Notes and questions on the Judgment	23
Consten & Grundig	23
Notes and questions—general	24
Decision of the Commission	25
Notes and questions on the Decision	37

Consten & Grundig v. Commission		38
Opinion		38
Notes and questions on the Opinion		49
Judgment of the European Court of Justice		50
Notes and questions on the Judgment		6]
Not all restrictions of conduct restrict competition—ancillary		-
restraint doctrine		63
La Technique Minière v. Maschinenbau Ulm GmbH		63
Judgment of the European Court of Justice		63
Notes and questions on the Judgment		64
Nutricia		64
Decision		64
Notes and questions on the Decision		66
Remia BV and Verenigde Bedrijven Nutricia v. Commission		66
Judgment		66
Notes and questions on the Judgment		68
Object of restricting competition		70
Polistil/Arbois		70
Decision of the Commission		7
Notes and questions on the Decision		1
3 Exemptions and Nullity		79
J LACINPUONS and I valinty		1 4
4 Abuse of a Dominant Position		73
Introduction		73
Europemballage Corp. and Continental Can Co. Inc. v. Commission		74
Decision of the Commission		74
Opinion on merger control		75
Opinion on Schmalbach's dominant position		78
Judgment of the European Court of Justice		83
Notes and questions on the Opinion and Judgment		89
United Brands Co. and United Brands Continental BV v. Commission	4	92
Notes and questions on the Judgment		92
Hoffmann-La Roche v. Commission (Vitamins)		93
Judgment of the European Court of Justice		93
Notes and questions on the Judgment		112
Nederlandsche Banden-Industrie Michelin NV v. Commission		115
Notes and questions on the Judgment		115
CBEM v. CLT IPB (Télémarketing)		118
Judgment of the European Court of Justice		118
Notes and questions on the Judgment		120
AKZO Chemie BV v. Commission		120
Judgment of the European Court of Justice		120
Notes and questions on the Judgment		124
Tetra Pak International SA v. Commission (Tetra Pak II)		125
Judgment of the Court of First Instance		126
Notes and questions on the Judgment		132
Società Italiana Vetro SpA v. Commission (Italian Flat Glass)		136
Judgment of the Court of First Instance		136
Notes and questions on the Judgment Ministère Public v. Jean Louis Tournier and Jean Vernen (SACEM)		13'
Ministère Public v. Jean Louis Tournier and Jean Verney (SACEM)		138
Notes and questions on the Judgment		13

	CONTENTS	xiii
5 Enforcement under Regulation 17		141
5 Emorechient and regulation 17		141
6 Civil Law Sanctions		142
U CIVII LICOVO		
The direct effect of Articles 85 and 86		142
Belgische Radio en Televisie v. SABAM		142
Judgment of the European Court of Justice		143
Notes and questions on the Judgment		144
Right to damages from a Member State that fails to implen	nent a	
directive that does not have direct effect	2	144
Francovich v. Italy		144
Judgment of the European Court of Justice		144
Notes and questions on the Judgment		146
Amministrazione delle Finanze dello Stato v. Simmenthal SpA		$\frac{147}{147}$
Judgment of the European Court of Justice Notes and questions on the Judgment		147
Amministrazione delle Finanze dello Stato v. San Giorgio		149
Judgment of the European Court of Justice		149
Notes and questions on the Judgment		150
The enforcement of contracts that may infringe Article 85		$\overline{151}$
Brasserie de Haecht SA v. Wilkin (Brasserie de Haecht II)		151
Judgment of the European Court of Justice		151
Notes and questions on the Judgment		152
Comfort letters		153
SA Lancôme and Cosparfrance Nederland BV v. Etos BV and I	Albert	
Heijn Supermart BV	•	153
Judgment of the European Court of Justice		153
Notes and questions on the Judgment		158
Stergios Delimitis v. Henninger Bräu AG		159
Opinion		159
Judgment (part) of the European Court of Justice		159
Notes and questions on the Judgment		161
Re Film Purchases by German TV Stations		162
Rothnie's note Notes and questions		162 169
Automec Srl v. Commission II		169
Judgment of the Court of First Instance		170
Notes and questions on the Judgment		174
question of the June 5		
7 Classes of Amnormata Classily Duchibite		4
7 Classes of Agreements Clearly Prohibite	ca	175
Horizontal cartels		175
Dyestuffs (Re Cartel in Aniline Dyes)		175
Decision of the Commission		176
Notes and questions on the Decision		184
ICI v. Commission (Dyestuffs)		186
Judgment of the European Court of Justice		186
Notes and questions on the Judgment		194
Re the European Sugar Cartel: Cooperatiëve Vereniging "Suiker	Unie"	
UA v. Commission		195
Judgment of the European Court of Justice		195
Question on the Judgment		196

