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**Master Thesis**

**Exclusive purchasing arrangements: Under which conditions are exclusive purchasing arrangements not abusive under the Article 102 TFEU?**

**Abstract**

This Master Thesis analyses exclusive purchasing arrangements on the part of dominant suppliers under EU competition law. Exclusive purchasing arrangements may be created through either explicit contractual obligations (de jure) or incentives (de facto) that force or induce customers to obtain all or a large proportion of their demand for a particular type of goods or services exclusively from a dominant supplier. In addition, for an arrangement to qualify as an exclusive purchasing arrangement under Article 102 TFEU, the required degree of exclusivity according to which a customer is obliged to purchase from a dominant supplier lies between 50o/o and 100o/o. Whether or not exclusive purchasing arrangements are likely to result in anti-competitive effects depends on lots of factors, such as whether a dominant supplier is an unavoidable trading partner, entry barriers, economies of scale, rate of market growth or decline, pace of innovation, network effects, involvement of key customers as well as strength, importance and opportunities of competitors. Exclusive purchasing arrangements usually create beneficial effects for the contracting parties and may even promote consumer welfare and efficiency of the competitive process. However, exclusive purchasing arrangements may also result in anti-competitive foreclosure, which is to the detriment of competition. Balancing pro-competitive and anti-competitive effects of exclusive purchasing arrangements seems to have become of utmost importance since the recent judgment of the Court of Justice in Intel. According to this judgment, it appears that exclusive purchasing arrangements on the part of dominant suppliers must not be condemned per se anymore. Instead, dominant suppliers may bring forward efficiencies arising from exclusive purchasing arrangements to counterbalance or outweigh actual or likely anti-competitive effects. Of particular relevance in this context are efficiencies in the context of free-riding problems among suppliers, hold-up problems with respect to customer-specific investments and joint efforts of dominant suppliers and its customers to improve the quality of distribution. Such efficiencies may, provided they are sufficient to guarantee that no net harm to consumers is likely to arise, justify exclusive purchasing arrangements on the part of dominant suppliers.