

## **GML<sup>2</sup> 2012**

**15./16. März 2012 | Freie Universität Berlin**

Neue e-learning Ansätze in der Rechtswissenschaft  
zur Verbindung von Forschung und Lehre

Referentin: Dr. N. Kaeding, Freie Universität Berlin

# Ein neues e-learning-Projekt – warum?

## Motivation

- MBL-FU ([www.mbl-fu.de](http://www.mbl-fu.de)) - blended learning Konzept
- internationaler weiterbildender Masterstudiengang



## Ein neues e-learning-Projekt – warum?

Propädeutik und Erfassen bestehenden Wissens außerhalb des Studienganges

hohe Akzeptanz von Wikis bei den Studierenden (MBL-FU exercise Wiki/ EnergyWiki)

## Das Wiki

Wikis: Wissenspool zur effizienten Zusammenarbeit einer Community

- Sammeln und Verfügbarmachen von Informationen und deren Zusammenhänge

Struktur der Informationsvermittlung:

- Stichwortorientiert – ähnlich wie ein Lexikon (IP Wiki/ EnergyWiki)
- Kategorienorientiert (JuraWiki)

Community kontrolliert und korrigiert sich, zumeist anonym/pseudonym und mit heftigen Diskussionen

Destruktive Seite: kein Interesse an einem Thema, unbemerkte Fehler

## Das Wiki in der Rechtswissenschaft - Vorteile

Einfache Zusammenarbeit zwischen Studenten

Leichtes Sammeln von Informationen verschiedener Bereiche und zusammenhängende Darstellung.

Verschiedene Rechts- und Denkansätze können dargestellt und zusammengeführt werden

- Gemeinsamkeiten und Unterschiede werden sofort deutlich

Die Kenntnisse und Erkenntnisse bleiben nicht im Verborgenen, sondern werden anderen (Studenten und Externen) deutlich.

## Das Wiki in der Rechtswissenschaft - Nachteile

Typische Wiki Struktur entspricht nicht der Struktur in der Rechtswissenschaft:

- Norm-und problemgeleitetes Denken innerhalb eines übergreifenden Rahmens
- Methodik, insbesondere die Subsumtion werden nicht vermittelt
- Keine sinnvolle Erfassung des Rechts in Stichworten

# Sammlung und Ordnung von Wissen in der Rechtswissenschaft

## Der juristische Kommentar

Normgeleitetes Recherche-Instrument zu Themen oder Gesetzen:

- Erläuterung des Zusammenhangs des/ der Gesetze
- Wiedergabe der Norm
- Einordnung der Norm
- Erläuterung der Norm
- Juristischer Diskurs





# OnComment – Verbindung von Wiki und jur. Kommentar

On Comment Projekt

Propädeutische Lehre <-> Beiträge zur Rechtswissenschaft

Fortlaufende Begleitung des Studiums zu den jeweils aktuellen Themen

Kollaborative Zusammenarbeit der Studenten

Austausch der Studenten untereinander

Gesetzesübersicht

Zweiteilung des Wikis

Übung (Editorial Office) – Publikation (public OnComment)

Übungen durch Beantwortung von Aufgaben

Kontrolle durch die Dozenten

Freigabe durch die Dozenten für public OnComment

- Qualitätskontrolle/ Zitierfähigkeit



# OnComment – Verbindung von Wiki und jur. Kommentar

The screenshot shows a web browser window displaying a Confluence page. The page title is "OnComment on Competition and Regulation Law" and it is associated with the "MBL-FU" space. The page content includes a breadcrumb trail, a search bar, and a list of navigation links. The main content area contains a paragraph of text and a bulleted list of topics. A notification box in the bottom right corner indicates that the page was added to a collection.

Übersicht › OnComment › OnComment on Competition and Regulation Law. Durchsuchen ▾ Nadja Kaeding ▾  Options ▾

I. Methodology of EU Law

II. Competition Law

- Introduction to Competition Law
- Economic Foundations
- Competition Theories
- Competition Law of the EU
  - Art. 101 TFEU
    - Art. 101 TFEU - Consequences of infringement
    - Art. 101 TFEU - Introduction
    - Art. 101 TFEU para. 1
    - Art. 101 TFEU para. 2
    - Art. 101 TFEU para. 3
  - Block Exemption Regulations
    - Regulation 330-2010
    - Regulation 461-2010
    - Regulation 772-2004
    - Regulation 1218-2010
    - Regulation 1217-2010
- Art. 102 TFEU

III. European Union State Aid Law

- Art. 107 TFEU
  - The introduction to Art. 107 TFEU
  - Art. 107 TFEU Para. 1
  - Art. 107 TFEU Para. 2
  - Art. 107 TFEU Para. 3

IV. European Union Regulatory Law

- Energy Law
- Telecommunication Law
- Customer protection

Bearbeiten Hinzufügen ▾ Tools ▾

## OnComment on Competition and Regulation Law.

Hinzugefügt von CeDiS Administrator, zuletzt bearbeitet von Lydia Scholz am 19.01.2012 (Änderung anzeigen)

Online Commentary on Competition and Regulation Law.  
The Online Commentary was created and developed within the MBL-FU course a master's program on business, competition and regulatory law at the Faculty of Law of the Freie Universität Berlin.

