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This Nutshell covers many areas of law under the unfair trade practices umbrella. These areas include unfair competition, antitrust, consumer protection, regulated industries, and labor. Covers intellectual property, trade secrets, and trademarks. Also touches on the law governing interference with contractual and non-contractual relations. The main aim of this book is to discuss the state of unfair competition law in the European Union. In this respect, the various efforts that have been made in the past to come to harmonization of this area of law and the reasons that they were only partially successful are reviewed. In addition, the International and European regulations that refer to unfair competition, like, e.g., the Paris Convention, the TRIPs and the recent 2004 Unfair Commercial Practices Directive are discussed. Also an overview is given of the unfair competition laws in the United Kingdom, Germany and the Netherlands with respect to the 'problem-areas' of slavish imitation, misleading

advertising, denigrating one's competitor, trade secrets and finally, misappropriation of valuable trade assets. Unfair competition law is traditionally considered part of intellectual property law. Not only the relation of unfair competition law to intellectual property laws are therefore part of the discussion but also the areas of consumer protection law (since unfair competition law is partly orientated towards consumer protection) and competition (as an economic concept) is the topic of thorough review. To encourage cross-border transactions in the Single Market of the European Community, the Commission has proposed general framework legislation to set general standards that forbid unfair marketing practices towards consumers, thereby increasing consumer confidence when deciding whether or not to shop abroad in the Community, either in person or through modern methods of electronic purchasing through the Internet. The essays in this volume critically examine the proposed Directive that prohibits unfair commercial practices, and in particular they consider the potential legal and economic implications of a legal duty to trade fairly in the context of general contract law, the protection of consumers, and the needs of competition policy. The distinguished authors of these essays, from Finland, Germany, Italy, The Netherlands, Spain, and the United Kingdom, explain the different approaches of national legal systems to the legal regulation of marketing practices, and assess the compatibility of the proposed Directive with national law and its likely success in achieving the promotion of trade in the Single Market. About the author Hugh Collins is Professor of English Law at the London School of Economics. He studied law at Oxford and Harvard. He has published extensively in the field of contract law including *The Law of Contract* 4th ed (London, Butterworths, 2003), and *Regulating Contracts* (Oxford, Oxford University Press, 1999). The book delineates, with extraordinary clarity and precision, the working of unfair competition law throughout the European Union. Its four comprehensive chapters encompass: basic considerations of definition, subject matter, enforcement, and applicable law: international provisions under the Paris convention, TRIPS, and WIPO model law; analysis of relevant EC directives and regulations and ECJ jurisprudence; and extensive discussions of the national unfair competition laws of all 25 Member States. For each Member State, specific topics covered include such considerations as the following: sources of law; competition law in a nutshell; regulation of advertising; direct marketing; sales promotion; risk of confusion; disparagement, defamation; misappropriation, imitation; impediment of competitors; and breach of the law. The author also provides a selected bibliography of sources for each country. It would be difficult to find a more useful analysis of European Unfair Competition Law than this systematic study. It is practical, thorough, clarifying, and readable, all at the same time. The author untangles the most complex of apparent contradictions with impressive skill. Copies of this book will quickly take their places on the working shelves of interested practitioners, academics, and officials throughout Europe. Recog: 1. Time for clear legislation - 2. Unfair commercial practices - 3. Who is concerned? - 4. The black list - 5. Implementing the directive. Artificial Intelligence (AI) systems are increasingly being deployed by marketing entities in connection with consumers' interactions. Thanks to machine learning (ML) and cognitive computing technologies, businesses can now analyse vast amounts of data on consumers, generate new knowledge, use it to optimize certain processes, and undertake tasks that were previously impossible. Against this background, this book analyses new algorithmic commercial practices, discusses their challenges for consumers, and measures such developments against the current EU legislative framework on consumer protection. The book adopts an interdisciplinary approach, building on empirical findings from AI applications in marketing and theoretical insights from marketing studies, and combining them with normative analysis of privacy and consumer protection in the EU. The content is divided into three parts. The first part analyses the phenomenon of