

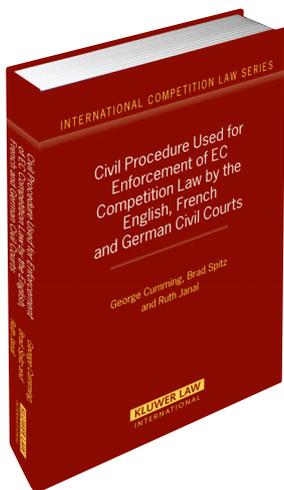
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Civil Procedure in EU Competition Cases before the English, French and German Courts

edited by George Cumming, Brad Spitz & Ruth Janal



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European competition law has been increasingly subject to two complementary forces: decentralisation and harmonisation. In the course of this process, certain procedural elements have come to the fore as constituting impediments to the enforcement of Articles 81 and 82 EC in terms of actions for damages. While ECJ case law appears to establish a type of 'minimum' enforcement in this area, the far-reaching analysis presented in this book shows how an 'adequate' or even 'optimal' degree of enforcement may be achieved by effecting a choice between competing procedural solutions.

Focusing on rules of civil procedure used by the ordinary courts of England, France, and Germany, the authors show how basic principles – such as protection of the rights of the defence, legal certainty, and proper conduct of the procedure – facilitate the application of the doctrines of effectiveness and non-discrimination to those elements of the national procedure which impede in some manner the effective enforcement of Articles 81 and 82 EC. Their in-depth analysis ranges over procedural aspects of such elements as rules of evidence, costs, expert testimony, injunctions, burden of proof, limitations, and forms of compensation, ultimately leading them to propose clear modifications of certain rules of national procedure that go a long way toward ensuring adequately effective enforcement.

This remarkable book breaks through an impasse in European competition law. It serves to steady the balance which has been sought between the different actors of the procedure in each of the national systems studied. For practitioners and jurists it offers a particularly useful approach to the handling of cases involving European competition law, and also serves as a guide by reason of its clear presentation, its clarification of doctrine, and its analysis of national and European case law.



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