



**ascola**  
Academic Society for Competition Law



**明治大学**  
MEIJI UNIVERSITY

**10th ASCOLA CONFERENCE TOKYO 2015**

**Abuse Regulation in Competition Law  
- Past, Present and Future**

# Program

**21 May 2015 (Thursday Night)**

**16.00–17.30 BOARD MEETING**

Meiji Univ. Liberty Tower Building 23rd Floor, Yashiro-hall

**17.00–19.00 REGISTRATION**

Meiji Univ. Global Front Building 1st floor

**17.40–18.00 OPENING REMARKS**

Meiji Univ. Global Front Building 1st floor Global Hall

## **Welcome addresses**

Welcome address Kazuyuki Sugimoto, the Chairman of the Japan Fair Trade Commission

Welcome address Professor Kenichi Fukumiya, President of Meiji University

Welcome address Professor Paul Nihoul, Chair of Ascola

## **Explanation of the Structure of the Conference**

by Professor Iwakazu Takahashi

**18.00-19.00 OPENING SESSION**

Chair: Iwakazu Takahashi

Meiji Univ. Global Front Building 1st floor Global Hall

## **Keynote Speech and Dialogue**

Prof. Emeritus Mitsuo Matsushita, Tokyo University

Prof. Eleanor Fox, New York University:

Mitsuo Matsushita, Monopolization and Abuse of Superior Bargaining Position in the Context of Different Antitrust Philosophies

**19.00–20.45 WELCOME RECEPTION**

Meiji Univ. Liberty Tower Building 23rd Floor, Kishimoto-hall

22 May 2015 (Friday Morning)
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**8.30-12.00 REGISTRATION**

Meiji Univ. Global Front Building 1st floor

**9.00-11.00 GENERAL SESSION 1– Perspectives to address the topic**

Chair: Eleanor Fox

Adi Ayal, Abuse of Power: Market, Economic, and Bargaining

Peter Behrens, Ordoliberalism and abuse regulation

Pablo Ibáñez-Colomo, Uncovering the rationale of Article 102 TFEU: The real nature of abuse of dominance provisions

Thomas Cheng and Michal Gal, Superior Bargaining power: Dealing with Aggregate Concentration Concerns

Paul Nihoul, Dominance and market power – do we need an abuse?

**11.00–11.15 Coffee Break**

**11.15 – 13.15 PARALLEL SESSIONS – Current Issues**

**General Issues, State Intervention**

Chair Daniel Zimmer

Meiji Univ. Global Front Building 1st floor, Global Hall

Rupprecht Podszun, The pitfalls of market definition – Towards an open concept of markets

Lorenz Marx, Enforcement of Art. 102 TFEU – a Statistical Analysis

Francisco Marcos, When the State grants market power

Xiaomin Fang, The Application of Chinese Anti-Monopoly Law upon State-Owned Enterprises

### **Abuse Conducts**

Chair Sandra Marco Colino

Meiji Univ. Global Front Building 1st floor Multi- Purpose Hall

Antonio Robles: EXPLOITATIVE PRICES IN EUROPEAN COMPETITION LAW

Andreas Fuchs, “Margin Squeeze as a Stand-alone Form of Abuse ? –A Comparative Analysis under Art. 102 TFEU and Sec. 2 Sherman Act”

Krzysztof Rokita, ABUSE OF DOMINANCE BY GRANTING REBATES IN EU COMPETITION LAW

Petri Kuoppamaki, TYING AND TWO-SIDED DIGITAL PLATFORMS

### **Abuse Conducts in Sectors**

Chair Michal Gal

Meiji Univ. Global Front Building 3rd floor

Luis Morais, Abuse regulation and the financial sector Financials

Maria Ioannidou, Abuse Regulation in the EU energy sector: mapping substantive and procedural enforcement

Björn Lundqvist, Abuse of Dominance in the Pharma & Biotech Sectors

Claudia Seitz, Healthcare Systems and Competition: Challenges and Boundaries for the Application of Competition Law in Highly Regulated Markets of the Healthcare Sector in the European Union

Jonathan Galloway, Current Regulation of Abuse of Market Power: online platforms, tying, and the kaleidoscope of interests

**13.15–14.15 Lunch**

22 May 2015 ( Friday Afternoon)

## 14.15-16.00 PARALLEL SESSIONS + WORKSHOP

### Intellectual Property Rights

Chair: Francisco Marcos

Meiji Univ. Global Front Building 1st floor, Global Hall

Wolfgang Kerber and Severin Frank, Patent Settlements in the Pharmaceutical Industry: What Can We Learn From Economic Analysis?

Sofia Oliveira Pais, Standard Essential Patents – Licence to kill?

Shuya Hayashi, Exclusionary Effects of Blanket Copyright License Agreement Offered by a Dominant Firm — A Case Study on Abuse of Dominance in Japan and Its Justifications

Sven Gallash, Unilateral product hopping through pay for delay settlements under Art 102 TFEU – A viable theory of harm with significant anticompetitive potential for the European pharmaceutical sector

### Procedure Issues

Chair: Björn Lundqvist

Meiji Univ. Global Front Building 1st floor Multi- Purpose Hall

Pieter Van Cleynenbreugel, Legal presumptions in abuse regulation: (where) do EU and U.S. antitrust approaches meet?

