The Concept of the Relevant Product Market

Between Demand-side Substitutability and Supply-side Substitutability in Competition Law
Table of Abbreviations........................................................................................................... 9

A. The changing determination of the product market in competition law................................................................. 13
   I. The function of market determination.............................................................. 13
   II. The deficits of the concept of demand-side substitutability.................. 16
       1.) Empirical findings.................................................................................. 16
       2.) Analysis of the practice ...................................................................... 23

B. History of dogmas.................................................................................................................. 29
   I. The product market in modern competition theory .......................... 29
   II. Demand-side substitutability as decisive criterion in the classical concept of demand-side substitutability ........... 32
   III. Extending the consumer perspective by the competition perspective in the concept of supply-side substitutability .... 37
       1.) Including the market shares of potential competitors that can switch production within a short time ........... 41
       2.) Including the competitive constraints by taking into account the undertakings' marketing plans .............. 45

C. Determining the relevant market according to the marketing plan – Examples ..................................................................... 54

D. Summary ................................................................................................................................. 63
Appendices

I

Commission Notice on the definition of the relevant market for the purposes of Community competition law .................. 67

II

Excerpt from the Form CO relating to the Notification of a concentration pursuant to regulation (EC) No 139/2004 .......... 87

III

Guidelines to the assessment of horizontal mergers under Council Regulation on the control of concentrations between undertakings ................................................................. 91