Competition Policy in Germany

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German Competition Policy before 1945

German industrialization was decisively influenced by big business in a process that started in the early 1870s in the heavy, electrical, and chemical industries and that was encouraged by German banks eager to increase the firms' earning capacity. Prior to and after World War I industrial cartels played a major role in this process, stimulating as well as limiting industrial concentration. Cartels, having their greatest economic importance before World War 1, and combines representing the real and most effective form of industrial concentration in interwar Germany, were economic phenomena typical of Germany with no equivalent in other industrialized countries. As amalgamations of legally independent companies, usually in the same line of production, cartels were quite different from multi-unit combines, which brought together two or more legally independent enterprises and a unified direction for the realization of jointly shared economic aims.

With Germany's economic system changing substantially in the period 1870-1945, government competition policy influenced absolute as well as relative concentration in the major industries (i.e. coal mining, iron and steel, mechanical engineering, electricals, and chemicals) that have determined Germany's industrial performance up to the present. Unlike the American anti-trust-laws, German governments never really opposed any restraint of trade or ancillary restraints up to 1945, although several phases in the governmental attitude towards cartelization can be distinguished [20, pp. 240ff]. Prior to 1914, the governmental principle of *laissez faire* prevailed [3].

The generally friendly attitude towards cartels was shared by German courts which in the 1890s held up the principle of liberty of contract, expressly confirming the binding force of cartel agreements under civil law, even in cases involving a restraint of trade. This judgement was in accordance with public opinion that unrestricted competition could be harmful for some lines of business and that cartels and similar organizations bore a responsibility for the well-being of the overall economy.

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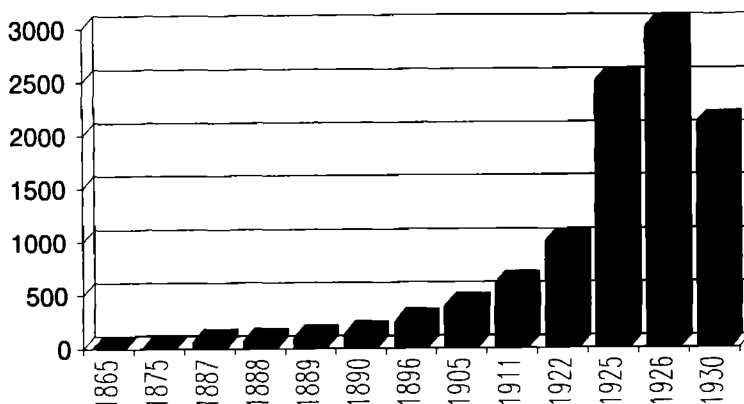


Helped by a governmental *laissez faire* policy and cartel-friendly courts the number of cartels in Germany, in contrast to that in other countries, increased. There were some 550-600 cartels in industry alone by 1911, many of them organized as syndicates, i.e. as cartels with legally independent sales organizations [23, p. 12; 6, pp. 154ff].

Even though cartels exercised considerable influence during their prime before World War 1, promoting vertical integration and limiting horizontal concentration of individual firms, as well as using their cartel power against repugnant outsiders, the cartels' position as measured by market shares appears to have been weaker than some authors want us to believe [7, p. 123]. Neither should the high number of cartels be misunderstood. Cartels were mostly successful in areas marketing homogeneous products such as coal or steel. In other industries such as chemicals or electricals they were hardly relevant, since the number of products had made cartelization impossible and had promoted external growth of the biggest companies. In the chemical and electrical industries three or two companies controlled more than two thirds of the German market before 1914.

After 1914 cartels were soon integrated into the war economy, as the Allies' blockade and the unexpected duration of the war made increasing government intervention necessary. Some private cartels were turned into semi-governmental enterprises, others were newly established--partly for fiscal reasons, partly in order to forestall compulsory cartelization as in the cement and potash industries. Thus, increasing cartelization during World War I was due more to political than to economic considerations [19, pp. 13ff; 1, p. 22; 24, p. 102] .

