Definition of the geographic market for the purposes of EC competition law.
# TABLE OF CONTENTS

1. INTRODUCTION .................................................................................................................................2
   1.1 SCOPE OF THE STUDY .....................................................................................................................4
   1.2 METHOD AND MATERIAL .............................................................................................................4
   1.3 DISPOSITION ..................................................................................................................................4

2. EC COMPETITION LAW ..........................................................................................................................6
   2.1 ARTICLE 82 OF THE EC TREATY ......................................................................................................6
   2.2 THE MERGER REGULATION ..........................................................................................................7
   2.3 THE RELEVANT MARKET IN EC COMPETITION LAW ......................................................................7

3. DEFINING THE RELEVANT GEOGRAPHIC MARKET WITHIN EC COMPETITION LAW ........9
   3.1 THE COMMISSION’S ASSESSMENT OF THE GEOGRAPHIC MARKET ........................................9
   3.2 FACTORS WHICH ARE TAKEN INTO CONSIDERATION IN THE ASSESSMENT OF THE
      GEOGRAPHIC MARKET ....................................................................................................................14
      3.2.1 SUFFICIENTLY HOMOGENEOUS AREA ..................................................................................15
      3.2.2 THE UNDERTAKINGS’ ACTIVITIES ......................................................................................16
      3.2.3 BARRIERS TO TRADE .............................................................................................................20
         3.2.3.1 Transportation costs .......................................................................................................20
         3.2.3.2 Consumer preferences ....................................................................................................23
         3.2.3.3 Further barriers to trade ................................................................................................23
      3.2.4 OUTSIDE COMPETITION .......................................................................................................24
      3.2.5 BARRIERS TO ENTRY ..............................................................................................................25
      3.2.6 PRICES ..................................................................................................................................26
      3.2.7 CONCLUSION ON THE FACTORS’ RELEVANCE FOR THE DEFINITION OF THE
         GEOGRAPHIC MARKET ..................................................................................................................28

4. CONCLUSION ..........................................................................................................................................30

5. LIST OF REFERENCE ............................................................................................................................33
   5.1 LEGISLATION ....................................................................................................................................33
   5.2 CASE LAW ......................................................................................................................................33
      5.2.1 EUROPEAN COURT OF JUSTICE .........................................................................................33
      5.2.2 COURT OF FIRST INSTANCE .................................................................................................33
      5.2.3 COMMISSION OF THE EUROPEAN COMMUNITIES ..............................................................34
   5.3 LITERATURE ..................................................................................................................................34
1. INTRODUCTION

“Competition is basically the relationship between a number of undertakings which sell goods or services of the same kind at the same time to an identifiable group of customers.”¹

Competition is desirable. Effective competition normally leads to cost efficiency, innovation and low prices.² The EC Treaty³ and its rules of competition came into force in 1958⁴ and the purpose of those rules is to promote fair competition on equal terms. Competition law also plays an important role in the overriding goal of completing single market integration.⁵

The objective of Article 82 of the EC Treaty is to limit the way a dominant undertaking or dominant undertakings⁶ act within the common market in order to force them to comply with Article 3 (g)⁷ of the EC Treaty.⁸ In Article 82 EC there are two essential elements: “(a) a situation where the structure of competition is weakened as a result of the very presence of the undertaking in question; and (b) conduct on the part of that undertaking which has the effect of hindering the maintenance of the degree of competition still existing in the market or the growth of competition (abuse)...”⁹ [Emphasis added] Article 82 EC can be applied to mergers and was applied in the past “to the extent that a dominant position leading to elimination of competition was created”.¹⁰ However, as not all mergers were covered, the Merger Regulation¹¹ was adopted in 1989 for the assessment of such¹² and entered into force in 1990. The definition of the relevant market is a factor in every decision made under Article 82 EC.

¹ Goyder, D. G., EC Competition Law, Fourth edition, 2003, p. 8
³ Consolidated Version of the Treaty Establishing the European Community
⁶ Undertakings = a term used in EC competition law to describe commercial enterprises
⁷ Article 3 of the EC Treaty states that: “1. For the purposes set out in Article 2, the activities of the Community shall include, as provided in this Treaty and in accordance with the timetable set out therein: … (g) a system ensuring that competition in the internal market is not distorted…”
⁸ Hildebrand, Doris, The Role of Economic Analysis in the EC Competition Rules, Second edition, 2002, p. 41, referring to Koch in: Grabitz, Art. 86 Rn 57
¹⁰ Hildebrand, Doris, 2002, p. 71, partly referring to Van Empel (1990), 5 at (8)
¹² Hildebrand, Doris, 2002, p. 71, partly referring to Van Empel (1990), 5 at (8)
as well as under the Merger Regulation. Thus the relevant market is an important concept in EC competition law.\textsuperscript{13}

The relevant geographic market will be analysed in this study because the definition of that area, along with the definition of the relevant product market, is believed to play a significant part in the assessment of whether an undertaking is considered to be in a dominant position on the common market in EC competition law cases. Therefore it is interesting to examine how the assessment of the geographic market is made, as well as what factors are taken into consideration in the assessment. It is important to scrutinize this assessment from the undertakings’ point of view as well, as the law should be predictable. If undertakings have insight in, on which grounds the definition of the relevant geographic market is made, a dominant position and the abuse of such on the common market may be prevented. By that the objective of competition, effective competition may prevail on the common market.

This study examines what constitutes as the geographic market in Article 82 cases (dominance cases) as well as merger cases to a certain extent. As Article 82 EC is one of the main provisions in EC competition law it is interesting to see how the definition under that Article has been used in practice. Case law from the European Court of Justice (ECJ), the Court of First Instance (CFI) as well as the Commission have shown difficulties in the assessment of the geographic market. Consequently, there are noticeable differences in the interpretation of what is considered to be the geographic market, as well as criticism on how the assessment is made. As will be shown,\textsuperscript{14} the question is whether the definition of the relevant geographic market has been too narrowly made in some cases.


\textsuperscript{14} Under 3.2
1.1 SCOPE OF THE STUDY

The aim of this study is to examine the definition of the geographic market in EC competition law. Consequently, the dominance criteria under Article 82 of the EC Treaty will only be examined in part, that is where the dominant undertaking engages in abuse within the common market. The definition of the product market will not be further examined in this study. This delimitation is made as the time given for the study does not permit such an extensive area in EC competition law to be analyzed.

The primary question which will be looked into is what constitutes as the geographic market within EC competition law? Along with how the assessment of the geographic market is made by the Commission and if there is a difference in the definition of the geographic market regarding dominance and merger cases?

