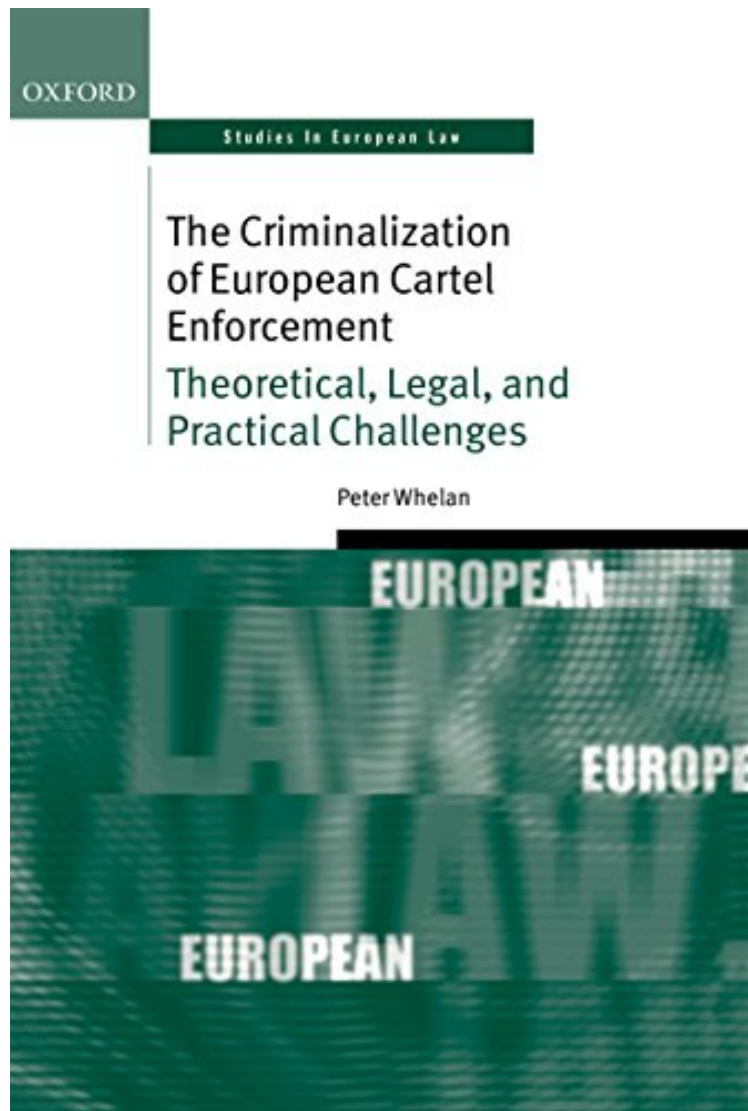


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Von Peter Whelan

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Von Peter Whelan : **The Criminalization of European Cartel Enforcement: Theoretical, Legal, and Practical Challenges (Oxford Studies in European Law)** before purchasing it in order to gage whether or not it would be worth my time, and all praised The Criminalization of European Cartel Enforcement: Theoretical, Legal, and Practical Challenges (Oxford Studies in European Law):

KundenrezensionenHilfreichste Kundenrezensionen0 von 0 Kunden fanden die folgende Rezension hilfreich. Meet the challengesVon Phillip Taylor MBEMEETING THE CHALLENGES OF CARTEL ENFORCEMENT WITHIN THE EUROPEAN UNION: AN IMPORTANT CONTRIBUTION TO THE DEBATEAn appreciation by Phillip Taylor MBE and Elizabeth Taylor of Richmond Green ChambersThe formation of cartels, which is usually created by big corporates, imposes monopolies on otherwise free markets, thus creating unfair competition, or rather, no competition at all.With price fixing, which is one of the end results of antitrust activities, companies profit while consumers suffer. As most corporate lawyers are aware, America (with its fierce body of antitrust legislation developed over a century) is very strict about such matters; the European Union less so, at least so far.The existing and potential sanctions within the EU designed to deter, or punish those who set up cartels form the basis of this rigorous and analytical study by Dr Peter Whelan published by the Oxford University Press.This book is one of the latest titles in the OUPs excellent Oxford Studies in European Law series, the aim of which is to publish important and original research on EU law. As its title indicates, this book explores the antitrust enforcement landscape within the EU and what may emerge as a growing trend toward -- and acceptance of -- the criminalisation of European cartel enforcement.The book addresses a number of key questions on the issue of enforcement objectives. Should those who engineer cartels be imprisoned, in other words, should anti-trust activity be criminalized?And who exactly should suffer the consequences of antitrust activity? Should it be the companies, or the individuals within them who should be held responsible for creating a cartel?At the moment in Europe, civil punishments for antitrust activities are strictly applied in the form usually, of stiff fines. But no criminal sanctions are as yet in place. On this point, the author reminds us that cartel activity within Europe is prohibited under EU law by virtue of Article 101(1) of the Treaty on the Functioning of the European Union (TFEU), the text of which is reproduced in the Annex to this book.The debate apparently rages on among legislators, antitrust officials and academics as to the necessity and appropriateness of personal criminal sanctions -- against individuals, that is, rather than against the companies with which they are employed. It would seem that to date, no consensus has been reached. Nevertheless there is, observably, an increasing tendency in favour of criminalising cartel activity within the Member States of the European Union.Whelan has therefore set himself the formidable task of addressing and examining what he refers to as the theoretical, legal and practical challenges of European antitrust criminalization, which he, stresses should be examined and analysed not separately, but as a dynamic whole.The book is logically organized into three parts each dealing with these challenges in turn, before concluding that, as interest grows and discussions continue on the thorny problems inherent in establishing a coherent policy on cartel enforcement in Europe, (cultural sensitivities, human rights issues and the like) the debate in this entire area will continue and so must the research.Speaking of research, the book presents a forty-three page bibliography, which opens up any number of avenues of further enquiry. There are also extensive tables of cases and statutory instruments, as well as three annexes and an index.Whelan has certainly shed much light on a complex, often awkward and continually evolving subject, which is also fraught with implications for corporate responsibility in general. Lawyers as well as academics and policy makers will welcome the important contribution made by this book to the ongoing debate on cartels within the EU.The publication date is cited as at 2014.