Demands for legislation to curb the power of cartels date to the turn of the century. They led in 1902 to a government investigation that lasted until 1906. The findings of this investigation were published in 1906-1908, but did not immediately result in any anti-cartel legislation. In fact, it was not until

November 1923, following accusations that the cartels had enriched their members at the expense of workers and small producers, that the government was forced by public pressure to enact a "decree concerning abuses of economic power," or the so-called cartel law.

The cartel law of 1923 established direct state control over cartels. It provided for the establishment of a special cartel court that had jurisdiction in all disputes between cartels and the government, among cartel members, and between cartels and outsiders. Agreements had to be in writing and could be voided by the cartel court if any action was found to be in the interest of the general public. In practice the cartel decree was a failure; it actually strengthened cartels, since it gave legal recognition to cartels and sanctioned boycotts and similar practices, provided certain conditions were observed. Appeals to the cartel court were often motivated by reasons other than aversion to cartels. In the early 1930s, for instance, Philips, a Dutch radio company, complained to the cartel court that it was unable to make or market radio sets in Germany because of the control Telefunken (a joint venture of Siemens and AEG) exercised over the German radio industry by virtue of its patents and exclusive license agreements. When the court decided that the boycott instigated by Telefunken against Philips was illegal, the two companies formed two cartel agreements which enabled them to control not only the radio industry in Germany and in the Netherlands, but also that of many other European countries.

Even though the number of cartels increased in the 1920s concentration was mostly achieved by the building of combines, IG Farben and Vereinigte Stahlwerke being the best known examples comparable in size to their American counterparts. Combines were seen as the best way to achieve necessary rationalization. The government's attitude towards concentration can be seen in the final report of the Committee for the Investigation of the Conditions of Production and Sales (Ausschuß zur Untersuchung der Erzeugungs- und Absatzbedingungen der deutschen Wirtschaft) which stated: "Concentration serves the striving for greatest profitability, in the interest of private capital as well as the national economy... By concentration the German economy improves its international competitiveness and is better able to cope with cyclical fluctuations. Concentration with these aims and these results must be seen positively from the standpoint of the national economy" [2, p. 67].

The world depression proved damaging to cartels and combines as their pricing policy led to increasing criticism. In 1930, a Presidential decree gave the Cabinet power to void cartel agreements or parts of agreements as part of the government's policy to reduce the general price level. In 1931 all cartel prices (i.e. fixed prices) were reduced by 10% by emergency decree. These decrees and the depression endangered the continuance of many cartels, but the coming to power of the Nazis saved the cartel system.

The National Socialists' cartel policy led to a rising share of cartelized industrial production, which in the years 1935/37 amounted to about 46%. In some industries the share was much higher, reaching up to 100%. The possibility of compulsory cartelization by government order gave the Nazis a chance for "an industrial policy geared to the interest of the national economy if necessary with the help of compulsory cartels" [22, p. 28]. At the same time

the National Socialists promoted business concentration by means of fiscal incentives and economic manipulation, so that concentration increased considerably in the 1930s. Even though a decree of December 11, 1934 prohibited cartels from making any changes in prices that could be detrimental to consumers and retailers, the cartels' policy was generally taken for granted and considered to be in the interest of the overall economy [17; 4, pp. 12ff; 13, pp. 83ff; 8, p. 64]. At the same time, the National Socialists made extensive use of cartels for their political and economic aims. Price fixing was to assure sufficient profitability for important companies and to prevent what was called ruinous competition. As far as profits were concerned, government wanted them to be reinvested to improve plant facilities so that in the long run prices could be reduced. Cartels were allowed to oust "unreliable competitors" from the market by declaring a boycott or by similar measures. *De facto* unreliability existed when a competitor sold below the "justified" price, whether bound by price agreements or not [10, p. 133].