1.2 METHOD AND MATERIAL

The sources within EC law are treaties, secondary legislation, and case law from the ECJ, the CFI and the Commission. The EC Treaty as well as case law have been interpreted and analysed to best answer the questions put forth in this study. Cases decided under Article 82 of the EC Treaty, as well as some cases decided under the Merger Regulation, have been examined for better understanding of what factors are of importance in the assessment of the relevant geographic market. The Commission Notice on the definition of relevant market for the purposes of Community competition law has been looked into as well. Doctrine has also provided insight in the problem with the definition of the geographic market.

1.3 DISPOSITION

The study begins with an introduction of Article 82 of the EC Treaty and the Merger Regulation in chapter two. Thereafter, in chapter three, the definition of the relevant geographic market in EC competition law is examined. Both the Commissions assessment of the market and examples from case law is discussed. The factors which are relevant in the
assessment of the geographic market are also looked into. A conclusion of the factors relevance, in chapter three, and a more general conclusion, in chapter four, completes the study.
2. EC COMPETITION LAW

The primary provisions concerned with competition policy in the European Union relevant for this study are Article 82 (ex Article 86) of the EC Treaty, and the Merger Regulation\textsuperscript{15}.

2.1 ARTICLE 82 OF THE EC TREATY

Article 82 of the EC Treaty states that:

“Any abuse by one or more undertakings of a dominant position within the common market or in a substantial part of it shall be prohibited as incompatible with the common market insofar as it may affect trade between Member States.

Such abuse may, in particular, consist in:

(a) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
(b) limiting production, markets or technical development to the prejudice of consumers;
(c) applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
(d) making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.”

In Article 82 EC there are five criteria which have to be established before the prohibition in the Article applies: (a) one or more undertakings, (b) a dominant position, (c) the dominant position must be within the common market or in a substantial part of it, (d) an abuse, and (e) an effect on interstate trade.\textsuperscript{16}

In this study the dominance criteria will be looked into, more specifically the assessment of the geographic market when defining the relevant market for the purposes of Article 82 of the EC Treaty.

2.2 THE MERGER REGULATION

In Article 2 of the Merger Regulation the test which is carried out in order to establish whether or not concentrations are compatible with the common market, within the scope of the Regulation, is laid down. In its assessment the Commission is required to consider the need to protect and develop effective competition on the common market, with the examination of the structure of the concerned markets, as well as actual or potential competition from undertakings which are located within or outside the Community. The Commission must also consider, for instance, the market position of the concerned undertakings, the undertakings’ access to supplies or markets, barriers to entry, consumers’ interests, technical and economic development if it is to the consumers’ interests and does not hinder competition. If the undertaking under scrutiny, is not considered to hinder effective competition “in the common market or in a substantial part of it”\(^\text{17}\) it is compatible with the common market. However, if the undertaking “creates or strengthens”\(^\text{18}\) a dominant position with the result of hindering effective competition it is incompatible with the common market.\(^\text{19}\)

2.3 THE RELEVANT MARKET IN EC COMPETITION LAW

In order to make an assessment of undertakings’ activities, according to Article 82 EC and the Merger Regulation, the relevant market has to be defined. The concept of the relevant market is an economic one, the definition requires an economic test regarding substitutability of different factors which are significant in the assessment of the relevant market. The broader definition of the market, the less likely it is to find that the undertaking or undertakings are dominant on the market. The Commission has been criticized for defining the relevant market

\(^{17}\) Article 2, para. 2 of the Merger Regulation

\(^{18}\) Article 2, para. 3 of the Merger Regulation

\(^{19}\) Article 2, paras. 1-3 of the Merger Regulation
too narrowly. If the market is defined too narrowly an undertakings’ position on the market will be exaggerated and it is more likely that the undertaking is considered to possess a dominant position.\textsuperscript{20} Thus the “correct” definition of the relevant market is crucial, not only for the undertaking and its business, but for the Commission’s accuracy in its definition. According to Korah are “Market definitions … often arbitrary and should not determine whether the firm has market power but they do focus attention on the factors relevant to appraising market power.”\textsuperscript{21} The definition of the relevant geographic market, a part of the relevant market, is a tool in the analysis of whether there is a question of dominance of an undertaking or undertakings as well as in the analysis of the assessment of competition and the effects of measures carried out by undertakings which restrain competition. Consequently, the question of dominance under Article 82 EC and the Merger Regulation cannot be addressed unless the relevant market has been defined.

\textsuperscript{20} Jones, Alison, Sufrin, Brenda, EC Competition Law, Text Cases and Materials, Second edition, 2004, p. 299
3. DEFINING THE RELEVANT GEOGRAPHIC MARKET WITHIN EC COMPETITION LAW

In this part of the study the substitutability test, applied by the Commission as stated in the Commission Notice, will be looked into as well as the factors which are significant in the definition of the relevant geographic market. The factors will be discussed with references to case law.

3.1 THE COMMISSION’S ASSESSMENT OF THE GEOGRAPHIC MARKET

In secondary legislation the definition of the relevant geographic market can be found in the Commission Notice on the definition of relevant market for the purposes of Community competition law.22 The Commission Notice “attempts to capture the Commission’s experience of market definition over many years, and explains some of the techniques which may be deployed when defining markets”.23 The Commission defines the relevant market on the basis that: “The relevant geographic market comprises the area in which the undertakings concerned are involved in the supply and demand of products or services, in which the conditions of competition are sufficiently homogeneous and which can be distinguished from neighbouring areas because the conditions of competition are appreciably different in those area”.24 It should be noted that the Commission’s interpretation of the relevant market is without prejudice to the interpretation that may be given by the European Court of Justice or the Court of First Instance.25

It is clarified in the Commission Notice that defining the market is a tool in identifying and defining the boundaries of competition between undertakings. The purpose of defining a market both in its product and geographic market is to identify the real competitors of the

22 Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013
24 Commission Notice on the definition of relevant market, para. 8
25 Commission Notice on the definition of relevant market, para. 6
undertakings involved which are capable of hindering those undertakings’ behaviour as well as hindering them from behaving independently of effective competitive pressure.\textsuperscript{26}

The scope of the geographic market may differ when analysing a concentration if the analysis is essentially a prospect of the future as oppose to an analysis of behaviour in the past. The different time perspective considered in each case may have the, somewhat questionable, outcome that different geographic markets are defined for the same products.\textsuperscript{27} This “problem” may be a non-existant one as the analysis is supposed to be concentrated on the past in dominance cases and on the future in merger cases, as will be explained. It may be that the outcome is not questionable at all, but the best way to deal with this assessment in EC competition law.

