

Damages Claims for the Infringement of EU Competition Law

The infringement of EU competition law can have severe consequences for businesses, including fines, injunctions, and damages claims. Damages claims are a particularly important tool for victims of anti-competitive conduct, as they allow them to recover the losses they have suffered as a result of the infringement.



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This guide provides an in-depth analysis of damages claims for the infringement of EU competition law. It offers practical guidance to practitioners and in-house counsel on all aspects of damages claims, from the initial assessment of a potential claim to the enforcement of a damages award.

The Legal Framework

The legal framework for damages claims for the infringement of EU competition law is set out in Article 101 and 102 of the Treaty on the Functioning of the European Union (TFEU). These articles prohibit anti-competitive agreements and abuses of dominance, respectively.

In addition to the TFEU, there are a number of EU regulations and directives that provide further guidance on damages claims. These include the EU Damages Directive (2014/104/EU), which sets out the general principles governing damages claims for antitrust infringements.

The Elements of a Damages Claim

In order to succeed in a damages claim for the infringement of EU competition law, the claimant must prove the following elements:

- The defendant infringed Article 101 or 102 TFEU.
- The claimant suffered loss as a result of the infringement.
- There is a causal link between the infringement and the loss.

The burden of proof lies on the claimant to prove all of these elements.

Quantifying Damages

Once the claimant has established liability, they must then quantify the damages they have suffered. There are a number of different methods that can be used to quantify damages, including:

- The lost profits method
- The market share method

- The price-cost margin method

The choice of method will depend on the specific circumstances of the case.

Enforcement of Damages Awards

Once a damages award has been made, the claimant must then enforce the award. This can be done by:

- Applying to the court for a writ of execution
- Seizing the defendant's assets
- Obtaining an injunction to prevent the defendant from dissipating its assets

The enforcement of damages awards can be a complex and time-consuming process. However, it is important to remember that damages claims are a valuable tool for victims of anti-competitive conduct. By enforcing their damages awards, victims can help to deter future infringements and recover the losses they have suffered.

Damages claims for the infringement of EU competition law are a complex but important area of law. This guide has provided a brief overview of the legal framework, the elements of a damages claim, and the process of quantifying and enforcing damages awards. For more detailed information, please consult the resources listed below.

Resources

- EU Commission website on damages claims

- Competition Law Action Guide
- LeClair Ryan EU Damages Claims Booklet



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