Cartelization in German Industry

Industry	n of cartels	n of cartels	n of cartels	n of cartels	Share of Cartelized Production In			Share of Stock Capital in Combines
	1905	1910	1925	1930	1907	1925/28	1935/37	1935
					%	%	%	%
Mining	19	16	51	72	74	83	95	64
Stone, earth	27	40	40	60				
Iron and steel	62	68	73	108				77
Semi-finished Metals	11	20	17	37	10	31	80	50
Chemicals	32	48	127	200		70	75	45
Paper	6	20	107	66	89	70	85	27
Machinery	1		195	115	2	15	25	46
Vehicles, shipbuilding	1		9	15	7	11	15	63
Electricals	2	3	56	63	9	14	20	53
Opticals					5	12	15	48
Steel Products			234	167	20	30	75	30
Metal Goods			78	36		15	20	30
Glass	10	16	20	40	36	66	100	56
Leather	7	18	46	38	5	5	10	41
Wood, plywood	6	20	44	67				26
Textiles	31	53	201	267		10	15	38
Clothing			71					22
Food	17	42	170	130				32

Summarizing, it may be noted that there was some anticartel legislation in Germany. On the basis of the laws passed in 1923 the government could

have brought the cartels under control. But the state, except in the case of the lignite cartel which was dissolved, never exercised the power it was granted over cartels. The main reason was that cartels were believed to be a form of economic organization far superior to unrestricted competition. At the same time specific political and economic situations furthered concentration in the German economy. For example, in order to pay Versailles Treaty reparations Germany had to increase exports, the type of sales that generally required large-scale units.

Competition Policy after 1945

A new development occurred in 1945 when occupation authorities ruled that a contractual waiver of freedom of competition was unlawful, and therefore prohibited. Since the motives of the occupation authorities were not purely determined by competition policy, the understanding of their policy as a general legal concept was hampered. Dissolution of cartels and divestiture of trusts, in particular trusts in basic industries (coal, iron, and steel) were meant to limit the economic strength of Germany. Article 12 of the Potsdam Treaty of August 2, 1945, stated: "At the earliest practicable date, the German economy shall be decentralized for the purpose of eliminating the present excessive concentration of economic powers as exemplified in particular by cartels, syndicates, trusts and other monopolistic arrangements." The directive JCS 1067, still influenced by the Morgenthau Plan to make Germany an agrarian state, demanded that all companies with a workforce of 3,000 plus had to be broken up and that plants had to be dismantled [18].

The role and limits of the United States in shaping German anti-cartel policies after the war have clearly been documented. In line with its general thrust for an "Open Door" Policy in the post-war world, the American government believed that if the pre-war system of international cartels were allowed to be reestablished it threatened to close potential markets to American manufactured goods, and that international cartels were incompatible with the liberal trading policies the US hoped to introduce into the post-war world.

Free competition in the German "social market economy" became the keynote of economic policy in West Germany. In 1949 a committee of German experts presented two distinctly liberal bills on cartel law, an "Act to Secure Competition by Efficiency" and an "Act on a Monopolies Office." Since there was an obvious sellers' market in the German economy in the early post-war period of the Federal Republic, some sections of industry, particularly in light engineering, showed a willingness to work towards a freer trade environment. There was also some willingness to accept that government supevision might be necessary, and even some positive desire for government enquiry into cases of complaint, particularly of prices that entered into general costs of production. This cooperation of German industry was also an attempt to limit the impact of American pressure in the sphere of cartels.

US pressure was the one coherent, driving force, but it had contradictory results, with the German government wishing to resist American demands at least in detail. The breakup of the vertical combines in heavy

industry very soon led to increased horizontal concentration in that field. Nevertheless, American influence ensured as no other political force could have done that legislation went through. Business interests did not "capture" the legislative process in the case of competition policy, and industry's ideas for corporatism were defeated through the strength of public opinion, enhanced by the nature of World War II and American allegations about the pre-war cartel system. Nevertheless, industry was able to limit the scope and impact of the regulatory process. In this effort it was definitely helped by the American way of handling the problem, which aroused suspicion and unease.

In 1952 the "Act Against Restraints of Competition" (GWB) was brought to parliament. Yet, it took some years until the bill was enacted in 1957. It entered into force on January 1, 1958, entirely replacing the occupation law and applying to all restraints of competition that had effects or were reasonably likely to have effects in Germany, even if caused abroad.

