Contents

Preface ........................................... xi
Contributors to the volume .................... xiii
Abbreviations (including legislation) .......... xv

Introduction .................................. 1

**Part I  Remedies in Unfair Competition and Consumer Protection Law** 3

A. Setting the basics - the legal framework 5
   I. Approach of this comparative study 5
   II. The legal background in the different Member States in unfair competition law 26
   III. The European context of unfair competition law 54
   IV. Enforcement and sanctions under US - American unfair competition law 67

B. Contemporary solutions: the case studies 89
   I. Objects of claim - the sanctions 89
   Case 1 Risky bread: order to cease and desist, elimination, publication 89
   Case 2 Watch imitations I: interim injunction 130
   Case 3 Whisky: damages and discovery 158
   II. Plaintiffs and defendants 199
   Case 4 Children's swing: attracting customers - the different plaintiffs 199
   Case 5 Discontinued models: misleading advertisement - the consumer as plaintiff 253
   Case 6 Child labour: civil and criminal law 281
Case 7 Recycled paper: advertising agencies and the press as defendants 306
III. Out-of-court settlements of disputes 327
Case 8 Watch imitations II: pre-trial measures 327

C. Results and conclusions for remedies in unfair competition law 359
   I. Summary of theses 359
   II. Proposed draft 367
   III. Instead of closing words – methods of harmonizing European law 369

D. Graphics 375

Part II Remedies in Antitrust Law 387

A. Introduction 389
   I. Methodological note 389
   II. National antitrust law – a survey 395
   III. The European context of antitrust law 423

B. Private enforcement of competition law: a comparative perspective
   By David J. Gerber 431
   I. Private enforcement in US antitrust law 434
   II. Competition law in Europe: administrative centrality 442
   III. Incorporating private enforcement into European competition law: comparative perspectives 448
   IV. Concluding comments 452

C. Case studies 453
   I. Objects of claim 453
   Case 9 Predatory price undercutting agreements – forbearance (cease-and-desist order) 453
   Case 10 Abuse of a dominant market position against a competitor – damages 499
   Case 11 Boycott – pre-trial measures and temporary relief 535
II. Plaintiffs and defendants 564

Case 12 Horizontal restraints of competition – consumer claims against general cartel effects 564

Case 13 Horizontal restraints of competition – validity of subsequent contracts 583

Case 14 Vertical restraints of competition – resale price maintenance 597

Case 15 Selective distribution and refusal to deal 616

D. Conclusions 637

I. The overall results of the country reports 637

II. Measures for the strengthening of private enforcement 639

III. Conflict of laws 652

IV. European harmonization of remedies in antitrust law? 656

V. Conclusion 658

Outlook: the link between unfair competition law and antitrust law 659

I. Reasons for the different weight of private enforcement in unfair competition and antitrust law 659

II. Unfair competition law remedies as a model for antitrust law? 661

III. Examples 661

1. Standing of consumers 662

2. Standing of consumer protection associations 662

IV. Future prospects 663

Bibliography 664

General index 680

Index by state 690