

**Restriction of Competition “by Object” and “by Effect” in European Competition
Law: Defining the Relevant Market and Appreciable Effect**

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Abstract

The objective of Article 101 of the TFEU is to protect competition in the market as a means of enhancing consumer welfare and ensuring an efficient allocation of resources. Article 101(1) of the TFEU distinguishes between those agreements that have a restriction of competition as their object and those agreements that have a restriction of competition as their effect. This distinction is important. According to the European Commission’s practice, once it has been established that an agreement has as its object the restriction of competition, there is no need to take into account its concrete effects. This is because restrictions of competition by object are those that by their very nature have the potential to restrict competition, and it is not necessary for the purpose of applying the TFEU’s Article 101(1) to demonstrate any actual effects on the market. In other words, if an agreement does not restrict competition by object, it must be examined whether it has restrictive effects on competition, and such negative effects must be appreciable.

However, there have been some clarifications and important interpretations from the recent case law of the European Court of Justice. The Court confirmed that the European Commission needs to abandon its simplistic use of the “by object” restriction in cases that are not obviously harmful to competition and focus on the actual effects of the conduct.

This study will explain and analyze the recent developments in European Competition law and practice in order to enrich the interpretation of Article 14 of the Taiwanese Fair Trade Act with respect to concerted actions.

Keywords: Illegal Concerted Actions, Relevant Market, Restriction of Competition, European Competition Law, Cartel.