The definition of the relevant market plays a key role in cases under Article 82 of the EC Treaty as well as in cases brought under the Merger Regulation. As Goyder explained “The need to carry out a large number of market definition analyses from 1990 and onwards under the Merger Regulation (with its strict time limits) has alerted the Commission to the importance of a methodical and consistent approach to market definition in all cases.”\textsuperscript{28} One may speculate if this approach is evident in reality? It may be that the adoption of the Merger Regulation has changed the Commissions view on the definition of the geographic market in dominance cases. It may be assumed that improvement in a neighbouring area is applied in similar cases as well, thus improving competition law.

It has been suggested that in early cases under Article 82 of the EC Treaty the nature and scope of the identified abusive behaviour by undertakings were sometimes allowed to play too an important role in the assessment of the geographic market. The Commission Notice on the definition of relevant market for the purposes of Community competition law was therefore intended to reassure that the Commission would try to find a reliable methodology in cases under Article 82 EC as well as in merger cases. The Commission Notice does nevertheless point out the noteworthy differences in the definition of the relevant market in those two cases. In merger cases the focus lies on future consequences of the merger and in cases under Article 82 EC the focus lies on past behaviour of the undertaking. The focus is on the future in

\textsuperscript{26} Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013, para. 2
\textsuperscript{27} Commission Notice on the definition of relevant market, para. 12
\textsuperscript{28} Goyder, D. G., EC Competition Law, Fourth edition, 2003, p. 278
cases brought under the Merger Regulation due to the possibility, or probability, of for instance a result of changes in distribution, patent or advances in technology. The focus is on the past in dominance cases because the Commission must be concerned with the way markets have worked over a period of time. Note that in many cases the geographic market has nonetheless been established on the same grounds in both Article 82 and merger cases. This may be the case as dominance cases and merger cases are alike in the definition of the relevant geographic market and therefore may be similarly assessed.

The evidence the Commission relies on to establish the relevant geographic market in practice is as follows. The Commission will take an initial view of the scope on the geographic market based on broad indications regarding distribution of market shares between an undertaking or several undertakings and their competitors. An initial analysis of pricing and differences in price at national level as well as EC or EEA (European Economic Area) level will as well be executed. At this stage the initial view is essentially a “working hypothesis” to gather the enquiries which the Commission has for the purpose of establishing a definition of the geographic market. This hypothesis will be checked against an analysis of the characteristics demanded. For instance, the importance regarding national or local preference, the costumers’ present pattern of purchase, differentiation in products or differentiation in brands. This is done in order to establish if undertakings in different areas constitute an alternative source of supply for consumers. The question to be answered at this stage is whether the consumers would, in theory, change their orders to undertakings located somewhere else in the short term as well as at a minor cost, the substitutability test.

If deemed necessary an additional test regarding supply factors will be executed to ensure that undertakings, which are located in differing areas, do not come upon any hindrance in initialising their sales on competitive terms throughout the entire geographic market.

Examples and development in trade flows provide further indications as to the economic importance of the demand or supply factors above. The extent to which they may, or may not, form real barriers which result in the creation of different geographic markets may as well be

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30 Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013, paras. 28-29
31 For details regarding the examination see Commission Notice on the definition of relevant market, para. 30
32 Commission Notice on the definition of relevant market, para. 30
indicated from analysing trade flows. In this analysis questions regarding transportation costs, and to what extent such costs may hinder trade between different areas, are normally addressed. This subject is addressed in regard to “plant location, costs of production and relative price levels”.  

Thus the relevant geographic market consists of all the areas “where consumers can find demand-side substitutes for the products of the firm under scrutiny (demand-side substitution) and there are suppliers who can readily shift production to the markets where the firms whose commercial practices are investigated operate (supply-side substitution)”. “Chain substitutability” is as well relevant in the definition of the scope of the relevant geographic market.

The Commission also takes into consideration the ongoing process of market integration when identifying geographic markets, mainly in the area of “concentrations and structural joint ventures”. This is especially done within the European Community. As will be shown in the discussion of case law, the Commission’s consideration of market integration may be questioned as the Commission appears to favour narrower definitions of relevant geographic markets.

It should be noted that in certain cases the boundaries of the relevant geographic market may be expanded. This is the case if geographic areas, which are not directly substitutable, are taken into consideration and included in the geographic market definition due to “chain substitutability”. If two geographic areas are not substitutes for one another, however there is a third area which is a substitute for them both, the two first mentioned areas can be considered to be substitutes for each other since their areas may be constrained by the third geographic area. This expansion should be effectively confirmed to avoid the risk of excessively widening the scope of the relevant geographic market. Evidence must show that

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33 Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013, para. 31
34 O’Donoghue, Robert, Padilla, A Jorge, The Law and Economics of Article 82 EC, 2006, p. 91
35 Discussed more in detail two paragraphs below
36 O’Donoghue, Robert, Padilla, A Jorge, 2006, p. 91
37 Commission Notice on the definition of relevant market, para. 32
38 Commission Notice on the definition of relevant market, para. 32
the degree of substitutability between geographic areas is strong.\textsuperscript{40} One might question how often this is done in reality as the tendency is to narrowly define geographic markets. However, this possibility may play a more visible part in the future due to the prevailing process of market integration.

For the Commission to come to a conclusion regarding the scope of the geographic market certain evidence is contemplated, explained above. The evidence may be divided into categories; “Past evidence of diversion of orders to other areas”, “Basic demand characteristics”, “Views of customers and competitors”, “Current geographic pattern of purchases”, “Trade flows/pattern of shipments”, and “Barriers and switching costs associated to divert orders to companies located in other areas”.\textsuperscript{41,42} These evidences may be relevant in deciding the geographic market. However this does not mean that it is required to gather evidence and assess every one of these factors in every case. The Commission will define a geographic market on the basis of the evidence which has been assembled. The geographic market can range from local to global.\textsuperscript{43}

Although some indications can be given on how the Commission deals with definitions of the relevant markets, Hildebrard means that there is “little or no analysis of the relevant geographic market”.\textsuperscript{44} This may be explained by perhaps an obvious geographic market, or possibly that defendants have failed to challenge the definition made by the Commission.\textsuperscript{45} Judgments from the European Court of Justice emphasize the importance of defining the relevant market, and with that the relevant geographic market. These judgments do not offer guidance on how such a market should be defined.\textsuperscript{46} This may be explained by the fact that the Commission in its previous gathering of information and evidence has defined the relevant geographic market according to the Commission Notice.