If you are an editor, go to the [Editorial office](#).

In every case please consider our [Legal advice](#).

- I. Methodology of EU Law
- II. Competition Law
  - Introduction to Competition Law
  - Economic Foundations
  - Competition Theories
  - Competition Law of the EU
    - Art. 101 TFEU
      - Art. 101 TFEU - Consequences of infringement
      - Art. 101 TFEU - Introduction
      - Art. 101 TFEU para. 1
      - Art. 101 TFEU para. 2
      - Art. 101 TFEU para. 3
    - Block Exemption Regulations
      - Regulation 330-2010
        - Art. 1 - Definitions - Regulation-330-2010
        - Art. 2 - Exemption - Regulation-330-2010
        - Art. 3 - Market share threshold - Regulation - 330-2010
        - Art. 4 - hardcore restrictions - Regulation - 330-2010
        - Art. 6 - Non-application - Regulation - 330-2010
        - Art. 7 - Application of the market share threshold - Regulation - 330-2010
        - Art. 8 - Application of the turnover threshold - Regulation - 330-2010
        - Art. 9 - Transitional period - Regulation - 330-2010
        - Art. 10 - Period of validity - Regulation - 330-2010
      - Regulation 461-2010
        - Art. 1 - Definitions - Regulation 461-2010
        - Art. 2 - Application of Regulation 1400-2002 - Regulation 461-2010
        - Art. 3 - Application of Regulation 330-2010 - Regulation 461-2010
        - Art. 4 - Exemption - Regulation 461-2010

24 von 24 - Zwischenablage  
Element wurde der Sammlung hinzugefügt.

Atlassian Confluence 3.2.1\_01, das Enterprise Wiki. Intranet Software für Dokumentation und Wissensmanagement

## OnComment – Beispiel: öffentliche Darstellung



# OnComment – Verbindung von Wiki und jur. Kommentar

Übersicht > OnComment > OnComment on Competition and Regulation Law. > III. European Union State Aid Law
Durchsuchen ▾ Nadja Kaeding ▾

- I. Methodology of EU Law
- II. Competition Law
- III. European Union State Aid Law
  - Art. 107 TFEU
    - The introduction to Art. 107 TFEU**
    - Art. 107 TFEU Para. 1
    - Art. 107 TFEU Para. 2
    - Art. 107 TFEU Para. 3
- IV. European Union Regulatory Law

MBL-FU

## The introduction to Art. 107 TFEU

Hinzugefügt von Jan Krusche, zuletzt bearbeitet von Lydia Scholz am 19.01.2012 (Änderung anzeigen)

- A. Main aspects
- B. Structure of article 107 TFEU
- C. Historical background
- D. Purpose of article 107 TFEU

✎ Bearbeiten
✚ Hinzufügen ▾
⚙ Tools ▾

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### A. Main aspects

Art. 107 para. 1 introduces a general prohibition of State aid in EU law. Exemptions to this prohibition are provided by the TFEU Art. 107 para. 2 and 3. To be covered by the prohibitions, Art. 107 establishes four conditions to avoid being classified as State Aid under the EU law: 1

(a) there must be a financial intervention by State or State resources (e.g. grants, interest and tax relieves and provision of goods and services on preferential terms, etc.),

