

# Brief History of Competition Policy - Part II

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- The purpose here is not to have a complete description of the history of competition laws.
- Instead, our aim is to understand the circumstances under which competition laws were created and enforced, as well as the objectives which they purported to attain.

# Competition Law in the European Communities

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- This created the European Coal and Steel Community (ECSC).
- The Treaty prohibits trade barriers as well as discriminatory and other restrictive practices capable of distorting competition among the six countries which later became the founding members of the European Economic Community.
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2. the principle of free competition: it was beginning to be appreciated as the only viable way to attain an efficient functioning of the market
  - (also in view of the success of the US economy which had continuously relied upon anti-trust rules)

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  - This provision is clearly the model upon which Article 81 of the Treaty of Rome (1957) is based
- **Article 66(7)** deals with the abuse of a dominant position by firms which use such a position to pursue objectives which are contrary to the Treaty
  - close correspondent of Article 82 of the Treaty of Rome. [Link](#)

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  - a fear that had justified the process of decartelisation in Germany.

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- Until the adoption, Germany and the UK wanted mergers to be judged only on the basis of competition issues, whereas France wanted also to consider criteria of industrial policy and social issues.
- Eventually, the former approach prevailed.

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- Explains the strong position taken by the European Commission (as well as, by the European Court of Justice) with respect to price discrimination across countries.

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- It is probably safe to say that competition was not an end in itself, but was intended as a way to promote economic progress and the welfare of European citizens, the latter being one of the objectives of the EC as stated by **Article 2**

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- In order for the Community to be competitive on worldwide markets, it needs a competitive home market.

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  - state aid measures which do not ensure the long-term viability of firms but distort competition by keeping them artificially in business.



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  - and agreements between competitors to keep out of one another's "territories"

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- The Commission has granted exemptions from competition rules for so-called crisis cartels
  - A significant number of industry players get together to find a joint solution to their common difficulties in times of crisis. For example,
    - reducing overcapacity
    - and/or by agreeing on a "fair" price level to avoid that some companies would go bankrupt and leave the market.

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  - Competition can be sacrificed when the social costs can be too high, since many firms might exit an industry under conditions of over-capacity, which would result in considerable job losses.
  - Even if in the long-run a restructuring of the industry would be beneficial, in the short-run there might exist considerable costs that a government might want to avoid for political and social reasons.

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- A further reason for a more favorable treatment might be to balance disadvantages that SMEs have in the markets because of their smaller dimensions.

## Supplementary information

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## Treaty of Rome

- Treaty of Rome, originally (1957–93) Treaty Establishing the European Economic Community, succeeded by (1993–2009) Treaty Establishing the European Community and (2009– ) Treaty on the Functioning of the European Union, is an international agreement, signed in Rome on March 25, 1957, by Belgium, France, the Federal Republic of Germany (West Germany), Italy, Luxembourg, and the Netherlands, that established the European Economic Community (EEC), creating a common market and customs union among its members.

## Treaty of Rome

- Following the advent of the European Union (EU) in 1993, the treaty that had established the EEC remained one of the EU's core documents, though the EEC itself was renamed the European Community (EC), and the EC was embedded into the EU. With the entry into force of the Lisbon Treaty in 2009, the EC was eliminated, and the Treaty of Rome that had established it was formally renamed the Treaty on the Functioning of the European Union.

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