\textsuperscript{40} Hildebrand, Doris, The Role of Economic Analysis in the EC Competition Rules, Second edition, 2002, p. 303
\textsuperscript{41} Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013, paras. 44-50
\textsuperscript{42} Evidence discussed more in detail under 3.2
\textsuperscript{43} Commission Notice on the definition of relevant market, paras. 51-52
\textsuperscript{44} Hildebrand, Doris, 2002, p. 301
\textsuperscript{45} Hildebrand, Doris, 2002, p. 301
3.2 FACTORS WHICH ARE TAKEN INTO CONSIDERATION IN THE ASSESSMENT OF THE GEOGRAPHIC MARKET

An undertaking always produces its services or products in a certain geographic area. Undertakings which are located too far from each other are not in competition. How far these distances have to be, for undertakings not to pose a threat to each other, depends on both the nature of the services or products as well as the factors which are related to them, for instance transportation costs. The identification of the different factors, and the assessment of them, is what determines the geographic reach of the services or products.\(^{47}\) Note that consumers’ current pattern of purchases, alternatively trade flows\(^{48}\), are as well examined and offer useful information as to the probable scope of the geographic market.\(^{49}\)

The relevant geographic market is defined by the area within which the dominant undertaking or undertakings may be able to engage in abuses, abuses which hinder effective competition. Thus the definition depends on the location of the undertaking as well as on the nature of the undertaking’s activities.\(^{50}\) A variety of sources of evidence have been relied on, by the Commission, the Court of First Instance and the European Court of Justice, to assess the extent of demand-side and supply-side substitution in different geographic areas. Information regarding, for instance barriers to trade and consumer preferences, are collected and analysed in the assessment of the extent to which suppliers located outside the probable geographic market effectively control the behaviour of suppliers situated inside the probable market.\(^{51}\) The definition of the relevant geographic market depends on these factors. The different factors are discussed below with examples from case law.

\(^{47}\) Slot, Piet Jan, Johnston, Angus, An Introduction To Competition Law, 2006, p. 12

\(^{48}\) Trade flows = statistics on trade. The statistics have to be sufficiently detailed in regards to the relevant products in order to be useful in the definition of the scope of the geographic market. Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013, para. 49

\(^{49}\) Commission Notice on the definition of relevant market, paras. 47-48

\(^{50}\) Hildebrand, Doris, The Role of Economic Analysis in the EC Competition Rules, Second edition, 2002, p. 299

\(^{51}\) O’Donoghue, Robert, Padilla, A Jorge, The Law and Economics of Article 82 EC, 2006, p. 93
3.2.1 SUFFICIENTLY HOMOGENEOUS AREA

In the definition of the geographic market the conditions of competition on the market are looked into as a part in the assessment. Case law from the European Court of Justice indicates that the relevant geographic market will include all areas in which the conditions of competition are sufficiently homogenous, i.e. the conditions of competition for undertakings must be the same for all traders, or at least almost the same.

In the *United Brands* case the ECJ held that “The opportunities for competition under Article 86 [now Article 82, remark added] of the Treaty must be considered … with reference to a clearly defined geographic area in which it is marketed and where the conditions of competition are sufficiently homogeneous for the effect of the economic power of the undertaking concerned to be able to be evaluated.” The Court also pointed out that the conditions for the application of Article 82 EC to an undertaking in a dominant position assume a clear delimitation of the substantial part of the common market. In which market the undertaking may be able to engage in abuse to the hindrance of effective competition. This is an area where “the objective conditions of competition applying to the product in question must be the same for all traders”. The Court went on to clarify that the Community had not established “a common organization of the agricultural market in bananas”. As a result arrangements regarding import differed significantly from Member State to Member State. The effect of the national organizations of three markets (France, Italy and the United Kingdom) in the case was that United Brand’s bananas did not compete on the same terms as other bananas sold in states, as they had an advantage from a special system. (The three states had special arrangements with their former colonies.) According to the Court the Commission made a correct decision in excluding the three markets mentioned from the geographic market which was under consideration. The six other states in the case were markets which were entirely free, although “the applicable tariff provisions and transport costs” were different, but they needed to differ. In these markets the conditions of

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54 Case 27/76, United Brands Company and United Brands Continentaal BV v. Commission, para. 11
55 Case 27/76, United Brands Company and United Brands Continentaal BV v. Commission, para. 44
56 Case 27/76, United Brands Company and United Brands Continentaal BV v. Commission, para. 45
57 Case 27/76, United Brands Company and United Brands Continentaal BV v. Commission, paras. 44-46
58 Jones, Alison, Sufrin, Brenda, 2004, p. 326
59 Case 27/76, United Brands Company and United Brands Continentaal BV v. Commission, para. 52
competition were equal to all. From the perspective of being able to engage in free competition the Court held that the six states together were an area uniform enough to be considered in its entirety\(^60\), i.e. as a geographic market. Thus the relevant geographic market should be “categorized by homogeneous competitive conditions”\(^61\). In this case it was established that the objective conditions of competition concerning the product in question shall be the same for all traders, i.e. the area must be satisfactorily homogeneous.\(^62\)

In the case of *Deutsche Bahn*\(^63\) there was a difference in tariffs applied on western railway journeys and on northern railway journeys. The CFI held that “… the definition of the geographical market does not require the objective conditions of competition between traders to be perfectly homogenous. It is sufficient if they are “similar” or “sufficiently homogeneous” and, accordingly, only areas in which the objective conditions of competition are heterogeneous may not be considered to constitute a uniform market.”\(^64\) Consequently, the more intense competition on western railway journeys then on northern railway journeys did not mean that the objective conditions of competition on western journeys were heterogeneous.\(^65\) The requirement that the competitive conditions in the relevant geographic market had to be homogeneous, which was established in the *United Brands* case was strengthened in *Deutsche Bahn*. In this case, it was enough that the competitive conditions were sufficiently homogenous.

### 3.2.2 THE UNDERTAKINGS’ ACTIVITIES

In the definition of the relevant geographic market the undertaking’s activities is a factor which is considered. If the undertaking’s activities are restricted to a national market, it is a good indication that the relevant geographic market is the national market. Alternatively, if


\(^{65}\) Case T-229/94, *Deutsche Bahn AG v. Commission*, paras. 91-92
the activities are evident throughout the whole EC the relevant geographic market may well be the entire Community.

In the past, the relevant geographic market was on a regular basis defined by reference to the area in which the abuse by an undertaking took place. This definition was done without any detailed analysis.\(^{66}\) It may partly be because of this that the relevant geographic market could be defined without any difficulties in some early cases.

