



# **The Institutional Framework of EEC Competition Policy: From a Plurality of Models to the Centralization on the Commission (1956-1992)**

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# Introduction

- No mechanical evolution from the Treaty of Rome (1957) onwards.
- Many alternative designs discussed.
- Use of the literature + archives (30-year rule).



# Framework

- I. Treaty of Rome (1957)
- II. The template of cartel control (Reg. 17/62)
- III. A difficult assertion (1962-85)
- IV. The Watershed of the Single Market period (1986-92)

# Correspondence of articles

	<b>EEC (Rome Treaty 1957)</b>	<b>Treaty on the EU (1992, new numb. 1997)</b>	<b>TFEU (Lisbon Treaty 2007)</b>
<b>Cartels</b>	Art 85 EEC	Art 81 TEU	Art 101 TFEU
<b>Dominant positions</b>	Art 86 EEC	Art 82 TEU	Art 102 TFEU
<b>Public undertakings</b>	Art 90 EEC	Art 86 TEU	Art 106 TFEU
<b>State aids</b>	Art 92- EEC	Art 87- TEU	Art 107 TFEU
<b>Competence extension</b>	Art 235 EEC	Art 308 TEU	Art 352 TFEU



# I. The Treaty of Rome (1956-57)

- US influence?
- Franco-German debate (1956).
- Prevailing German influence but not always in favour of a strong CP.
- ECSC example.



# I. The Treaty of Rome (1956-57)

>Result: a Treaty open to different interpretations.

*Art 87.2b: strike a balance between “effective supervision” and “simplifying administrative control”.*



## II. The template of cartel control (1960-62)

- The prevailing German influence.
  - At the national level.
  - Within the European Commission.
- Alternative schemes:
  - Association of member-states to the decision.
  - An independent Cartel office
- Outcome: Reg 17/62 on cartels.



## III.A difficult assertion (1962-85)

- Implementation of 17/62:
  - Backlog.
  - Difficulties to get block exemptions.
- Failure of merger control.
- Mixed support of the ECJ.
- The economic crisis
  - State aids
  - Crisis cartels





## IV. The Watershed of the Single Market period (1986-92)

- SEA not sufficient in itself.
- Initiatives of the Commission
  - State aids.
  - Liberalisation.
- Institutional alternatives:
  - National regulation.
  - International regulation (air transport, etc.).



## IV. The Watershed of the Single Market period (1986-92)

- Merger control (1989)
  - UK, Germany and French suspicion.
  - ECJ support (*Philip Morris*).
  - Action against unfair practices in other countries (UK, France).
  - Support for liberalisation (UK, France).
  - Political motives (Germany, France).

# The enforcement of Merger control: The ATR / De Havilland case (1991)





# Conclusion

- No mechanical evolution, many schemes devised.
- Protracted debates and many setbacks (ECSC, Reg 17/62).