Marc van der Woude	196
Notes and questions on the article	201
Soda Ash, Solvay/ICI	202
Decision of the Commission	202
Notes and questions on the Decision	203
Re Wood Pulp Cartel: A Ahlström Oy and Others v. Commission	
(Woodpulp II)	203
Judgment of the European Court of Justice	203
Notes and questions on the Judgment	223
Collusion will not be inferred from parallel conduct unless it does	
not make commercial sense otherwise	225
Ministère Public v. Jean Louis Tournier and Jean Verney (SACEM)	225
Judgment of the European Court of Justice	226
Notes and questions on the Judgment	229
Agreements to exchange detailed information about parallel	440
imports and amounts sold	230
Seventh Report on Competition Policy	230
	232
Notes and questions on the Report	233
U.K. Agricultural Tractor Registration Exchange	200 AND 100 AN
Decision of the Commission	233
Notes and questions on the Decision	242
Fiatragri U.K. Ltd and New Holland Ford Ltd v. Commission	243
Judgment of the Court of First Instance	243
Notes and questions on the Judgment	245
Cartonboard	245
Decision of the Commission	245
Notes and questions on the Decision	247
Export bans and deterrents	247
Miller International Schallplatten GmbH v. Commission	248
Judgment of the European Court of Justice	248
Notes and questions on the Judgment	249
Distillers	250
Distillers v. Commission	251
Opinion	251
Notes and questions on the Opinion	257
Notice of the Commission	258
Question on the Notice	260
8 Distribution Agreements	261
O DISCIPLICITION	401
Introduction	961
Introduction	261
Block exemptions for exclusive distribution and purchasing	262
Regulation 1983/83	262
Notes and questions on the Regulation	268
Regulation 1984/83	270
Notes and questions on the Regulation	277
Seventeenth Report on Competition Policy	278
Notes and questions on the Report	279
Hydrotherm Gerätebau GmbH v. Compact de Dott. Ing. Mario Andreoli	1 1925
& C.Sas	279
Notes and questions on the Judgment	282
Selective distribution	282
SABA	282
Decision of the Commission	283
Notes and questions on the Decision	288

Metro-SB-Großmärkte GmbH & Co. KG v. Commission (Metro I)	289
Judgment of the European Court of Justice	289
Notes and questions on the Judgment	292
Metro-SB-Großmärkte GmbH & Co. KG v. Commission (Metro II)	293
Judgment of the European Court of Justice	293
Notes and questions on the Judgment	298
Franchising	299
Pronuptia de Paris GmbH v. Pronuptia de Paris Irmgard Schillgalis	299
Opinion	300
Notes and questions on the Opinion	302
Judgment of the European Court of Justice	303
Notes and questions on the Judgment	307
Regulation 4087/88	309
Notes and questions on the Regulation	320
Market analysis—exclusive purchasing	321
Stergios Delimitis v. Henninger Bräu AG	321
Judgment (part) of the European Court of Justice	322
Notes and questions on the Judgment	324
Opinion	326
Schöller Lebensmittel GmbH & Co. KG and Langnese-Iglo	327
Decisions of the Commission	327
Notes and questions on the Decisions	330
BP Kemi/DDSF	330
Decision of the Commission	331
Notes and questions on the Decision	334
Agency Commission Notice	335
	335 337
Notes and questions on the Notice Cooperatiëve Vereniging "Suiker Unie" and Others v. Commission	337
Judgment of the European Court of Justice	337
Notes and questions on the Judgment	338
Vereniging van Vlaamse Reisbureaus v. VZW Sociale Dienst van de	330
Plaatselijke en Gewestelijke Overheidsdiensten	339
Judgment of the European Court of Justice	339
Notes and questions on the Judgment	342
Trotes and questions on the Juagment	
9 Intellectual Property Rights and the Principle	
of Free Movement of Goods	343
Introduction	344
General notes and questions	344
Exhaustion of patent rights	345
Parke Davis & Co. v. Probel	345
Opinion Co. v. 1700et	345
Notes and questions on the Opinion	349
Judgment of the European Court of Justice	349
Notes and questions on the Judgment	350
Centrafarm BV and de Peijper v. Sterling Drug Inc.	351
Judgment of the European Court of Justice on exhaustion of patents	351
Notes and questions on the Judgment on exhaustion of patents	353
Judgment of the European Court of Justice on intra-corporate	000
conspiracies	354
Notes and questions on the Judgment on intra-corporate conspiracies	354
Merck & Co. Inc. v. Stephar BV	355
Judgment of the European Court of Justice	356
Notes and questions on the Judgment	356

