

The future comeback of competition law and public policy:

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Aquila

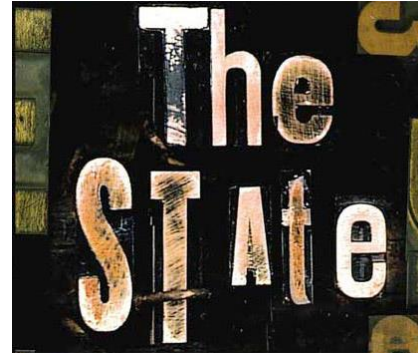


Outline

Argument: More and not less of such questions

1. A reminder: traditional thinking about firms, competition law and the public good
2. Three challenges
3. Options for competition law

Theoretical foundations in competition law about the public good



Contributing to the Public Good

Economics

Provides Private Goods

**Provides Public Goods
(non-excludable, non-rivalrous)**

**Constitutional
claim:**

**No democratic legitimacy
concerned about profits**

**(democratically) accountable
→ legitimacy**

Traditional theories of firm as subject of competition law

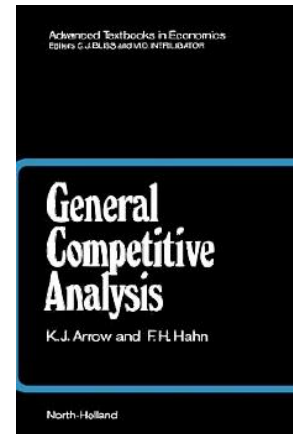
Where do these ideas stem from?

- Neo classical theory:

- Adam Smith:



- Kenneth Arrow & Frank H Hahn:



- Profit maximization = total welfare maximization

- Externalities: State legislation

- Libertarian:

- Milton Friedman:

'The social responsibility of business is to increase profit'

1st Challenge: CSR

- Howard Bowman (1950): social responsibility of the firm

'an obligation to follow the course of action that is desirable in terms of objectives and values of the society'

- (P) green washing
- But: Business case for CSR eg.
 - Global warming as threat to business → minimizing impact as long term business strategy
 - More demand for environmentally friendly products + higher energy costs = market forces drives firms to be more environmentally friendly

1st Challenge: CSR and business

Example: CSR and business



Origin Materials

Organic waste materials → PET
eg sawdust

2nd Challenge: social enterprise



Grameen Bank

1983: Muhammad Yunus

Entrepreneur: Creating wealth through exploiting opportunities

vs

Social Entrepreneur: Creating value for the society through exploiting opportunities

+

A willingness to sacrifice (some) profit

Relevance of social enterprises?

Social enterprise in the curriculum of many business schools:

eg Harvard, Oxford

Examples:



3rd Challenge: Changing Legal Framework

Corporate Law:

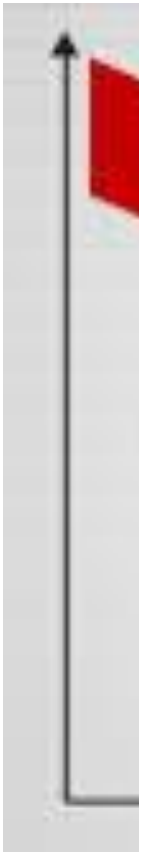
- Community Interest Company (UK 2005)
- Gemeinnützige Gesellschaft mit beschränkter Haftung (Germany 2009)
- Public Benefit Company (Delaware 2013)

KICKSTARTER

- No selling of user data
- No lobbying (unless in line with values of the company)
- No esoteric tax arrangements
- Reduce environmental impact
- 5% of profits for art&music education and fight against inequality

→ Shareholder right to sue if *profit maximization* is pursued over *public benefit* mission

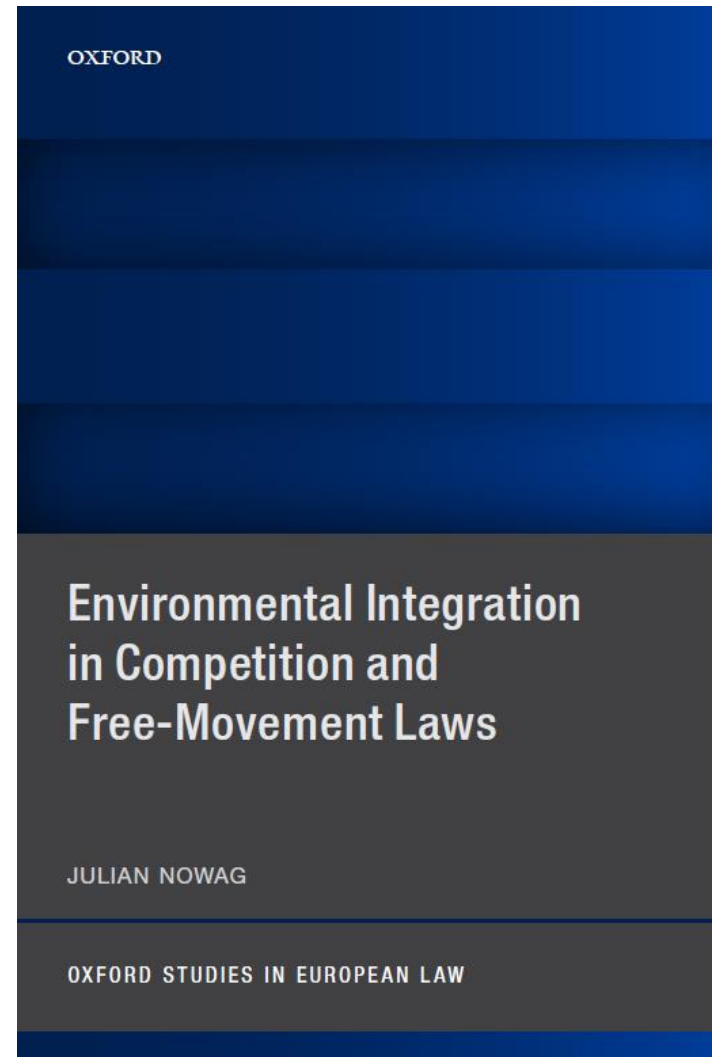
Options for competition law



Options for competition law

Middle way?

- Integration within the current framework
- Here: supportive integration not preventative integration



Conclusion

More of questions like this not less

Imagine: more companies like

1. Kickstarter or
2. Facebook using satellites for 'free' internet access

What message do we want to send to business? (moon lighting colleagues)

- **Vestager: It is not for competition enforcers to pursue other values → stay clear**
- **We don't stand in your way if you comply with the following conditions....**

Thank you!