

The Link between Corporate Governance and EU Competition Law Enforcement: A Conditional Logistic Regression Analysis of the Role of Diversity, Independence and Corporate Social Responsibility

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Abstract : This study is the first empirical analysis of the link between corporate governance and European Union competition law. Although competition law enforcement is often studied through the lens of competition law, we offer an alternative perspective by looking at a number of corporate governance factor at the level of the board of directors. We find that undertakings where the Chief Executive Officer is also chairman of the board are twice as likely to violate European Union competition law. No significant relationship was found between European Union competition law infringements and gender diversity of the board, the size of the board, the percentage of directors appointed after the Chief Executive Officer, the percentage of independent directors, or the presence of corporate social responsibility (CSR) committee. This contribution is based on a 1-1 matched peer study. Our sample includes all ultimate parent companies with a board that have been sanctioned by the European Commission for either anticompetitive agreements or abuse of dominance for the period from 2004 to 2018. These companies were matched to a company with headquarters in the same country, belongs to the same industry group, is active in the European Economic Area, and is the nearest neighbor to the infringing company in terms of revenue. Our final sample includes 121 pairs. As is common with matched peer studies, we use CLR to analyze the differences within these pairs. The only statistically significant independent variable after controlling for size and performance is CEO/Chair duality. The results indicate that companies whose Chief Executive Officer also functions as chairman of the board are twice as likely to infringe European Union competition law. This is in line with the monitoring theory of the board of directors, which states that its primary function is to monitor top management. Since competition law infringements are mostly organized by management and hidden from board directors, the results suggest that a Chief Executive Officer who is also chairman is more likely to be either complicit in the infringement or less critical towards his day-to-day colleagues and thus impedes proper detection by the board of competition law infringements.

Keywords : corporate governance, competition law, board of directors, board independence, ender diversity, corporate social responsibility

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