

The goals and scope of European merger regulation. Acquisition of minority shareholderships



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Reviews

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(Janie Wilkinson)

THE GOALS AND SCOPE OF EUROPEAN MERGER REGULATION. ACQUISITION OF MINORITY SHAREHOLDERSHIPS



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GRIN Verlag GmbH Aug 2014, 2014. Taschenbuch. Book Condition: Neu. 210x148x1 mm. This item is printed on demand - Print on Demand Neuware - Academic Paper from the year 2014 in the subject Business economics - Law, grade: 2.0, Free University of Berlin, course: Master degree, language: English, abstract: The Merger Regulation as it stands only applies to transactions resulting in a lasting change of control. Economic theory and the Commission's experience suggest that non-controlling minority shareholdings may also in certain instances cause anticompetitive harm. The financial incentives and the influence on the target resulting from such minority stakes can raise competition concerns based on the same theories of harm as pursued under merger rules, namely unilateral or coordinated effects or input foreclosure. Unlike other competition authorities both inside and outside the EU (such as Germany, the United Kingdom, or the United States) the Commission currently has no opportunity to address such concerns where they are caused only by the acquisition of minority participations. The European Commission is looking forward to review and potentially revise its rules for reviewing minority share acquisitions under EU competition law. The European Commission is considering amending the EUMR to allow it to review certain acquisitions of non controlling minority shareholdings. Under the current EUMR regime, the Commission can only review the acquisition of a minority shareholding and possibly prohibit it ex ante where it confers control. Control means the possibility of exercising decisive influence on an undertaking on the basis of rights, contracts or any other means (Article 3(2) EUMR). Hence, the acquisition of a minority shareholding does not fall under the scope of the EUMR and under the Commission's jurisdiction unless it enables the minority shareholder to determine the strategic commercial behavior of the target. While in some instances competition problems caused...



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