



Universiteit
Leiden
The Netherlands

The role of environmental protection in EC competition law and policy
Kingston, S.E.J.

Citation

Kingston, S. E. J. (2009, February 17). *The role of environmental protection in EC competition law and policy*. Retrieved from <https://hdl.handle.net/1887/13497>

Version: Not Applicable (or Unknown)

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

Downloaded from: <https://hdl.handle.net/1887/13497>

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

Propositions relating to the dissertation *The Role of Environmental Protection in EC Competition Law and Policy* by Suzanne Kingston

1. The goal of sustainable development, and the integration principle set out in Article 6 EC, apply just as forcefully in the field of EC competition policy as in other EC policy fields.
2. Developments in environmental regulatory techniques in the EU since the 1970s, such as the greater use of market-based instruments and reliance on voluntary environmental initiatives, have meant that competition law is increasingly relevant to EU environmental regulation.
3. The indeterminacy of the sustainable development and integration principles has hindered the effectiveness of these principles in practice, including in the competition law field. Greater effectiveness demands relatively precise identification of the implications of these principles for competition policy.
4. For some schools of competition theory, it is perfectly acceptable to take environmental protection requirements into account in formulating and applying competition policy. For others, including the Chicago School, environmental protection requirements should not be considered in competition policy.
5. The aims, and theory underlying, EC competition policy are different to those underlying US competition policy. For that reason (amongst others), the Chicago School has carried less influence in the EU, and the goals of EC competition policy extend beyond economic efficiency.
6. Even if one takes economic efficiency to be the overriding goal of EC competition policy, there are strong arguments based on good governance principles, and environmental economics, that the notion of efficiency should allow environmental damage and benefits to be taken into account in competition law and policy.
7. The above theoretical arguments demonstrate that it is not only legitimate, but also obligatory, for environmental protection requirements to be taken into account in EC competition policy.
8. Analysis of EC competition law to date shows that, though environmental protection factors have played a role in some cases, in many they have been given insufficient weight, ignored entirely, or taken into account in an indirect and unclear fashion - creating significant problems of legal certainty for undertakings in environment-related areas.
9. Environmental protection factors have been taken into account in an insufficient, or insufficiently clear, manner in virtually all areas of EC competition policy, but particularly in the application of Articles 81 and 82 EC, Article 86(2) EC and Article 87 EC.