KurzbeschreibungCartel activity is prohibited under EU law by virtue of Article 101(1) of the Treaty on the Functioning of the European Union. Firms that violate this provision face severe punishment from those entities responsible for enforcing EU competition law: the European Commission, the national competition authorities, and the national courts. Stiff fines are regularly imposed on firms by these entities; such firm-focused punishment is an established feature of the antitrust enforcement landscape within the EU. In recent years, however, focus has also been placed on the individuals within the firms responsible for the cartel activity. It is increasingly recognized that punishment for cartel activity should be individual-focused as well as firm-focused. Accordingly, a growing tendency to criminalize cartel activity can be observed in the EU Member States.The existence of such criminal sanctions within the EU presents a number of crucial challenges that need to be met if the underlying enforcement objectives are to be achieved in practice without violating prevailing legal norms. For a start, given the severe consequences of a custodial sentence, the employment of criminal antitrust punishment must be justifiable in principle: one must have a robust normative framework rationalizing the existence of criminal cartel sanctions. Second, for it to be legitimate, antitrust criminalization should only occur in a manner that respects the mandatory legalities applicable to the European jurisdiction in question. These include the due process rights of the accused and the principle of legal certainty. Finally, the correct practical measures (such as a criminal leniency policy and a correctly defined criminal cartel offence) need to be in place in order to ensure that the employment of criminal antitrust punishment actually achieves its aims while maintaining its legitimacy.These three particular challenges can be conceptualized respectively as the theoretical, legal, and practical challenges of European antitrust criminalization. This book analyses these three crucial challenges so that the complexity of the process of European antitrust criminalization can be understood more accurately. In doing so, this book acknowledges that the three challenges should not be considered in isolation. In fact

there is a dynamic relationship between the theoretical, legal, and practical challenges of European antitrust criminalization and an effective antitrust criminalization policy is one which recognizes and respects this complex interaction. The existing and potential sanctions within the EU designed to deter, or punish those who set up cartels form the basis of this rigorous and analytical study by Dr Peter Whelan published by the Oxford University Press... Whelan has therefore set himself the formidable task of addressing and examining what he refers to as the theoretical, legal and practical challenges of European antitrust criminalization, which he, stresses should be examined and analysed not separately, but as a dynamic whole. ... Whelan has certainly shed much light on a complex, often awkward and continually evolving subject, which is also fraught with implications for corporate responsibility in general. Lawyers as well as academics and policy makers will welcome the important contribution made by this book to the ongoing debate on cartels within the EU. * Phillip Taylor MBE and Elizabeth Taylor, Richmond Green Chambers * Dr. Peter Whelan... has published a comprehensive road map for the successful introduction and enforcement of criminal cartel law for an EU member state. He discusses in detail the many theoretical, legal, and practical challenges member states face in adding criminal enforcement to the administrative enforcement already existing at the EU and member state levels... This is a deeply researched and carefully argued book that will teach US readers the complexities of the EU and member state competition systems as they inch toward a system of criminal cartel enforcement that the US largely takes for granted. For EU readers, this monograph highlights the many issues that remain to be resolved as the debate on criminal enforcement continues within member states and in other jurisdictions dealing with these issues for the first time. * Professor Spencer Weber Waller, Loyola University Chicago, (World Competition Law and Economic) * Peter Whelan's book is meticulously researched and exceptionally well written. In addition to its main academic contribution, it acts as a very useful and comprehensive review of the existing literature on cartel criminalisation and is a treasure trove of useful references from start to finish. It is a worthwhile purchase, whether you are a competition lawyer or someone with an interest in white-collar crime. * Andreas Stephan, Professor of Competition Law, University of East Anglia (European Competition Law , 2016) * Kurzbeschreibung Cartel activity is prohibited under EU law by virtue of Article 101(1) of the Treaty on the Functioning of the European Union. Firms that violate this provision face severe punishment from those entities responsible for enforcing EU competition law: the European Commission, the national competition authorities, and the national courts. Stiff fines are regularly imposed on firms by these entities; such firm-focused punishment is an established feature of the antitrust enforcement landscape within the EU. In recent years, however, focus has also been placed on the individuals within the firms responsible for the cartel activity. It is increasingly recognized that punishment for cartel activity should be individual-focused as well as firm-focused. Accordingly, a growing tendency to criminalize cartel activity can be observed in the EU Member States. The existence of such criminal sanctions within the EU presents a number of crucial challenges that need to be met if the underlying enforcement objectives are to be achieved in practice without violating prevailing legal norms. 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