In the case of *Hoffmann-La Roche*\(^ {67}\) it was shown that the geographic market, which was to be considered, included the whole common market of the EC.\(^ {68}\) The geographic scope of the abusive conduct of the undertaking in the case was considered to be a general community-wide strategy as the vitamins sold by the undertaking were sold throughout the EC.\(^ {69}\)

In the *Michelin I* case\(^ {70}\) the Commission stressed that since tyre manufacturers had chosen to sell their products on national markets, the competition that *Michelin* faced was on the Netherlands market. The Commission addressed its decision to *Michelin*’s subsidiary whose activities were concentrated in the Netherlands, and not to the *Michelin* group as a whole. In practice dealers established in the Netherlands received their supplies merely from suppliers which operated in this market. Because of this the Commission was right in taking the view that the competition facing *Michelin* was mostly on the Netherlands market, and that “it is at that level that the objective conditions of competition are alike for all traders.”\(^ {71}\) It must be noted that the decision of the *Michelin I* case does not include any analysis of transportation costs as well as no analysis of cross-elasticity of supply factors. The Commission has been harshly criticized because of its failure to analyse this.\(^ {72}\) Nor did the Commission take into assessment whether or not consumers could, without difficulty, have bought *Michelin* tyres from other manufacturers outside the Netherlands. The geographic market appears to have been restricted to the area in which the Commission found that the alleged abuse took place.\(^ {73}\)

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\(^{68}\) Case 85/76, *Hoffmann-La Roche & Co. AG v. Commission*, para. 22  
\(^{71}\) Case 322/81, *Nederlandsche Banden-Industrie Michelin v. Commission*, paras. 24-26  
\(^{72}\) Hildebrand, Doris, 2002, p. 300  
This case is one of the most criticized cases when it comes to defining the relevant geographic market. The relevant geographic market was very narrowly defined in the case, the negative effect of this is that undertakings are more easily found to be dominant on the market. As there has been (severe) criticism of the Commission’s assessment one may question the precedence of the *Michelin I* case.

In the *British Telecommunications* case the scope of the geographic market was rather uncomplicated to establish. In the case the relevant geographic market was considered to be the United Kingdom as *British Telecommunications* had a monopoly regarding telecommunication services in that state. According to Bellamy and Child this case is an example of assessing the geographic market on the grounds of where the abuse took place.

In the *Alsatel v. Novasam* case Mr Advocate General Mancini noted that the Commission rightly pointed out that the sector installers and manufacturers of telephone exchanges for business use in the case could only operate with the authorization of the postal and telecommunications authorities, and were as well in direct competition with them. The Advocate General meant that their conduct should, because of this, be assessed by reference to the territory which was covered by the monopoly. It followed from the nature of the service under consideration in the case that installers competed primarily at regional or local level, thus the Advocate General concluded that proof of a dominant position must be provided for at that level. The Commission’s argument was that within the whole market in telephone installations it was possible to identify a market in the rental and maintenance of telephone equipment. Market competition between installers operated primarily at the local level and regional level and it was on that geographical sub-market where the dominance should be assessed. The CFI did however part from the Advocate General’s opinion and from the Commission’s assessment due to the fact that the undertaking, and its conduct, which was examined in the case was authorized to operate on the complete French territory, not only in a part of it. The Court held that in circumstances such as in the case, the economic strength of an undertaking can only be assessed in the geographical context of the national territory as a

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79 Opinion of Mr Advocate General Mancini on 31 May 1988, Case 247/86, *Alsatel v. S. A. Novasam*, para. 5
80 Case 247/86, *Alsatel v. S. A. Novasam*, para. 16
The ECJ, like the CFI, showed scepticism about defining the relevant geographic market too narrowly and held that the facts of the case failed to establish that the Alsace region in France, rather than France in general, constituted the relevant geographic market.

Thus the geographic market consisted of the entire France as it could not be proved that the assessment should be made in merely a region of the Member State.

The focus on undertakings’ activities has sometimes constricted the market definition to specific facilities within a Member State, such as ports, as was the case in *Porto de Genova I*, or airports, as in the case of *Aéroports de Paris*. The limitation of the relevant geographic market to such a narrow one may be done where the closest facility is practically unsuitable. In some case the product alternatively service must be provided within a local facility by definition.

In the Commission’s *Michelin II* decision the Commission devoted significant attention to its definition of the relevant geographic market. The Commission responded to an argument presented by *Michelin* by stating that “The argument that the largest international tyre producers compete in numerous countries and across the European Union in no way means that it can be supposed that the relevant geographic market is the world market. This situation is perfectly compatible with the existence of conditions of competition which are appreciably different in each of the relevant countries. This was already the situation in the tyre industry at the time, when the Court of Justice found that the Dutch new replacement tyre market was a national market.”

It may be suspected that this statement was made by the Commission to defend itself against the criticism of *Michelin I*. The relevant geographic market was again considered to be a national one, France, in the case. This judgement was contested by *Michelin*. The Court of First Instance dismissed the application in its entirety.

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88 O’Donoghue, Robert, Padilla, A Jorge, The Law and Economics of Article 82 EC, 2006, p. 97
90 Jones, Alison, Sufrin, Brenda, 2004, p. 329
91 Case No COMP/E-2/36.041/PO, *Michelin*, para. 123
3.2.3 BARRIERS TO TRADE

In the Commission Notice on the definition of relevant market for the purposes of Community competition law it is explained that barriers, which result in isolating a national market, have to be identified in a case before the relevant geographic market is limited to a national one.94

3.2.3.1 Transportation costs

Among the factors that determine the width of the geographic market, transportation costs are especially significant. “Where products are valuable in relation to their transport costs, as with micro-chips or diamonds, the geographic market will tend to be wide. Conversely, where the cost of a product is low in relation to its transport cost, as in the case of bricks or roofing tiles, the geographic market is likely to be narrower.”95 Thus, the easier it is to transport goods from a distance the wider the probable geographic market will be. Import tariffs are, as well, costs that add to the price of transportation for the undertakings.96

In Commission decision Napier Brown-British Sugar97 the assessment of the scope of the geographic market was influenced by transportation costs. The Commission held that in the assessment of if the company in the United Kingdom had a dominant position regarding its production and sale of sugar, the relevant market was Great Britain. The assessment of the relevant market was based on the fact that there were very limited imports that were not considered to be an alternative to British sugar, only a compliment.98 This case is an example of a creation of a narrower geographic market through Community regulation as a result of high transportation costs or consumer preference. The relevant geographic market can in such cases be limited to a number of Member States (as in the United Brands case), one Member State, or a part of a Member State.99

