

**Streszczenie rozprawy doktorskiej mar Tomasza Krzyżewskiego /j.angielski/ pt:  
„Non-Compete Obligation in Polish and EU Antitrust Law “**

Subject of the doctoral dissertation was to analyse the conditions under which undertakings are allowed to include non-compete obligation within frames of cooperation with their contractors. The contractual clauses in question are commonly used and as such require to be regulated in the way that would allow competition protection authorities to identify practices causing anticompetitive effects on the market. This can be achieved by following economic approach and conducting analysis of market effects. Such approach could, however, cause significant lack of certainty on the side of undertakings. Therefore, it is crucial to create rules of assessment ensuring balance between two values mentioned above: identification of anticompetitive practices and sufficient level of legal certainty for undertakings. Author formulated a hypothesis that in Polish and EU competition law such balance has been achieved.

Analysis covered relevant competition rules regarding anticompetitive agreements, abuse of dominant position and control of concentration. This approach allowed to analyse institution of non-compete obligation in holistic manner taking into account specifics of particular areas of antitrust regime. For the purpose of verification of the hypothesis author analysed not only applicable regulations but also guidelines issued by competition authorities (such as European Commission Guidelines on Vertical Restraints), judgements of Polish and EU courts as well as decisions issued by European Commission and President of Competition and Consumer Protection Office.

The carried out analysis proved that the hypothesis is partially correct. Author came to the conclusion that the sufficient balance allowing identification of anticompetitive practices and ensuring legal certainty for undertakings has been achieved in the area of anticompetitive agreements including those concluded between undertakings operating on the same market and those concluded between non-competitors. As far as abuse of dominance is concerned the hypothesis has been confirmed partially. Conducted research proved that the balance has not been ensured due to lack of consistency between EU courts judgements and decision of European Commission and Guidelines issued by European Commission resulting in not providing sufficient enough legal certainty in regards to granting loyalty discounts (or discounts creating such effect), which is a practice widely used by dominant undertakings. If it comes to control of concentration hypothesis has been confirmed in relation to EU law. The analysis of competition rules under Polish law has led to the rejection of the thesis on the development of rules allowing the identification of anti-competitive non-compete clauses. In addition,

undertakings are not provided with a sufficient level of legal certainty regarding the assessment of the restriction by the President of Competition and Consumer Protection Office and the courts.