The early cases on trade marks Sirena Srl v. Eda Srl

Opinion	357
Judgment of the European Court of Justice	358
Notes and questions on the Judgment	36
Van Zuylen Frères v. HAG AG (HAG I)	362
Judgment of the European Court of Justice	362
Notes and questions on the Judgment	364
Centrafarm BV and de Peijper v. Winthrop	364
Judgment of the European Court of Justice	364
Question on the Judgment	364
Centrafarm BV and de Peijper v. American Home Products Corp.	365
Judgment of the European Court of Justice	365
Notes and questions on the Judgment	366
SA CNL-Sucal NV v. HAG AG (HAG II)	367
Opinion	367
Notes and questions on the Opinion	380
Judgment of the European Court of Justice	38]
Notes and questions on the Judgment	383
IHT Internazionale Heiztechnick GmbH v. Ideal Standard GmbH	384
Judgment of the European Court of Justice	384
Notes and questions on the Judgment	390
Rights other than in reputation	39]
Keurkoop BV v. Nancy Kean Gifts BV	39]
Judgment of the European Court of Justice	39]
Notes and questions on the Judgment	394
Warner Bros. Inc. and Metronome Video Aps v. Christiansen	394
Opinion	394
Note on the Opinion	395
Judgment of the European Court of Justice	395
Notes and questions on the Judgment	397
Thetford Corp. v. Fiamma SpÅ	398
Judgment of the European Court of Justice	399
Notes and questions on the Judgment	40]
10 Licences of Intellectual Property Rights	403
Introduction	403
Re the Agreement of the Davidson Rubber Company	404
Decision of the Commission	404
Notes and questions on the Decision	409
Maize Seed	410
L.C. Nungesser KG and Kurt Eisele v. Commission	410
Judgment of the European Court of Justice	410
Notes and questions on the Judgment	417
Coditel v. SA Ciné Vog Films (Coditel I)	419
Judgment of the European Court of Justice	419
Notes and questions on the Judgment	421
Coditel v. Ciné Vog Films SA (Coditel II)	421
Judgment of the European Court of Justice	421
Notes and questions on the Judgment	423
Louis Erauw-Jacquéry Sprl v. La Hesbignonne SC	423
Opinion	424
Notes and questions on the Opinion	426
Judgment of the European Court of Justice	427
Notes and questions on the Judgment	429

357

	CONTENTS	xvii
Group exemption for technology licensing Technology Transfer Agreement Draft Regulation Notes and questions on the Draft Regulation Moosehead/Whitbread Decision of the Commission Notes and questions on the Decision Article 86 and Refusals to License Volvo AB v. Erik Veng (U.K.) Ltd Opinion Judgment of the European Court of Justice Notes and questions on the Opinion and the Judgment Radio Telefis Éireann v. Commission Judgment of the European Court of Justice Notes and questions on the Judgment Stop Press, November 10, 1995		429 430 449 452 456 457 457 458 459 460 460 467
11 Specialisation Agreements		469
12 Mergers		471
Introduction The Merger Regulation, Regulation 4064/89 Notes and questions on the Regulation Commission's notices Notice on the distinction between concentrative and co-op ventures Notes and questions on the Notice Alcatel/Telettra Decision of the Commission Opinion of the Advisory Committee Notes and questions on the Decision Tetra Pak/Alfa-Laval Decision of the Commission Opinion of the Advisory Committee Notes and questions on the Decision Mannesmann/Vallourec/Ilva Decision of the Commission Notes and questions on the Decision MSG Media Service Decision of the Commission Notes and questions on the Decision Procter & Gamble Decision of the Commission Opinion of the Advisory Committee Notes and questions on the Decision	perative joint	471 472 493 494 502 502 509 510 512 523 535 536 536 553 553 553 553 553
13 Joint Ventures and Other Forms of Collaboration		562
Introduction Regulation 418/85 as amended Notes and questions on the Regulation		562 563 575

Contents

55

xviii CONTENTS

		576
BP/Kellogg Decision of the Commission		576
Notes and questions on the Decision		580
Optical Fibres		581
Decision of the Commission		581
Notes and questions on the Decision		583
Elopak/Metal Box-Odin		584
Decision of the Commission		584
Notes and questions on the Decision		593
Ford/Volkswagen		594
Decision of the Commission		595
Notes and questions on the Decision		598
Commission's XXIII Report on Competition Policy		599
Notes and questions on the Report		602
Regulation 3385/94		602
Notes and questions on the Regulation		604
Notice on co-operative joint ventures		604
Notes and questions on the Notice		615
Olivetti-Digital		616
Decision of the Commission		616/
Notes and questions on the Decision		$62\emptyset$
Fujitsu AMD Semiconductor		62/1
Decision of the Commission		622
Notes and questions on the Decision		627
14 Conclusion		628