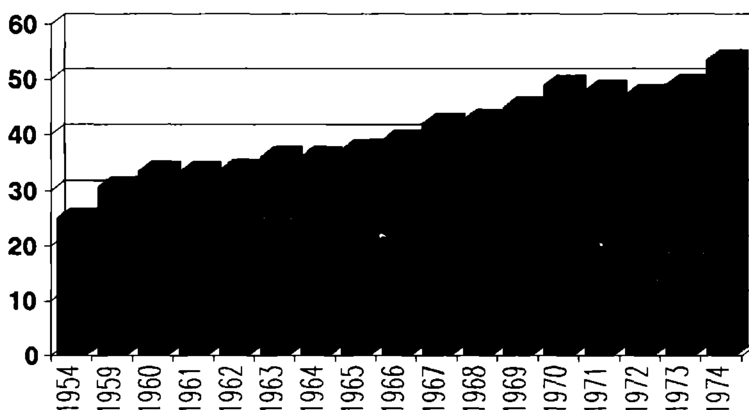
In the "Act against Restraints of Competition" of 1957 different legal concepts were adopted with respect to different types of restraint of competition. As far as cartel arrangements, i.e. horizontal restraints of competition, were concerned, the Act applied the concept of "prohibition subject to exemption." Under this concept, cartel arrangements were generally prohibited and invalid, but could be authorized if certain requirements precisely defined by the law were met. Violent debates took place on whether to adopt this concept or to reinstate the concept of abuse which had been valid until 1945, explaining the fact that it took five year before the Act was passed. The concept of "prohibition subject to exemption" prevailed in the end. "Concerted practices" were also prohibited.

In the "Act against Restraints of Competition" there was no definition of the term "competition." The ideal its authors (influenced by the Freiburg School of neo-liberal economics that also introduced the German concept of a social market economy) had in mind was a situation of perfect competition. As perfect competition is a theoretical concept that is hardly found in reality, the model was not incorporated in the actual provisions of the law. The law simply attempted to maintain and encourage competition regardless of its degree of perfection. Since the early 1960s the concept of workable competition has become more widely acknowledged in German competition policy [11;12]. The Government's position on amendments was expressly based on that principle, though it is one of the basic problems of workable competition to evaluate market structures and to predict their development, as different market structures (monopoly, narrow oligopoly, wide oligopoly, etc.) may lead to different results. Some critics and representatives of industry have been questioning the predictability of the development of market structures and have argued that competition is a process of discovery and that it would be a mistake to put too much weight on certain market structures. Market structures, in their opinion, are neutral to competition. The essential criterion is to evaluate the present economic stage of a given market. Different rules are supposed to apply to the experimental or expansion stage and to the stage of consolidation, or even retrogression [16, pp. 39-44].

Until 1973 monopolies and so-called dominating market positions were still governed by the concept of abuse, since no merger control existed prior

to the 1973 amendment. During the dealings with the "Act against Restraints of Competition" the parliamentary committee deliberately stated that a merger control was not introduced because it might hinder companies from attaining their optimum size [21; 16, p. 6]. Monopolies and dominating market power were allowed to develop freely up to that time, leading to a constantly rising turnover share of the largest companies. Taxation has significantly influenced industrial concentration, even though it did not overtly promote that, as larger corporate entities led to a reduction of taxable transactions and as the German Stock Corporation Law of 1965 allowed contracts of domination (Beherrschungsverträge) and surrender of profits contracts (Gewinnabfuhrüngsverträge).