algorithmic marketing practices and reviews the main AI and AI-related technologies used in marketing, e.g. Big data, ML and NLP. The second part describes new commercial practices, including the massive monitoring and profiling of consumers, the personalization of advertising and offers, the exploitation of psychological and emotional insights, and the use of human-like interfaces to trigger emotional responses. The third part provides a comprehensive analysis of current EU consumer protection laws and policies in the field of commercial practices. It focuses on two main legal concepts, their shortcomings, and potential refinements: vulnerability, understood as the conceptual benchmark for protecting consumers from unfair algorithmic practices; manipulation, the substantive legal measure for drawing the line between fair and unfair practices. Bachelor Thesis from the year 2010 in the subject Business economics - Law, grade: 1, University of Linz, course: Bachelorseminar, language: English, abstract: According to Black's Law dictionary, competition is the struggle for commercial advantage. The efforts taken of companies to achieve the respective commercial advantages can be - especially in a free market economy - ample. Let's illustrate this fact by the following examples: Suppose that a automobile manufacturer, incensed by a car magazine's constant ridicule of its cars, launches a rival magazine with a similar name and layout, copies the other paper's stories, lures away the employees, advertisers and subscribers of the other magazine by offering them higher wages and lower advertising and subscribing rates and finally succeeds in running its critical opponent out of business. Has the automobile manufacturer engaged in any unfair trade practices for which the owners of the car magazine may seek legal remedy? Or has the manufacturer acted in a permissible way to the magazine's attack? Furthermore, could the magazine be said to have engaged in an unfair trade practice by permanently ridiculing the cars and its manufacturer? How can a merger between two or more businesses which are on the same market level and which manufacture similar products in the same geographic region influence consumers? What if two competitors agree in the artificial setting of prices at a certain level, contrary to the workings of the free market? Do consumers have legal remedies against companies who engage in false advertising or who distribute faulty and dangerous goods? The body of law which deals with these subjects is known as competition law, which can broadly be divided into Consumer Protection Law and unfair trade practices on the one hand and antitrust-law on the other hand. The bachelor thesis at hand takes the reader to a journey through competition law with a special insight into Unfair Trade Practices. After the stud This volume is concerned with explaining the Unfair Commercial Practices Directive, exploring the many ambiguities in its drafting and considering its implications for trading and consumer protection within Europe as well as the relationship between European and national trade practices law. This book represents the fruit of a conference held in Oxford on March 3, 2006 under the auspices of the Institute of European and Comparative Law in the Oxford University Law Faculty. Directive 2005/29 is an important new measure in the construction of a legal framework apt to promote an integrated economic space in the European Union. It establishes a harmonised regime governing the control of unfair commercial practices. As such it represents an important exercise in the use of new rules and new techniques, and therefore poses new challenges to EU lawyers. The purpose of this book is to inform and to explore the issues raised by the Directive, issues which are of academic and practical interest, in helping to understand the evolution of European consumer law within the broader programme of European market regulation. The intense practical significance of this Directive, which heralds a new regime, is likely to provoke commercial operators to seek to exploit opportunities to pursue practices previously suppressed. A less-expensive grayscale paperback version is available. Search for ISBN 9781680923018. Business Law I Essentials is a brief introductory textbook designed to meet the scope and sequence requirements of courses on Business Law or the Legal Environment of Business. The concepts are presented in a streamlined manner, and cover the key concepts necessary to establish a strong foundation in the subject. The textbook follows a traditional approach to the study of business law. Each chapter contains learning objectives, explanatory narrative and concepts, references for further reading, and end-of-chapter questions. Business Law I Essentials may need to be supplemented with additional content, cases, or related materials, and is offered as a foundational resource that focuses on the baseline concepts, issues, and approaches. One of the most important EU consumer protection directives of the past decade, the 2005 Unfair Commercial Practices Directive, or UCPD, is brought under examination in this stimulating volume. Bringing together leading experts in the comparative law and consumer law domain, the book discusses the impact of the Directive and whether the many possible issues identified at its inception have been borne out in practice. Divided into four parts of 'Implementation, Approximation and Harmonization', 'Vulnerability', 'The UCP Directive and Other Regimes', and finally 'Enforcement', the volume examines the various policy developments, the growing body of case

