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Managerial Liability for Fines—Company Law, Competition Law and Principle of Effectiveness 528

Fines imposed on undertakings are becoming increasingly important. Whether sanctioned companies can hold their board members or directors, who have acted in breach of their duties, liable is subject to a heated discussion. This article argues in favor of managerial liability both against the background of German company law and of the effective enforcement of German and European competition law.

The Legal Standard for Referral to Member States under the EU Merger Regulation 544

The test for referring mergers reportable to the European Commission to Member States under art.9 EUMR is whether the transaction “significantly affects” competition. As this standard is unclear, this article assesses what the legislation says, what standard the Commission has adopted and what the standard should be.

Revisiting the Aftermarkets Doctrine in the Context of Digital Markets 549

Aftermarkets analysis addresses the intersection between a primary product market and markets for goods/services which are supplementary to the primary market. In the past, legal and economic analysis on aftermarkets has been utilised to examine whether a primary goods producer has the incentive and ability to monopolise its aftermarkets, as well as to subsequently engage in anti-competitive conduct by abusing this monopoly power. This article argues that the aftermarkets framework could be effectively utilised in the digitals sector, which often involves multiple interoperable products, especially in the context of digital ecosystems. In particular, there is a number of digital sector markets, such as app stores and cloud services, in which aftermarket analysis could assist in the competitive assessment.

Exploitative Theories of Harm and Various Currencies Model in the Digital Economy: The Case of Pay-or-Okay Model 562

The paper investigates exploitative harm theories in digital markets, with a focus on Facebook’s “pay-or-okay” model. It examines how consumers, while accessing supposedly “free” services, exchange personal data, attention, or money. The discussion highlights the overlap between privacy concerns, competition law, and potential abuses, particularly in relation to art.102 TFEU, which addresses unfair practices by dominant firms.

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