Turnover Share (%) of Top 50 in German Industry



Concentration in the German Economy: The Share of the Top 10

	1954	1960	1968	1970	1973	1975	1977	1979	1981	1983	1985	1987	n in 1987
	%	%	%	%	%	%	%	%	%	%	%	%	
Mining	34.6	42	55.4		90.9	91.1	94.4	94.3	94	94	92.3	99.8	80
Oil	72.6		82.9	83.1	83.8	87.2	91.6	93.6	93.4	92.7	94.2	92.3	48
Ship-building	71.5	69	78.3	72	78.4		76.1	71	72	75.3	73.9	78.4	92
Motor Vehicles	58.6	67	78.5	77.8	80.9	79.5	72.1	71.3	72.7	73.7	74.5	74.9	1710
Iron and Steel	51.6	57.8	64.5	66.1	69.7	75.1	69.9	75.1	77.2	79.2	74.1	74.6	103
Electricals	37.8	38.4	45.1	44.3	43.9	48.3	47.8	48.4	48	46.1	47.3	48.5	2523
Chemicals	37.5	40.6	44.9	43.5	43.8	46.4	47.6	48.4	47	48.6	46.9	48.1	1148
Textiles	7.1	12	14.1	13.4	13.2	11.8	12.5	11.3	11.3	10.6	11.3	10.2	1295

In the second amendment of August 3,1973, the most important one so far, merger control was introduced that had been rejected by Parliament on enactment of the law in 1957. In addition, control of abuses over market dominating enterprises was tightened once more. Vertical price fixing for branded goods was prohibited. Only a non-compulsory price recommendation was still permitted, i.e. from that time on a manufacturer's influence on the ultimate consumer price was limited to a price recommendation expressly marked as non-compulsory. Pursuant to the merger control provisions the Federal Cartel Office must prohibit a merger if it is likely that a market dominating position will be created or strengthened as a result of the merger, unless the participating enterprises prove that the merger will also lead to improvements in the conditions of competition and that these advantages will outweigh the disadvantages of market domination. The FCO has to be notified if there will be a market share of 20% after the merger, if one of the companies already had a market share of more than 20%, or when the two companies together have a workforce of more than 10,000 or a turnover of more than $300 million. The GWB also deals with the consequences of restraints arising from a specific market condition. Monopolies and market dominance power (defined by market share of the leading companies) are the model and extreme cases of restraints of competition by market conditions. The GWB is based on the assumption that such market structures exist and are not reversible by legislative or administrative measures. It attempts to control them by eliminating abusive practices and preventing restraint of trade by exercising merger control. Of course, there still have been mergers, as mergers with companies with a turnover of less than 50 million marks are not controlled, but the number of giant mergers has dropped considerably.

To the extent that the merger control provisions are applicable the FCO must prohibit a joint venture--like any other form of merger--if a market-dominating position is likely to be created or strengthened as a result of the merger. Divestiture of a joint venture can also be ordered by the FCO. Moreover, the FCO has sought to stem the anti-competitive effects of joint ventures on various occasions by limiting their duration and/or by establishing substantive restrictions preventing non-competition clauses from exceeding what is necessary for the viability of the joint venture. That prohibition may be waived if the merger has other, favorable effects on competition outweighing the disadvantages of dominant market power. Mergers that have been carried out at the time the FCO is notified, or issues the preventive order, must be dissolved unless an exemption is granted by the Federal Minister of Economics on application. There is a right of appeal to the court against FCO decisions. Some industries are exempt, totally or in part, from application of the Act. These are mainly the transport industry, banking and insurance companies, agriculture and forestry, public utilities and the coal and steel industries.

The provisions of the Law Against Unfair Competition (Gesetz gegen den unlauteren Wettbewerb, UWG) of June 7, 1909--comparable to the American FTC Act of 1914--are complementary to those of the GWB. The UWG is directed at unfair practices in competition. "Unfair competition" involves a violation of good morals. Under the UWG, action may be brought

for injunction or for damages with respect to such conduct. GWB and UWG may apply simultaneously to cases involving certain practices of competition frequently referred to as "competition by nonperformance." Boycott and discrimination are the main types.

