



Universiteit
Leiden
The Netherlands

Objective justification and Prima Facie anti-competitive unilateral conduct: an exploration of EU Law and beyond

Vijver, T.D.O. van der

Citation

Vijver, T. D. O. van der. (2014, September 17). *Objective justification and Prima Facie anti-competitive unilateral conduct: an exploration of EU Law and beyond*. Retrieved from <https://hdl.handle.net/1887/29593>

Version: Corrected Publisher's Version

License: [Licence agreement concerning inclusion of doctoral thesis in the Institutional Repository of the University of Leiden](#)

Downloaded from: <https://hdl.handle.net/1887/29593>

Note: To cite this publication please use the final published version (if applicable).

Cover Page



Universiteit Leiden



The handle <http://hdl.handle.net/1887/29593> holds various files of this Leiden University dissertation.

Author: Vijver, Tjarda Desiderius Oscar van der

Title: Objective justification and Prima Facie anti-competitive unilateral conduct : an exploration of EU Law and beyond

Issue Date: 2014-09-17

Propositions relating to “Objective Justification and *Prima Facie* Anti-Competitive Unilateral Conduct: An Exploration of EU Law and Beyond” by Tjarda van der Vijver

1. As it is widely accepted that the objective justification plea is available within the framework of Art. 102 TFEU, EU competition lawyers should put more effort into contemplating what this concept actually means (Chapter I).
2. EU case law outside of Art. 102 TFEU (namely on the internal market, Art. 101 TFEU and merger control) can teach us valuable lessons on how we should interpret the concept of justifications within Art. 102 TFEU (Chapter II).
3. There are three types of objective justification for the purposes of Art. 102 TFEU: legitimate commercial conduct, efficiency and public interest (Chapter III).
4. Comparative research shows that jurisdictions around the world have strikingly similar ideas about justifications of otherwise prohibited unilateral conduct (Chapters V and VI).
5. Research in and practice of EU competition law risks developing itself too much in a vacuum, with too little regard for the wider EU legal framework.
6. The Dutch competition authority ACM should pursue dominance abuse cases more actively.
7. The long duration of proceedings is one of the biggest threats to the relevance and effectiveness of competition law.
8. Economic insights are helpful in competition law proceedings, as long as they are used with moderation.
9. In theory, markets are predictable systems that create stability. In practice, they can be messy, chaotic and painful.
10. The European economy is still facing the same challenges as it did before the crisis. It is therefore premature to speak of economic recovery.
11. Lawyers should nuance the importance of consistent reasoning. As Oscar Wilde noted: consistency is the last refuge of the unimaginative.
12. Een overdaad aan direct beschikbare consumptiegoederen leidt niet per se tot grotere welvaart. Immers: verlangen moet rijpen (Anna Terruwe).