94 Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013, para. 50
96 O’Donoghue, Robert, Padilla, A Jorge, The Law and Economics of Article 82 EC, 2006, p. 94
99 Jones, Alison, Sufrin, Brenda, 2004, p. 327
In the Commission’s *Italian Flat Glass*\(^{100}\) decision the Commission found that flat glass became less and less competitive as the distance from the production facility grew further. Thus, transportation costs were a significant factor in limiting the relevant geographic market for flat glass to Italy. In the case the relevant geographic market was established by the Commission as the Italian market due to the fact that it supplied “at least four-fifths of the domestic consumption”.\(^{101}\) The geographic market was determined by transportation costs as well as consumer consumption because the Court of First Instance implied\(^ {102}\) that it is not sufficient to claim only that high transportation costs indicate that the relevant geographic market should be limited to a Member State or only a part of a Member State where the production facilities are located. The analysis of the relevant geographic market should examine whether transportation costs are an important factor in reality.\(^ {103}\)

The Commission’s assessment of the geographic market in the *Hilti*\(^ {104}\) case was the entire EC, this assessment was also supported by the Court of First Instance. The relevant geographic market was deemed as the whole Community because there were significant price differences for *Hilti* products between Member States and because transportation costs for nails for nail guns were low. These two factors made parallel trading very likely between the national markets in the EC according to the CFI.\(^ {105}\) The ECJ later confirmed in *Hilti*\(^ {106}\) that the relevant geographic market is to be regarded as the entire EC. This is however not the case if there are special factors which are to be considered, factors which limit the geographic market to a narrower one than the whole Community. For instance, some goods or services may be delivered throughout a large area and others may only be delivered within a small area, due to technical or practical reasons. Transportation costs are for instance a deciding factor,\(^ {107}\) as explained above.

\(^{100}\) See Case No IV/31.906, *Flat Glass*, [1989] OJ L33/44


\(^{103}\) Hildebrand, Doris, 2002, p. 299


\(^{105}\) Case T-30/89, *Hilti AG v. Commission*, paras. 79-81


In the Commission’s *Tetra Pak* decision the Commission defined the market for milk packaging machinery as the entire EC due to the fact that such machines were sold in every Member State and because transportation costs were low. *Tetra Pak*’s arguments were however, that the markets were national as distribution was organized on the national levels and that prices as well as patterns of consumption were national. The Court of First instance agreed with the Commission’s assessment of the markets in the case. The differences in prices were a result of artificial separation of markets made by *Tetra Pak* and other undertakings, consequently the different prices were not suggestive of different conditions of competition. Weight was as well given to the use of national subsidiaries which were attributable to the group-wide strategy of separate markets which *Tetra Pak* had. The CFI concluded that the Commission correctly pointed out that it is not necessary for the conditions of competition between undertakings to be homogeneous, accordingly it is enough that they are sufficiently homogeneous (citing the *United Brands* case). The Court deemed that the establishment of major manufacturers of packaging systems in each Member State, among other factors, was not sufficient to establish that the conditions of competition were specific to the territory of each Member State. Furthermore, *Tetra Pak* had a common commercial strategy which was used in all Member States, thus not individually depending on the Member States. The Commission defined the relevant geographic market to be the whole EC for three main reasons, and the CFI agreed with the Commission’s assessment. Firstly, the demand for *Tetra Pak*’s products was stable, even though it varied in intensity between Member States, throughout the EC. Secondly, costumers could acquire supplies in other Member States, for this reason the local distribution was only necessary to install, maintain and repair machines. Thirdly, very low transportation costs made it easy to trade between Member States. In this case alleged consumer preferences, as argued by *Tetra Pak*, regarding type of milk and packaging, had no effect on the conditions of competition which were the same for all manufacturers within the EC. Consequently, the relevant geographic market in the case was the whole Community.

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110 Hildebrand, Doris, 2002, p. 300
It makes sense that the factor of transportation costs is important in the assessment of the geographic market. An undertaking cannot be expected to transport low priced products, for instance bricks, as the cost of transportation would not be justified due to a low sales price. There is no profit in that. It should be noted that if an undertaking was to move its manufacturing of a product to other Member States transportation costs may no longer be an issue.

3.2.3.2 Consumer preferences

The assessment of whether consumers have a preference for local products is important, as well, in the procedure of defining the relevant geographic market. Such preferences are not unusual, and may be derived from “cultural differences, differences in lifestyle or differences in language”. Preferences for national brands, as well, have a strong potential to limit the geographic market. Consumer preferences may make the definition of the relevant geographic market narrower because it is harder for an outside undertaking to sell its products on the market if the consumers prefer local products. This can result in a very narrow geographic market definition, such as a part or a province of a Member State. Consumer preferences constitute as a barrier to trade due to outside undertakings’ difficulties in establishing themselves in the market were the consumers exclusively buy local products.

In the Commission’s Nestlé/Perrier decision, the relevant geographic market for mineral water was restricted to France. This was the case because French consumers persistently continued to select local products, despite the fact of the integration of the European Union.

3.2.3.3 Further barriers to trade

As explained above the existence of barriers to trade may result in separate relevant geographic markets. Along with transportation costs and consumer preferences, four more barriers to trade can be derived from case law as well as economic literature; capacity

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112 O’Donoghue, Robert, Padilla, A Jorge, The Law and Economics of Article 82 EC, 2006, p. 94
113 Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013, para. 46
114 See Case No IV/M.190, Nestlé/Perrier, [1992] OJ L356/1
constraints, long-term contracts, regulatory barriers and local presence. Regarding capacity constraints, if undertakings in areas which are distant from the possible geographic market can offer their products within that market at a low cost, those areas should be included in the relevant geographic market. Note that if capacity constraints exist it may result in separate geographic markets. Concerning long-term contracts, if undertakings in different areas are unable to divert their sales from their current area to areas within the possible geographic market, even after price increase, due to long-term contracts, those areas would not form a single geographic market. Regulatory barriers may limit the extent of the relevant geographic market. Regulatory barriers are for instance “legal monopolies, price regulation, or technical standards”\(^{116}\) (Examples of legal monopolies in Sweden are “Systembolaget” and “Apoteksbolaget”). Concerning local presence, in some cases where it is of importance to have a local distribution, outside competition may be at a disadvantage and thus not being able to compete with domestic traders.\(^{117}\)

3.2.4 OUTSIDE COMPETITION

By outside competition it is understood that the competition in question is not a factor in the definition of the geographic market. If outside competition is taken into consideration, in the assessment of the relevant geographic market, the scope of the definition may be too broad. As the definition of the geographic market can be made on the wrong grounds if competition from outside the relevant market is taken into consideration, it may result in an incorrect assessment of market power.\(^{118}\)

In the case of British Airways\(^{119}\) it was difficult to establish the relevant geographic market.\(^{120}\) In the case it was stated that the distribution of airline tickets takes place at a national level and that airlines structure their commercial services at a national level, therefore the Commission’s definition of the relevant geographic market was the United Kingdom market.\(^{121}\)

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\(^{116}\) O’Donoghue, Robert, Padilla, A Jorge, The Law and Economics of Article 82 EC, 2006, p. 95


\(^{118}\) Jones, Alison, Sufrin, Brenda, EC Competition Law, Text Cases and Materials, Second edition, 2004, p. 331


\(^{120}\) Jones, Alison, Sufrin, Brenda, 2004, p. 331

\(^{121}\) Case T-219/99, British Airways plc v. Commission, paras. 111-112, 116
It is likely that the reasoning regarding outside competition will weaken in the near future as the Internet must be considered in relation to the assessment of the relevant geographic market, airline tickets are for instance easily purchased online. Consequently, the Internet enables a common market regarding the distribution of airline tickets.

