

January 2017

*Is trade union an
undertaking under EU
competition law?*

*European Competition
Journal*

Is a trade union an undertaking under EU competition law?

KEYWORDS: competition law, trade unions, undertakings, Article 101, collective bargaining

TYPE OF PUBLICATION: Journal article

SUGGESTED CITATION: Bradshaw, S. (2017) Is a trade union an undertaking under EU competition law?, in *European Competition Journal*, 12(2-3), pp. 320-340. doi: <http://dx.doi.org/10.1080/17441056.2017.1283568>

BACKGROUND

- The concept of an undertaking in competition law makes it possible to determine the category of actors to which the competition rules apply.
- EU competition law only applies to undertakings.
- Existing case law implies that a trade union is not an undertaking when engaged in collective bargaining.

METHODOLOGY

- The paper will present reasoning as to why current case law is wrong.
- Explores whether a trade union when engaged in collective bargaining can be an undertaking.
- Considers whether collective bargaining is either a public function or a solidarity function.
- Adopts a decentralised firm-level bargaining model.

KEY FINDINGS

- A trade union, when engaged in collective bargaining, is an undertaking.
- In a decentralised bargaining system, a trade union does not act as its members' agent. Even where it does act as its members' agent, EU competition law can still apply.
- Collective bargaining is neither a public function nor a solidarity function, it is an economic activity.

POLICY ISSUES

Published research by CCP members

Policy Brief

- It is argued that trade unions, contrary to existing Court of Justice of the European Union jurisprudence, can be classified as “undertakings” when engaged in collective bargaining.
- Trade unions when engaged in collective bargaining do not act as their members’ agent.

THE CCP

The Centre for Competition Policy (CCP), at the University of East Anglia, undertakes competition policy research, incorporating economic, legal, management and political science perspectives, that has real-world policy relevance without compromising academic rigour.

FOR MORE INFORMATION

More information about CCP and its research is available from our website: www.competitionpolicy.ac.uk

ABOUT THE AUTHOR(S)

Shaun Bradshaw is a PhD student in the School of Law at UEA.

January 2017

*Is trade union an
undertaking under EU
competition law?*

*European Competition
Journal*

Published Research
CCP Policy Brief