Justifications of anti-competitive activities under EU Competition Law

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In this paper, I analyze justifications of anti-competitive activities under EU Competition Law. The discussion focuses on whether "public interest" such as product safety is included in the scope of justifications of EU Competition Law. Even though justifications of anti-competitive activities are limited to "economic benefit", closer consideration is still required on what facts are deemed as "economic benefit". Furthermore, I investigate the criteria of justifications; under what standards anti-competitive activities should be evaluated. To explore these issues, I thoroughly investigate the provisions of the Treaty on the Functioning of the European Union, major rulings of the Court of Justice of the European Union and other judiciaries, and the guidelines of the European Commission.

I propose the fundamental idea that lies within justifications under EU Competition Law; anti-competitive activities may be justified in those cases where such activities are conducted in order to promote competition（for example, to correct "market failures" that recover the market mechanism）. Advocating free competition is ultimately in accordance with the objective of EU Competition Law. And, authorities should balance pro-competitive effects and anti-competitive effects to overview their correlation, and then determine which criteria（three standards：（i）strict standard,（ii）intermediate standard, and（iii）moderate standard）should be applied to anti-competitive activities. In this respect, the interpretation of the statutes regarding justifications of anti-competitive activities under EU Competition Law should harmonize with that of U.S. Antitrust Law amid the ongoing globalization of economy.