### 3.2.5 BARRIERS TO ENTRY

Barriers to entry are significant in the definition of the relevant geographic market because if there are barriers to entry on a national market it is more difficult for outside undertakings to make their way into that market. As a result the relevant geographic market may be limited to a national market.

Entry barriers on the supply side prevent new undertakings from “entering a profitable market on a sufficient scale as prices rise and that few firms have, or can, overcome them”. The adoption of practices, by an established undertaking, for instance discount structure or raising rivals’ costs also constitute as barriers to entry. It makes it harder for small undertakings to compete effectively on the market.

In the Commission’s *Volvo/Scania* decision both parties were manufacturers of trucks and types of buses based in Sweden. The manufacturers had a combined market share of between 50 per cent and 90 per cent in Sweden, and their combined market share for trucks over 16 tonnes was over 90 per cent. *Volvo* and *Scania* claimed that the relevant geographic market was not only the Swedish market, but the entire Scandinavia or even the entire EC. The Commission, in its assessment of the geographic market, placed a great deal of weight on the barriers to entry which existed for manufactures who wanted to enter the Swedish market “in particular the difficulty of establishing an adequate after-sales network.”

No other major manufacturer for above mentioned vehicles had been able to gain a substantial market share in

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124 Case No COMP/M.1672, Volvo/Scania, [2000] OJ EPO 143/74
Sweden for several years. Thus the relevant geographic markets were national,\textsuperscript{126} for example Sweden, Finland, Denmark and Ireland.\textsuperscript{127} It should be noted that a market share of 90 per cent is likely to be reduced as consumers may very well start searching for alternatives. The general opinion may be believed to be that a variety of choices are wanted on the market.

There has been some criticism of the \textit{Volvo/Scania} decision, of the Commission’s decision to adopt national geographic market definitions in relation to smaller Member States. The Commission, however, disregarded this criticism by stating that its decisions are not unfavourable to undertakings from smaller Member States and that consumers in such states require protection against market power just as much as customers in larger Member States do.\textsuperscript{128} It is hoped that the Commission is objective in this question. There should be no discrimination of smaller Member States as that would not be in line with EC competition law or the goals of the Community. As every competition case is assessed on the facts of the case there are naturally differences in the definition of the relevant geographic markets, the importance is that the Commission maintains its objectiveness as to the definition.

\subsection*{3.2.6 PRICES}

Prices, also, is a factor which is considered when the relevant geographic market is defined. There may be an increase in prices due to a particular licence which is required to sell certain goods on a national market, thus making it more expensive for non-domestic undertakings to sell their goods on that market. If the price of competition is higher for outside undertakings trying to compete on the market the price may be a decisive factor in the definition of the geographic market, thus assessing it as a narrower one.

Prices of products sold within the possible relevant geographic market cannot be higher than the prices for the same products outside the market, unless there are extensive obstacles to trade which justify the differences in prices. A strong positive connection between the prices of products sold in areas within and outside the probable relevant geographic market show

\textsuperscript{126} Goyder, D. G., EC Competition Law, Fourth edition, 2003, p. 360
\textsuperscript{128} Lindsay, Alistair, Lecchi, Emanuela, Williams, Geoffrey, Econometrics Study Into European Commission Merger Decisions Since 2002, European Competition Law Review, 2003, para. 3 (H6)
that “consumers located in the candidate market can easily purchase the product in regions outside it; or” that “suppliers outside the candidate market do not face obstacles to shipping their products into the boundaries of the candidate market”. The prices in two areas which lie in the same relevant market are expected to influence one another, but they do not need to be at exactly the same level. The extent of demand substitutability is considered by the willingness of consumers at the margin to change their purchase. Thus the geographic market should reflect “similarity of price movements rather then the similarity of price levels”.  

In Commission decision Mannesmann/Vallourec/Ilva the Commission used evidences on differences in absolute price levels to define separate relevant geographic markets. In the case the relevant geographic market was defined as Western Europe (the Member States and the EFTA countries) because there was “a high degree of mutual interpretation…” as well as “the structure of supply and demand is similar from state to state”. The relevant geographic market was not extended further than Western Europe due to differences in price levels. The Commission argued that “only if there is mutual interpenetration can purchasers arbitrage price differences by buying in other areas”.

The Commission’s claim that “prices need to be the same in two regions so that consumers in region A can purchase from suppliers in region B and consumers in region B can purchase from suppliers in region A” in the case of Mannesmann/Vallourec/Ilva was considered to be incorrect by Bishop and Walker and the reasoning an example of the misunderstanding that market definitions are of necessity symmetric. One may come to the conclusion that minor dissimilarities in prices do not give reason to divide the market into several geographic markets.

It should be noted that parallel trading is related to the question of the significance of prices regarding the definition of the relevant geographic market. The possibility of parallel trading enables prices in different Member States to be levelled out. For example, an undertaking sells its product in two Member States. Consumers in Member State A buys the product in

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129 O’Donoghue, Robert, Padilla, A Jorge, The Law and Economics of Article 82 EC, 2006, p. 93
132 Bishop, Simon, Walker, Mike, 2002, p. 115
133 Bishop, Simon, Walker, Mike, 2002, p. 115
134 Bishop, Simon, Walker, Mike, 2002, p. 115
135 Bishop, Simon, Walker, Mike, 2002, p. 115
Member State B, even though the product is sold in Member State A, as the price in Member State B is lower. Consequently, the undertaking is forced to lower the price of their product in Member State A to keep its sales in that Member State. The situation described may work as an incentive for an undertaking to lower the price of its product in all states it is sold in.