law, the decisions of relevant national enforcement authorities, as well as the legislative debates which have surrounded the implementation of the UCPD in Member States. This book provides a valuable assessment of the impact of a major EU directive almost ten years after its adoption, and as such will be of interest to academics, legal practitioners and the judiciary working in the areas of European and Consumer law. The following chapter is part of a book co-authored by Hans-W. Micklitz, Norbert Reich and Peter Rott. The three authors, in cooperation with the publisher, prepared a comprehensive version which they called "Understanding European Consumer Law," comprising the central areas of EU consumer law which are of relevance beyond the jurisdiction of the EU itself. Chapter one (Norbert Reich) gives an overall description of EU consumer protection, its development in politics and law, its basic concepts, a theory of consumer rights, the instruments of consumer law, in particular EU Directives, and finally the concept of the "consumer" as "passive economic citizen" who is the central protective subject of law itself. The last section contains a conceptual and reformist outlook on the "future orientation of EU consumer law." Chapter 2 (Hans-W. Micklitz), here made available, is concerned with advertising and commercial practices law. Chapter 3 (Hans-W. Micklitz) takes up a similar "horizontal" approach with regard to pre-formulated contract terms which had been adopted in 1993 via the Unfair Contract Terms Directive 93/13/EEC and which has found much attention in judicial practice by the European Court of Justice (ECJ), to be reported and analyzed in some detail here. Chapter 4 (Hans-W. Micklitz) is concerned with the "horizontal" consumer sales Directive 1999/44/EC which has introduced certain basic and therefore mandatory consumer rights with regard to the most important transaction in which consumers usually engage. Chapter 5 (Peter Rott) is devoted to the analysis of the recent Directive 2008/48/EC on "credit agreements for consumers" (CCD), repealing the old Directive 87/102/EEC, that aims at "total harmonisation" and thereby sets a precedent for future EU instruments in the field of consumer contract law. Chapter 6 (Hans-W. Micklitz) takes up product liability, regulated by the rather "old" Directive 85/374/EEC which had been amended once by Directive 1999/34/EC after the BSE scandal. Chapter 7 (Norbert Reich) is concerned with cross-border consumer transactions, cross-border breach of consumer law and litigation in cases which are provoked by the fact that harmonization of law in the area of consumer law (and other areas like EU commercial or financial services law) does not lead to uniform standards but must be governed by the traditional mechanisms of private international law. Finally, Chapter 8 (Norbert Reich) takes up different mechanisms of individual and collective consumer protection via remedies and procedures which are promoted, encouraged or even prescribed by the EU. Each author is responsible for his own chapter, but they all have tried to coordinate their views and opinions as far as possible. Privilege to Compete; Obtaining Trademark Rights; Types of Trademarks; Shape, Color and Trade Dress; Trademark Infringement; Dilution; Permissible Uses of Another's Mark; Copyrightable Subject Matter; Publication; Copyright Formalities; Joint Works and Works Made for Hire; Rights of Copyright Owners; Copyright Infringement; Fair Use; Misappropriation Doctrine; Right of Publicity; Preemption of State Law; Types of Patents; Patent-Eligible Subject Matter; Novelty; Statutory Bar; Non-Obviousness; Utility; Patent Application Procedure; Patent Infringement; Trade Secret Law; State False Advertising and Disparagement Law; Lanham Act Claims for False Advertising and Disparagement; F.T.C. Unfairness Doctrine; F.T.C. Deception Doctrine; Advertising Substantiation; F.T.C. Remedies; F.T.C. Rule-making; Consumer Remedies; Price Discrimination Under the Robinson-Patman Act; Harm to Primary-Line Competition; Harm to Secondary-Line Competition; Cost Justification and Meeting Competition Defenses; Advertising Allowances; Buyer Liability for Price Discrimination. Since 2005 the law of unfair commercial practices has undergone a revolution. This book presents the first comprehensive and critical examination of Directives 2005/29/EC concerning unfair business-to-consumer commercial practices and 2006/114/EC concerning misleading and comparative advertising. The book offers the first detailed analysis of the various ways in which the two Directives have been transposed in the United Kingdom, Germany, the Netherlands, Belgium and France, with a particular focus on incorrect transposition. The analysis includes an overview of the enforcement possibilities before national courts and authorities, and as such will be a valuable source for all practitioners, policy makers and academics working in the field of unfair trade law. Ultimately the aim of the book is to expound a sound interpretation of the relationship between unfair trade law and competition law in Europe, and it therefore engages in an original examination of these two cornerstones of European