Ewelina D. Sage and Tadeusz Skoczny, Commitments decisions as the winning instrument of negotiated enforcement of the abuse prohibition in Europe, or are they?

Viktorija Robertson and Marco Botta, Access to Justice as Abuse of Market Power? Injunctive Relief for Standard-Essential Patents under US Antitrust and EU Competition Law

**14.15 – 16.00 WORKSHOP (22 May 2015 Friday Afternoon)**

*The workshop will take place parallel to the sessions on Friday afternoon. The difference between workshop sessions and other*

*sessions is that the contributions presented during the former do not necessarily relate to the theme of the conference. There is no hierarchy between the presentations, whether they are presented in the workshop or during the normal sessions.*

### **Workshop 1-Issues of Dominance and Abuse**

**Chair David Bosco**

Meiji Univ. Global Front Building 2nd floor

**Barry Rodger, Abuse of dominance before UK courts**

**Gintare Surblyte, Dominance in the Digital Economy**

**Knut Fournier, Amazon as a two-sided market and its antitrust implications**

**Sujitha Subramanian, Car spare parts decision taken by the Indian Competition Authority**

### **Workshop 2 - Other Issues**

**Chair: Valeria Falce**

Meiji Univ. Global Front Building 3rd floor

**Michal S. Gal and Daniel L. Rubinfeld, THE HIDDEN COSTS OF FREE GOODS: IMPLICATIONS FOR ANTITRUST ENFORCEMENT**

**Peter Whelan, Section 47 of the Enterprise and Regulatory Reform Act 2013: A Flawed Reform of the UK Cartel Offence**

**Marco Botta, Alexandr Svetlicinii, Maciej Bernatt, The Assessment of the Effect on Trade by the National Competition Authorities of the "New" Member States: Another Legal Partition of the Internal Market?**

**Florence Thépot, Corporate Compliance with Competition Law**

### **Workshop 3 -Other Issues**

**Chair: Rupprecht Podszun**

Meiji Univ. Global Front Building 3rd floor

**Amedeo Arena, Recent Developments in Italian law on abuse of economic dependence and the relationship with EU law.**

Sandra Marcos Colino, The Boundaries of Abuse Regulation: Why Harm Should Matter

Kelvin H. Kwok, Abuse of Substantial Market Power under Hong Kong Competition Law: A Comparative Perspective

**16.00 – 16.15 Coffee Break**

**16.15-18.15: GENERAL SESSION 2– The relationship with dominance**

Chair. Barry Rodger

Meiji Univ. Global Front Building 1st floor, Global Hall

Florian Wagner---von Papp, Unilateral conduct by non---dominant firms: A comparative reappraisal

Stefan Thomas, The Protection of the Supply Side Ex-ante and Ex-post Control of Buyer Power

Mor Bakhoun, Abuse without Dominance in Competition Law: Abuse of Economic Dependence and its Interface with Abuse of Dominance

Mariateresa Maggiolino and Maria Lillà Montagnani, Wandering in the Land of the EU Abuse of Rights Coordinates from the Antitrust Experience?

**General Assembly,**

Meiji Univ. Global Front Building 1st floor, Global Hall

**Official Dinner "Tokyo Shiba Ukai"**

<b>23 May 2015 (Saturday Morning)</b>
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**9.00-11.00 GENERAL SESSION 3– national practices relating to abuse of dominant position and superior bargaining position – countries**

Chair : Josef Drexl

Meiji Univ. Global Front Building 1st floor, Global Hall

Toshiaki Takigawa,Regulating Abuse of Bargaining Position through the Competition Law: Japanese Regulation in Comparison with the EU's Exploitative Abuse Regulation

Josef Bejček, On abuse of (plain) market power and of so-called significant market power

Valeria Falce, The Italian Regulation against the abuse of economic dependence.

Emmanuela Truli, “Relative dominance and the protection of the weaker party: Enforcing the Economic Dependence provisions and the example of Greece”

11.00–11.15 Coffee Break

11.15-13.15 GENERAL SESSION 4 - Unconscionable Conduct, Subcontract Act  
Chair: Alan Fels

Meiji Univ. Global Front Building 1st floor, Global Hall

David BOSCO, UNCONSCIONABLE CONDUCTS IN FRANCE

Kazuhiko Fuchikawa, Legal Analysis of the Japanese Subcontract Act: Focus on the Grocery Industry

Abayomi Al-Ameen, Application of Abuse of Dominance in New Competition Regimes: Unconscionability as a Stabilising Tool at Time of Indecision

Allan Fels AO and Matthew Lees, Unconscionable conduct in the context of competition law with special reference to retailer / supplier relationships within Australia

## **GENERAL CONCLUSIONS**

Chair of Ascola: Paul Nihoul

Meiji Univ. Global Front Building 1st floor, Global Hall

*Note - This program does not create any financial right on Ascola or the organizer. Sessions may be organized parallel to one another depending on necessities.*