The effects of competition policy and merger control can clearly be seen. In the late 1970s and 1980s concentration did not increase significantly as is shown by the bi-annual reports of the Monopolies Commission. In the last couple of years the number of commodity groups with increasing and decreasing levels of concentration have roughly been the same. The Monopolies Commission refers to the share of the 3, 6, 10, 25 and 50 largest suppliers in any commodity group, the Hirschmann-Herfindahl Index, and the variation coefficients derived from this index--measured in each case in terms of the value of production. The average share of the three largest suppliers in any one commodity group in the value of production of the 298 commodity groups reviewed amounted to 38.7% in 1988. The concentration ratio of the three largest suppliers exceeded 90% in seven commodity groups, 50% in 89 commodity groups, and was lower than 10% in 15 commodity groups. If concentration is measured via reference to the Hirschmann-Herfindahl Index (x 10,000) 54 of the 300 commodity groups reveal an index figure of over 1,800, 53 commodity groups an index figure of between 1,800 and 1,000 and 193 a figure less than 1,000. Compared to US Antitrust Guidelines, for example, an index figure of over 1,800 would be regarded as an indication of high concentration, between 1,800 and 1,000 as an indication of moderate concentration, and less than 1,000 as an indication of low or no concentration.

Level of Concentration 1988/78 in 300 Commodity groups [15, p. 438]

	Number of Commodity Groups	Number of Commodity Groups	Number of Commodity Groups
Concentration Criteria	**Increased**	**Decreased**	**Constant**
Concentration Ratio CR-3	118	116	49
Concentration Ratio CR-10	119	99	49
Hirschman-Herfindahl Index	117	107	52

An analysis of the 100 largest companies according to rank intervals of ten confirms the large size differences that exist between companies at the top and bottom of the ranking intervals. The ten largest companies still reveal a larger share in value added than the following 30 companies, and the top 20 companies a greater share than the remaining 80. The controlling interests in the top 100 companies were broadly dispersed in the case of 28 companies and in the hands of individuals, families, or family foundations in the case of 21 companies. A third major group consists of 16 companies whose controlling interests are in the hands of individual foreign shareholders.

In an international comparison the ten largest German companies have increased their ranking in world turnover, even though they are still fairly small compared to American or Japanese companies. Of course the exchange rate gains of the German mark against the US dollar have been a major factor in this development, but there than be no doubt that the turnover and

employment growth of large German companies was considerably higher than that of many big foreign companies [14, p. 328].

Even though concentration in the German economy seems to be fairly moderate in international perspective one must stress the fact that, at least in my understanding, the influence of banks and interlocking board memberships have led to a higher concentration than the relatively low rates of horizontal, vertical, conglomerate, or aggregate concentration seem to indicate [16, pp. 98-99]. Direct interlocking directorates exist if members of the management or supervisory boards of the largest 100 companies are at the same time member of the supervisory boards of other companies belonging to this group. Management representatives of the 100 largest companies can be found on 76 supervisory boards of other companies belonging to this group in 1988, banks having a share slightly less than 50% [15, p. 442]. Due to their status as universal or all business banks the German banks have always had vast opportunities to influence the structure of industry beyond their financial intermediary function, opportunities even extended by their proxy rights. Short term profits obviously have always been of lesser importance in their policy, especially as individual banks tend to concentrate on some sectors.

The discussion about the role of the German banks has been going on for decades. In its sixth Report for 1984/85 the monopolies commission repeated its suggestion of 1973/75 to put of cap of 5% on one bank's holding in another non-bank company, a demand which was also put forward by the Advisory Board to the Minister of Economics in its Report on Competition Policy in 1986. The reasoning was that there might be a conflict of interest and the fear of a concentration of power in the hands of the big banks, which of course violently opposed this idea, claiming that reports on their share holdings were widely exaggerated and that there holdings were mostly the result of the companies' or even the state's demand [9, pp. 299-326]. In 1989 the Federal Minister of Economics once more considered putting a cap of 15% on one bank's holding in another non-bank company, limiting the number of board memberships, and forbidding any limitation of the right of vote, but no action has been taken so far.

