

The ECSC Treaty gave the Commission broad power over a narrow field to act on its own without further authorization. The EEC Treaty outlined the principles of competition policy and stipulated that the Council of Ministers, acting on a Commission proposal, must pass laws to put those principles into effect.

The first such regulation, in February 1962, activated the Treaty's competition clauses and filled in details. It gave the Commission powers of inspection and enforcement. It required companies having agreements that could affect trade between member countries to submit their agreements to the Commission for clearance. The Commission could clear an agreement, ban it, or request changes. This regulation empowered the Commission to impose fines of up to u.a. 1,000,000, about \$1.2 million, or 10 per cent of a companies turnover for violations. It also gave companies immunity from fines until the Commission could rule on the legality of their agreements.

The Commission was deluged with agreements. A March 1965 Council regulation enabled the Commission to declare "block exemptions" for some types of agreement by issuing regulations. The largest group involved simple exclusive dealing rights between manufacturers and distributors. Such agreements are permitted if they are regional, within a single country, and do not affect imports or exports. Other permitted agreements involve specialization, joint research and development, joint advertising, joint use of quality labels, standardization, joint participation in trade fairs and joint purchasing.

Decisions by the Commission and the Court of Justice have laid the basis for a case law further defining competition policy. The Court has held that patents, trademarks, copyrights, and know-how licences cannot be used to guarantee absolute territorial protection.

Dominant positions

The EEC Treaty prohibits the abuse of a dominant position. The Commission first tested this provision when it decided that Continental Can's very acquisition of a Dutch company constituted an abuse, without any of the trade restraints mentioned in the Treaty. In 1973, the Court of Justice upheld Continental Can's appeal, on the grounds that the company did not have a dominant position; but it supported the Commission's contention that the Treaty empowered it to regulate mergers across the Community's internal borders.

The Continental Can decision covered only mergers in which one company already had a dominant position. The Commission has proposed that it be authorized to control major mergers. Companies would have to notify the Commission three months before any move that would result in "major concentration".

State monopolies and state subsidies

Competition rules also apply to state monopolies and state subsidies.

State monopolies have to give up exclusive import rights. The French and Italian national tobacco monopolies now buy and sell cigarettes, cigars and tobacco from other

Community countries. The Commission has made recommendations for reorganizing other state monopolies, mainly in France and Italy.

State subsidies to poor areas and depressed industries, such as shipbuilding, are also regulated, so that cutthroat outbidding does not distort competition.