(b) this intervention must bring an advantage on the recipient,

(c) the intervention must distort or threaten to distort competition and

- 4 Commission Regulation (EC) No 1998/2006 of 15 December 2006 on the application of Articles 87 and 88 of the Treaty to de minimis aid, OJ L 379, 28.12.2006, p. 5..
- 5 Lisbon Strategy: [http://www.consilium.europa.eu/uedocs/cms\\_data/docs/pressdata/en/ec/00100-r1.en0.htm](http://www.consilium.europa.eu/uedocs/cms_data/docs/pressdata/en/ec/00100-r1.en0.htm)
- 6 State aid action plan: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0107:EN:HTML>
- 7 Commission Regulation (EC) No 800/2008 of 6 August 2008 declaring certain categories of aid compatible with the common market in application of Articles 87 and 88 of the Treaty (General block exemption Regulation) (General Block exemption regulation), OJ L 214, 9.8.2008, p. 3.
- 8 Bacon, Kelyn, "European Community law and State Aid", Oxford University Press, New York 2009, p 5.
- 9 European Commission, "Enforcement of EU State aid law by national courts", Competition Handbooks, Brussels 2010, p 9. [http://ec.europa.eu/competition/state\\_aid/studies\\_reports/studies\\_reports.html#handbook](http://ec.europa.eu/competition/state_aid/studies_reports/studies_reports.html#handbook) (as consulted online on 3.1.2012)..
- 10 State Aid Action Plan: Less and better targeted state aid: a roadmap for State aid reform 2005-2009, COM (2005) 107, final para. 7: <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:52005DC0107:EN:HTML> (as consulted online on 3.1.2012).

**i Publikationsvermerk**  
Verantwortlich: Freie Universität Berlin - vertreten durch den Präsidenten -  
Autoren: **Quang Ngoc Dam, Eva Garmpi, Maria Felicia Chacon Diaz, Bishara Jabaly, Helena Pavlin**

# OnComment – Verbindung von Wiki und jur. Kommentar



The screenshot shows the OnComment website interface. At the top, there is a search bar and navigation links. The main content area displays the title 'Exercise 9\_Group 1' with a blue 'MBL-FU' logo. Below the title, it states 'Hinzugefügt von Lydia Scholz, zuletzt bearbeitet von Lydia Scholz am 12.12.2011 (Änderung anzeigen)'. The main text describes a case study on 'T-Mobile Netherlands' and asks for a written contribution. A hint is provided at the bottom of the main text. The sidebar on the left contains a search bar and a tree view of exercises, with 'Exercise 9\_Group 1' selected.

OnComment Editorial Office – Beispiel: Aufgabenstellung



# OnComment – Verbindung von Wiki und jur. Kommentar

Übersicht > OnComment Editorial Office > Editorial office > Exercises > Exercise 9\_12 Dec 2011 > Exercise 9\_Group 1

Durchsuchen ▾ Nadja Kaeding ▾ Suchen

MBL-FU Answer case t mobile netherlands \_ group

1  
Hinzugefügt von Maria Felicia Chacon Diaz, zuletzt bearbeitet von Quang Ngoc Dam am 21.12.2011 (Änderung anzeigen)

**Case T-Mobile Netherlands (ECJ Case C- C-8/08 T-Mobile Netherlands (04/06/2009))**

**1. Undertakings**

In our case the following undertakings were involved:

- .Ben Nederland ( 'Ben ' , now 'T Mobile'),
- .KPN Dutchtone NV ( 'Dutchtone ' , now Orange),
- .Libertel-Vodafone NV ( 'Libertel-Vodafone ' , now 'Vodafone'),
- .Telfort Mobile BV (subsequently O2 (Netherlands) BV - 'O2 (Netherlands) ' - and now Telfort).

they were considered to be undertakings within the meaning of article 101 (1) TFEU, as they all were entities engaged in an economic activity, that is, operators providing mobile telecommunications services on the Netherlands (see par. 12-13).

**2. Agreement: concerted practices**

In our case by decision of 30 December 2002, the Raad van besturr van de Nederlandse Mededingingsautoriteit (the Netherlands competition authority) ('NMa') found that the undertakings **had concluded an agreement with each other or had entered into a concerted practice** (see par. 13). The concerted practice took place during the meeting of 13 June 2001. Regarding the definition of concerted practice, is understood by the Court as a form of coordination between undertakings by which, without it having been taken to the stage where an agreement properly so-called has been concluded, practical cooperation between them is knowingly substituted for the risks of competition (see par. 26).

**3. By object or by effect**

In this case it is important to say that even when the intention of the parties is not an essential factor in determining whether a concerted practice is restrictive, there is nothing to prevent the Commission of the European Communities or the competent Community judicature from taking it into account (see par.27). The distinction made in article 101 (1) between concerted practices having an anti-competitive object and those with anti-competitive effects, means that they do not constitute cumulative but alternative conditions when determining if a practice falls within the prohibition of art 101 (1) TFEU (see par. 28).The distinction between 'infringements by object' and 'infringements by effect' arises from the fact that certain forms of collusion between undertakings can be regarded, by their very nature, as being injurious to the proper functioning of normal competition (see par. 29).