The Most Frequent Owners of Top 100 Companies

Company	Rank according to Net Value Added among Top 100	Industry	Ownership in n of the Top 100	Major Holdings
Allianz AG Holding	22	Insurance	12	Hypo-Bank 24.2% Dredner Bank 10%
Deutsche Bank AG	12	Banking	9	Daimier-Benz 28.2%
Commerzbank AG	24	Banking	7	Karstadt AG 25+%
Dresdner Bank AG	19	Banking	5	BMW 5%

Interlocking Personal Relationships among the Big 10 in chemicals 1979

	Company	1	2	3	4	5	6	7	8	9	#	Total
1	BASF		5	7	0	1	0	6	0	1	1	21
2	Hoechst	5		8	0	3	4	2	0	5	0	27
3	Bayer	7	8		4	7	5	6	1	6	1	45
4	Flick Indus.	0	0	4		2	5	1	0	2	0	14
5	Degussa	1	3	7	2		3	2	1	5	0	24
6	Henkel	0	4	5	5	3		2	1	7	0	27
7	ENKA Glanzstoff	6	2	6	1	2	2		0	3	0	22
8	AGFA Gevaert	0	0	1	0	2	2	0		0	0	3
9	Schering	1	5	6	2	5	7	3	0		0	29
#	ROW	1	0	1	0	0	0	0	0	0		2

Interlocking Personal Relationships among the big 9 in Electricals in 1979

	Company	1	2	3	4	5	6	7	8	9	Total
1	Siemens		7	5	0	1	9	7	2	3	34
2	AEG	7		4	0	0	4	3	1	4	23
3	Robert Bosch	5	4		1	0	5	2	1	6	24
4	IBM Germany	0	0	1		0	1	0	0	1	3
5	Philips Germany	1	0	0	0		0	1	0	0	2
6	BBC	9	4	5	1	0		5	2	4	30
7	SEL	7	3	2	0	1	5		3	1	22
8	Grundig	2	1	1	0	0	2	3		0	9
9	Bosch-Siemens-Hausgeräte	3	4	6	1	0	4	1	0		19

Interlocking Board Memberships among Germany's Top 10

Rank of Company in Top Ten		Company	Industry	No. of Companies in Top ten with Interlocking Board Memberships		
1970	1988			1970	1986	1988
1	8	Ruhrkohle AG	Coal Mining	6	2	1
2	2	Siemens Ag	Electricals	6	3	5
3	3	Volkswagen AG	Cars	3	4	5
4	1	Daimier-Benz AG	Cars	5	2	5
5		AEG AG	Electricals	1		
6	7	Hoechst AG	Chemicals	4	2	2
7	10	Thyssen AG	Heavy	3	6	6
8	4	BASF AG	Chemicals	1	3	6
9	5	Bayer AG	Chemicals	3	4	4
10		RWE AG	Electricity	4		
	6	R. Bosch GmbH	Electricals		2	1
	9	VEBA AG	Coal/Chem.			6

The Competition Law of the EC

For a long time EC competition policy has followed the concept of abuse and thus has been predominantly a policy of facilitating, fostering, and stimulating mergers. While it has been encouraging the build-up of giant corporations--and still is actively doing so for various industries like chemicals, pharmaceuticals, computers, telecommunications, electronics, the motor and aerospace industries, and precision instruments [5, p.29] it has shown relatively little active concern for preventing the merger movement underway in the EC. As of 1990 Brussels decides on mergers when the merging companies have a combined world-turnover of more than 5 billion ECU, now somewhat more than $6.3 billion. The argument very often is that competition now operates on a world scale and that the relevant geographic markets are no longer national but cover all industrialized countries, or more particularly the so-called triad of Europe, North America, and Japan. In these industries, according to the Brussels commission European firms need to be allowed to strengthen their position on the world market by establishing a strong base for the internationalization of their operations on the European market. Airbus is mentioned as an example "which illustrates the advantages of increased cooperation between European firms." In 1990 Brussels was notified of 40 mergers; 29 were granted right away; in six cases a procedure was considered, 3 of the five procedures under way ended with a consent, and 2 are still pending.