### 3.2.7 CONCLUSION ON THE FACTORS’ RELEVANCE FOR THE DEFINITION OF THE GEOGRAPHIC MARKET

As has been discussed above, different factors are used in the assessment of the relevant geographic market. The factors which are to be considered are the same in dominance cases as in merger cases. The importance attributed to each factor varies from case to case. In some cases, an individual specific factor, as e.g. transportation costs (Italian Flat Glass), has played a significant role in the definition of the geographic market, while in other cases the market has been decided on the grounds of another factor. Not all factors are taken into consideration in every case. The facts of the case at hand decide what factors will play a role in the definition.

The Commission may give too much importance to regional differences in the definition of the relevant geographic market and as a result failing to analyze the degree of substitutability directly between different areas.\(^\text{136}\) The case law discussed above clearly shows this tendency, as in several cases the relevant geographic market is constricted to one Member State. It seems that the Commission has omitted to examine the relevance of the different factors in some cases. One can only speculate why that is. Has the outer limits of the relevant geographic market been considered to be clearer in some cases and the Commission has felt no need to assess the different factors? Whatever the case may be, the definition of the relevant geographic market should be properly examined as it is necessary for the application of Article 82 of the EC Treaty and the Merger Regulation. The reasoning made by the Commission in some cases is not clear. The different factors, which are considered in the assessment of the relevant geographic market, are of importance in the definition, as case law has exemplified. The significance of some of the factors may be weakened in the future as

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other factors may come into play. For example, it is likely that the Internet will play a more important role in the future as a means of competition in distant markets. In the long run this may broaden the area where competition is homogeneous.
4. CONCLUSION

It is not entirely clear what constitutes as geographic markets within EC competition law, although indications can be given as to the assessment of such. Naturally the relevant geographic market differs from case to case and the definition is dependent on the facts of the case, such as where the undertakings sell their products or services. It is clear that the definition of the geographic market is essential in EC competition law as the dominance question under Article 82 of the EC Treaty and the Merger Regulation cannot be decided without a clear definition of the relevant market.

The definition of the geographic market within EC competition law is made by the Commission or the Courts on the basis of certain evidences or factors. The significance of these factors in case law is debatable. One belief is that the assessment of the relevant geographic market is in fact not considered, instead it is defined by reference to where the alleged abuse by an undertaking takes place. It is safe to say that the outcome of some cases have been severely criticized, for instance Michelin I. The criticism was in regard to the Commission’s supposed failure to take transportation costs into consideration in the definition of the geographic market. Nevertheless, the Commission defended its definition in the Michelin II case and was hereby not concerned with the criticism.

The relevance of the different factors for the substitutability test, as laid down in the Commission Notice on the definition of relevant market for the purposes of Community competition law, is a question for debate. As will be reminded, the substitutability test is whether the consumers would, in theory, change their orders to undertakings located somewhere else in the short term as well as at a minor cost. Certainly the factor of transportation costs as well as prices plays a role in this test. Although it is not always clear whether the Commission takes this test into consideration in its assessment. For legal certainty it is hoped that, even if not explicity stated, the test is regarded at least to some extent. If it is clearly stated how the Commission’s assessment is made in every case, undertakings may have the possibility to adapt their activities to be in line with competition law and thus be compatible with the common market.
It does not appear to be any differences in the assessment of the geographic market in cases decided under Article 82 of the EC Treaty and in cases decided under the Merger Regulation other than the difference pointed out in the Commission Notice. The analysis regarding dominance cases is an analysis of the undertakings’ behaviour in the past, and the analysis made in merger cases is supposed to be a prospect of the future consequences of a merger. Though, it seems that the relevant geographic market has been defined on the same grounds in both types of cases. Therefore one might question if, in reality, there really is a difference in the definition.

The tendency has clearly been to establish narrow geographic markets. The Commission’s definition of the relevant geographic market has favoured national markets in case law under Article 82 of the EC Treaty, for instance in Michelin I. The geographic market has even been constricted to an essential facility, such as ports, as in the case of Porto de Genova I. Considering the integration of the common market in the European Union one might argue that the definitions are too narrowly made. Although, if the facts of the case indicate a narrow definition of the relevant geographic market, the integration of a common market in Europe cannot be allowed to be used as an argument to widen the geographic market. A correct assessment of the market must prevail, there has to be legal certainty in this legal matter as in all fields of the law. If the assessment is made with the integration of a common market in mind, one may perhaps argue that the definitions of geographic markets are arbitrary as it would not be possible to foresee on what grounds the assessment would be made. Time will tell if the tendency to define relevant geographic markets narrowly will change in the future. If the definitions are to be in line with the goals of the Community, it is likely that the assessment will be made on somewhat different grounds in the future, not allowing restrictions between Member States to play such a major part.

As has been discussed when determining the relevant geographic market it may be concluded that the Commission has its primary focus on undertakings in its analysis. In the assessment, there is as well some focus on consumers and their patterns of purchases and preferences. This is indicated by the fact that undertakings are more easily found to be in a dominant position when the relevant geographic market is defined narrowly. Consumer protection definitely has a part in the Commission’s assessment, and it should. It should not, however, have the result that the position of undertakings is assessed on the wrong grounds. The
purpose must be to establish a friendly environment for undertakings, thus maximising the economic growth in the Community.

One must realize that definitions of relevant geographic markets are made at the time of the case, it does not appear that the Commission or the Courts take the possible different conditions on the market in the future into consideration. At least not it the long run. It may be considered to be an impossible task as there may be no clear indications of future market conditions in the facts of a case. That does not mean that, for instance consumer preferences as considered in the Nestlé/Perrier case, will not change over time. Competition law is an area which is changing, and consequently the Commission or the Courts may, in the future, have a different opinion of the definition of the relevant geographic market made in a case.

In the past the assessment of the relevant geographic market often started with the theory that it was the national market of a Member State, however with the progress of market integration one might assume that this should not be the case anymore. The barriers to trade between Member States seem to be more and more removed in the process of the integration of the European Union, as well as the expansion of the Union to include more Member States. This may be believed to create the situation that undertakings can compete with each other from different Member States, thus resulting in broader definitions of relevant geographic markets in the future.
5. LIST OF REFERENCE

5.1 LEGISLATION

Consolidated Version of the Treaty Establishing the European Community

Commission Notice on the definition of relevant market for the purposes of Community competition law, Official Journal C 372, 09/12/1997, p. 0005-0013


5.2 CASE LAW

5.2.1 EUROPEAN COURT OF JUSTICE


5.2.2 COURT OF FIRST INSTANCE

Case T-203/01, Michelin v. Commission, [2003] ECR II-04071


5.2.3 COMMISSION OF THE EUROPEAN COMMUNITIES

Case No COMP/E-2/36.041/PO, Michelin, [2002] OJ L143/1

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Case No IV/31.906, Flat Glass, [1989] OJ L33/44


5.3 LITERATURE