economic law. The author argues that unfair trade law and competition law should be understood as 'living apart together' - complementary but autonomous and sometimes even conflicting. Law of Unfair Trade Practices; Interference With Pre-Contractual and Non-Contractual Relations; Interference with Contractual Relations; Use of Similar Trademarks and Trade Names; Product Substitution or Alteration; Appropriation of Publicly Disclosed Trade Values; Appropriation of Non-Publicly Disclosed Trade Values; Injurious Promotional Practices; Injurious Pricing Practices. The Unfair Commercial Practices Directive is the most important directive in the field of trade practices to have emerged from the EC but it builds upon European activity which has sought to regulate trade practices on both a sectoral and horizontal level. It is an umbrella provision, which uses general clauses to protect consumers. How effective this approach is and how it relates the existing *acquis* are fundamental issues for debate. This work provides a critical appraisal of the Unfair Commercial Practices Directive linking discussion of it to general debates about how fair trading should be regulated. It explains how the Directive fits into the existing *acquis*. It also examines national traditions where these are necessary to explain the European approach, as in the case of general clauses. The book will be a valuable tool for any student of consumer law seeking to understand the thinking behind the directive and how it will affect national laws. It will also influence policy makers by suggesting how the directive should be interpreted and what policy lies behind its formulation. Businesses and their advisers will use the book as a means of understanding the new regulatory climate post-the directive. Written by a worldwide team of experts, this book surveys and comments on the unfair competition laws of the world's leading economic powers. Following a standard pattern, each chapter introduces the reader to the latest developments in each jurisdiction, highlighting the ways in which the basic legislation and case law relates to enforcement issues, and how unfair competition laws fit with wider considerations of consumer protection and within prevailing intellectual property and competition law frameworks. Each of the country reports follows the same standard structure, which includes: background and general approach to unfair competition law \* legal basis of unfair competition law and relations to neighboring areas of law \* general considerations \* general clause against unfair competition \* marketing \* protection of competitors against unfair trade practices \* specific protection of consumers against unfair trade practices \* enforcement. The country reports cover the following countries: Australia, Austria, Brazil, Canada, China, France, Germany, Hungary, India, Italy, Japan, Lithuania, Netherlands, Poland, Spain, South Africa, Sweden, Switzerland, Turkey, the UK, and the US. The book examines the ambiguous relationship between the European law on unfair commercial practices and contract law. In particular, the manuscript demonstrates that the Directive 2005/29/EC on unfair commercial practices (UCPD) has had a major impact on contract law, despite the declaration concerning the formal independence between the two branches of law established by Article 3(2) UCPD. The insights and conclusions identified in the book contribute to a better understanding of European private law and the general process of Europeanisation of private law in the European Union, and in particular of contract law. Consumers may find it difficult to identify potentially harmful or unfair practices when entering into a transactional relationship with traders. Similarly, businesses and enforcement authorities may sometimes have problems applying and interpreting EU legislation in relation to commercial practices. While it is the Court of Justice that has competence to interpret EU legislation, the European Commission published legally non-binding guidance on the implementation/application of the Directive on Unfair Commercial Practices in May 2016, which aims to clarify some of the issues that have arisen since the adoption of the directive. This book investigates the regime of consumer benchmarks in the Unfair Commercial Practices Directive and explores to what extent this regime meets each of the goals of the Directive. In particular, it assesses whether the consumer benchmarks are suitable in terms of achieving the three goals of the Directive: achieving a high level of consumer protection, increasing the smooth functioning of the internal market, and improving competition in the market as such. In addition to providing a thorough analysis of the consumer benchmarks and their relationship to