References

1. Adolf Adomzeit, *Die Konzentration im deutschen Braunkohlenbergbau* (Diss. Königsberg, 1933).
2. *Ausschuß zur Untersuchung der Erzeugungs- und Absatzbedingungen der deutschen Wirtschaft, Verhandlungen und Berichte des Untersuchungsausschusses für allgemeine Wirtschaftsstruktur* (I. Unterausschuß) 3. Arbeitsgruppe, Wandlungen in den wirtschaftlichen Organisationsformen, part 3, Berlin 1930.
3. Bundesarchiv Abt. Merseburg (BA) Ministerium für Handel und Gewerbe, Rep 120 C VIII 1, No. 72, vol. 5, p. 17; No. 72 Adh. 45, vol. 1, p. 265; No. 72 Adh. 53, vol.3, p. 39; No. 72 Adh. 53, vol. 1, p. 5.
4. Hans de Clerck, *Die Entstehung von Zwangskartellen* (Diss. Köln, 1934.
5. Commission of the European Communities. Directorate General for External relations. European Economy.
6. Wilfried Feldenkirchen, *Das Zwangskartellgesetz von 1933. Seine wirtschaftspolitische Bedeutung und seine praktischen Erfolge*, in Hans Pohl, ed., *Kartelle und Kartellgesetzgebung in Praxis und Rechtsprechung vom 19. Jahrhundert bis zur Gegenwart* (Stuttgart, 1984), 145-166.
7. Wilfried Feldenkirchen, *Die Eisen- und Stahlindustrie des Ruhrgebiets 1879 -1914* (Wiesbaden, 1982).
8. Rudolf Gunzert, *Konzentration, Markt und Marktbeherrschung* (Frankfurt am Main, 1961).
9. Alfred Herrhausen, *Zu den Vorschlägen der Monopolkommission zur Begrenzung des Anteilserwerbs von Banken an Nichtbanken*, in Herbert Helmrich, ed., *Wettbewerbspolitik und Wettbewerbsrecht. Zur Diskussion um die Novellierung des GWB* (Cologne-Bonn, 1987).
10. *Jahrbuch für Nationalsozialistische Wirtschaft* (1935).
11. Erhard Kantzenbach, *Die Funktionsfähigkeit des Wettbewerbs* (Göttingen, 1967).
12. Wolfgang Kartte, *Ein neues Leitbild der Wirtschaftspolitik* (Köln-Berlin, 1967).
13. Werner Kreutz, *Die Zwangskartellierung in der gewerblichen Wirtschaft der Gegenwart* (Diss. Berlin, 1936).
14. Monopolies Commission, 1986/87.
15. Monopolies Commission, 1988/89.
16. Jürgen Müller and Rolf Hochreiter, *Stand und Entwicklungstendenzen der Konzentration in der Bundesrepublik Deutschland* (Göttingen, 1975).
17. National Archives, Record Group 260, Ec Div Dec Br 17/242-2/4.
18. National Archives, Record Group 407, Box 1003.
19. Hans Pohl, *Die Konzentration in der deutschen Wirtschaft vom ausgehenden 19. Jahrhundert bis 1945* in H. Pohl and W. Treue, eds., *Die Konzentration in der deutschen Wirtschaft seit dem 19. Jahrhundert.* (Wiesbaden, 1978), 4-44.
20. Burckhardt Röper, *Die wirtschaftlichen Hintergründe der Kartellegalisierung durch das Reichsgericht 1897* in Ordo, *Jahrbuch für die Ordnung von Wirtschaft und Gesellschaft*, 3 (1950), 238-50.
21. *Schriftlicher Bericht des Ausschusses für Wirtschaftspolitik über den Entwurf eines Gesetzes gegen Wettbewerbsbeschränkungen*, zu Bundestagsdrucksache II/3633, zu §18.
22. Franz Schwarz, *Wesen, Erscheinungsformen und Moglichkeiten der geordneten Marktwirtschaft* (Diss. Berlin, 1937).
23. Horst Wagenführ, *Kartelle in Deutschland* (Nürnberg, 1931).
24. Friedrich Zunkel, *Industrie und Staatssozialismus. Der Kampf um die Wirtschaftsordnung in Deutschland 1914-1918* (Düsseldorf, 1974).