When deciding whether a concerted practice is prohibited by Article 101(1) TFEU, there is no need to take

OnComment Editorial Office – Beispiel: Lösung

# OnComment – Verbindung von Wiki und jur. Kommentar


Übersicht > OnComment Editorial Office > Editorial office > Exercises > Exercise 9\_12 Dec 2011 > Exercise 9\_Group 1

Durchsuchen ▾ Nadja Kaeding ▾

answer case t mobile netherlands \_ group 1

- ⊞ Edit - OnComment
- ⊞ Sandbox
- ⊞ Exercises
  - ⊞ Exercise 1\_17 Oct 2011
  - ⊞ Exercise 2\_24 Oct 2011
  - ⊞ Exercise 3\_31 Oct 2011
  - ⊞ Exercise 4\_7 Nov 2011
  - ⊞ Exercise 5\_14 Nov 2011
  - ⊞ Exercise 6\_21 Nov 2011
  - ⊞ Exercise 7\_28 Nov 2011
  - ⊞ Exercise 8\_5 Dec 2011
  - ⊞ Exercise 9\_12 Dec 2011
    - ⊞ Exercise 9\_Group 1
      - ⊞ **Answer case t mobile netherlands \_ group 1**
      - ⊞ Exercise 9\_Group 2
      - ⊞ Exercise 9\_Group 3
      - ⊞ Exercise 9\_Group 4
      - ⊞ Exercise 9\_Group 5
      - ⊞ Exercise 9\_Group 6
    - ⊞ Exercise 10\_16 Jan 2012
    - ⊞ Exercise 11\_30 Jan 2012
    - ⊞ Exercise 12\_13 Feb 2012
    - ⊞ Exercise 13\_27 Feb 2012
  - ⊞ Technical Information about working with the OnComment on Competition and Regulation Law Wiki

**Kommentare (1)** [Kommentare ausblenden](#) | [Alles ausblenden](#) | [Kommentar hinzufügen](#)

 **Nadja Kaeding sagt:** 08.02.2012

Dear students,

thank you for your entry, a case study is not an easy task. Please allow me a short feedback.

At first a feedback to the outline and the writing:

You are using the wording "In our case": You are right, it is "your" case because the case is part of your task. But you are writing on the case as a third person. You are not a lawyer involved in this case. So please use for a juridical writing "in this case" or "in the case T-Mobile ./ . Netherlands"

For a case study in order to describe and explain a rule such Art. 101 TFEUa short summary at the beginning of your explanations is useful. Please keep in mind, that your colleagues will read this explanation as well. Further follow the element of the rules (because this was the task) but focussed on the case.

The task focussed the elements of the rule. Correctly you are starting with the term "undertakings". And of course there is no legal problem.

Your second headline is: Agreement: concerted practice

Your headline connotes that agreement and concerted practice are the same. But from your explanation one can see that agreements as an element of the rule and concerted practices as another element of the rule are not the same. By citing the NMA you are using the word "or". That means agreement and concertes practices are different elements of Art. 101 TFEU.

The problem is: by citing para 13 you refer to the case facts, but not to a court's decision. Does the court decide on if there is a agreement or a concerted practice? Which criteria did the court develop in order to distinguish an agreement and concerted practices?Is there a case-law by the court?

The next question which are only suggesting in your text is: is it nessecary to decide on this issue? If it is- why; if not - why?

Overseen is the interstate-clause as an element of the rule. If it is not problematically in the T-Mobile Case, you should mention it and you should explain why there is not any problem.

Part 3 of your explanation you are starting eith the following sentence: "In this case it is important to say that even when the intention of the parties is not an essential factor in determining whether a concerted practice is restrictive, there is nothing to prevent the Commission of the European Communities or the competent Community judicature from taking it

## OnComment Editorial Office – Beispiel: Feedback

## Verbindung von Forschung und Lehre

Studenten sind ausgebildete Juristen

Eigene Erkenntnisse im Zuge der Auseinandersetzung aufgrund unterschiedlicher Erfahrungen und Denkansätze

Festhalten im Wiki als Beitrag zur Rechtswissenschaft durch Veröffentlichen in einem allen zugänglichen zitierfähigen OnComment

Herausfinden von:

Ähnlichen oder verschiedenen Strukturen

Sinnvollen Ansätzen im jeweils anderen Rechtsraum

Staatenübergreifende Prinzipien

## Aufwand

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Betreuungsaufwand durch Dozenten für Feedback und Fertigstellung der Beiträge

Aufwand bei der Erstellung.

Keine Einsparung, eher mehr Betreuungsaufwand



# Zusammenfassung

## Wikis als Mittel zur Verbindung von Forschung und Lehre

- Keine Abstriche an qualitativen Anspruch
- Anpassung an das Fach
- Betreuung