the goals of the Directive, at a more practical level, the book provides insight into the working and consequences of the benchmarks that can be used in the evaluation of the Unfair Commercial Practices Directive and its application by the CJEU. This assessment is important because the Directive, while promising to regulate unfair commercial practices in a way that achieves the Directive's goals, has removed the possibility for Member States to regulate unfair commercial practices themselves. "Unfair trading practices" is generally defined as consisting of deceptive, fraudulent, or otherwise injurious conduct, referring to practices that directly affect consumers or competitors. In business-to-consumer relationships, unfair trading practices may involve misleading claims and advertising, conditional selling, excessive pricing, discriminatory pricing, and other misrepresentations. In business-to-business relationships, the prohibited conduct may be trade mark infringement, misappropriation, false advertising, bait-and-switch sales tactics, unauthorized substitution of brands of goods, use of confidential information by a former employee to solicit customers, theft of trade secrets, breach of a restrictive covenant, trade libel, and false representation of products or services. In this edition of the Comparative Law Yearbook of International Business, practicing lawyers from Argentina, Austria, Brazil, China, Germany, Italy, Japan, Poland, South Africa, South Korea, Sweden, the United Kingdom, the United States, and the European Union examine unfair trading practices in their respective jurisdictions. Of great interest to practitioners, policymakers and academics - as well as to consumers and traders in general - this timely work addresses all important legal and practical issues that arise in connection with online trading. This important work outlines the existing legislation and legal jurisprudence in the EU and the US and exposes the potential for unfair commercial practices to arise from online contracts, electronic agents, disclosure of information, online advertising and online dispute resolution in cross-border transactions. The continuing prevalence of unfair commercial practices will ensure this book remains in great demand. Commercial practices between businesses and consumers within the internal market are benefited today by a uniform set of rules: Council Directive 2005/29/EC ('Commercial Practice Directive' hereinafter). The Commercial Practices Directive fully harmonises measures seeking to curb unfair commercial practices harmful to the economic interests of consumers. Furthermore, the Commercial Practices Directive pursues the double aim of contributing to the smooth functioning of the internal market, and providing consumers a high level of protection. This paper first outlines the limited scope of the Commercial Practices Directive, its general prohibition, its notion of misleading and aggressive practice, and its failure to address fully the potential of codes of conduct in the field of unfair commercial practice. Secondly, this paper analyzes the developing notion of an 'average consumer,' and how it will play a pivotal role in the application of the Commercial Practices Directive. Finally, the US experience with fair trade laws is examined with some concluding remarks on the relationship between the consumer, competition, and unfair practice laws. In the early 1980s, American complaints about unfair trade practices began to intensify. Sunrise industries, such as manufacturers of semiconductors and telecommunications equipment, joined older complainants, including steel and textile producers, in seeking more safeguards against international competitors who priced their products too aggressively or whose governments subsidized exports or protected home markets. In this politically charged atmosphere, the U.S. government has devised increasingly stringent regulatory programs to address the claimed abuses and distortions. In this book, Pietro Nivola examines the strenuous effort to combat the objectionable trading practices of other countries. Through most of the postwar period, Nivola notes, policymakers had deemed it in the nation's economic and strategic interests to tolerate asymmetries and infractions in the international trading order. But that tolerance has been sharply lowered by heightened sensitivity to inequities, and a growing conviction that government should intervene, frequently and forcefully, to ensure a "level playing field." The book maintains that foreign protectionism lower East-West tensions, and alleged American decline in the face of international competition cannot fully explain the stiffening regulation of unfair trade. The world trading system, Nivola contends, is not more restrictive now than it was earlier. Cries about foreign commercial transgressions in recent years have remained shrill despite a formidable U.S. export boom and an improved current account valance. Much of the U.S. regulatory activity has acquired a political momentum of its own. The activity has increased not just because global competitive pressures have generally intensified but because we have developed more ways and inducement to complain about those pressures. Nivola cautions that trade regulations now bears too much of the burden for ameliorating economic imbalances and deficiencies. The tendency adds to a sense of frustration that fuels demands for additional regulations. While recognizing the need for an explicit and responsible trade policy, Nivola concludes that such a policy must be based, first and foremost, on realistic expectations. Trade actions need to compliment, not subordinate, a more basic agenda: improvement in the national rates of saving and investment, better preparation of the work force, control of runaway health care costs, less litigation, and more regulatory reform—all of which are likely to be far more consequential for the nation's long-term competitiveness and living standards.

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