



ECN Brief

ECN Brief 04/2011

Welcome to the October issue of the ECN Brief

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Any reactions, comments, ideas, suggestions for the improvement of this Brief are very welcome and should be sent to the following address comp-ecn-brief@ec.europa.eu

Dear Reader,

This is the ninth issue of the ECN Brief which is a publication of the European Competition Network (ECN). The ECN is a network of the Member States' competition authorities (NCAs) and the European Commission (DG Competition). The ECN Brief aims to inform you about the activities of the ECN and its members and to reflect the richness of enforcement actions and advocacy in the Network. It focuses on news of major interest about EU competition law and policy. The present issue covers news from June to the beginning of October 2011.

In the present issue, we are happy to report on initiatives adopted by several ECN Members with the view to improve transparency and predictability in their competition enforcement activities. These include the consultation on Draft Guidelines on Fines in Belgium, the consultation on a new Draft Guidance on Merger Control in Germany, the revision of Guidelines on Sanctions, Mergers, Complaints and Rules on Access to File in Romania, the adoption of the Communications on Termination of Proceedings by Commitments and on Short-Form Notification of Concentration in Spain. The Brief also announces the adoption of Best Practices on Antitrust Proceedings by the European Commission.

The last issue of 2011 will be published mid-December 2011. In the meantime, we wish you interesting reading.

DISCLAIMER:

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ENFORCEMENT & CASES

AUTHORITIES

- **Austria:**
Application for Fines filed in Textile Cleaning Investigation
- **Bulgaria:**
Ex-officio Investigation initiated in Aviation Fuel Sector
- **Germany:**
 - Multi-million Fines on Cartel in Concrete Pipe Sector
 - Cartel Agreement concerning Turntable Ladders for Fire Engines
- **Italy:**
Fines imposed on Suppliers of Magnetic Resonance Equipment
- **Poland:**
Formal Proceedings opened for alleged Abuse of Dominant Position in Gas Sector
- **Spain:**
 - Gas Natural Group fined for hindering Competition in Marketing of national Gas for Final Consumers
 - Fines imposed in Fluid Pumps Cartel case

COURTS

- **Finland:**
Copyright Management Organisation abused its Dominant Position
- **Portugal:**
Court confirms Authority's Decision on RPM affecting Hospitals' Public Tenders
- **Sweden:**
Private Enforcement in Postal Sector

France: Commitments cutting MIFs on Payment Cards

On 7 July 2011, the Autorité de la concurrence made binding the commitments from the Groupement des Cartes Bancaires to reduce the main MIFs on payment cards by 20 to 50 %.

[Read more](#)

Italy: ICA fines Refusal to share with Competitors Information essential for Renewal of Marketing Authorisation

On 27 July 2011, the ICA imposed on BAYER a fine of € 5 124 000 for an abuse of dominant position on the market for the production and provision of fungicides used to protect grapevines. It was found to have refused to supply its competitors with its own studies on vertebrate animals essential for them to obtain the renewal of their marketing authorizations.

[Read more](#)

Lithuania: Competition Council accepts Commitments by pharmaceutical Companies

The commitments made binding on 21 July 2011, guarantee that the prices and other conditions for the supply of pharmaceuticals to be resold through public tenders are decided independently by the distributor itself.

[Read more](#)

Spain: CNC imposes Fine on Correos for Breach of Commitments Agreement

On 23 August 2011, the CNC imposed a fine of € 4 800 000 on Correos for having breached commitments concluded with the CNC in 2005 in a case where the application of predatory prices had been investigated as an alleged abuse of dominant position under the Spanish Competition Law and the EU Treaty.

[Read more](#)

The Netherlands: Supreme Court decides that Antitrust Fines are not tax-deductible

On 12 August 2011, the Hoge Raad ended a long controversy by deciding that under Dutch law, the entire amount of the anti-trust fine imposed by the European Commission is not tax-deductible. In doing so, the Supreme Court contributes to the deterrent effect of sanctions imposed for competition law infringements, whether by the European Commission or by the NMa.

[Read more](#)

LEGISLATION & POLICY

- **Bulgaria:**
Authority proposes Non-Publication of Values of financial Assistance
- **Finland:**
New Competition Act enters into Force in November 2011
- **France:**
Authority welcomes social Tariff for broadband Internet Access
- **Ireland:**
Legislation to remove Restrictions of Family Doctors to treat Public Patients
- **Italy:**
Opinion on Liberalization Measures to foster economic Growth
- **Slovakia:**
Authority objects to Draft Act on Alcohol Consumption Tax

Sector Inquiries / Market Studies

- **Bulgaria:** Conclusions of Inquiry into Fuel Sector and Opening of Proceedings
- **France:**
 - Sector Inquiry launched into automotive Aftermarkets
 - Sector Inquiry launched into E-Commerce
- **United Kingdom:**
 - OFT to decide whether to refer Audit Market to Competition Commission
 - OFT proposes Investigation by Competition Commission of Aggregates, Cement and Ready-Mix Concrete Markets
 - Report on Competition in Organic Waste Treatment

Belgium: Public Consultation on new Fining Guidelines launched

The draft gives an overview of the procedural context as well as the method used to calculate fines. The public consultation was launched on 10 October 2011 and will be closed on 16 November.

[Read more](#)

Germany: Bundeskartellamt releases new Draft Guidance on Merger Control

On 21 July 2011, the Bundeskartellamt published its "Draft Guidance on Substantive Merger Control" for public consultation. The guidance document constitutes a substantial overhaul of the previous document published in 2000 under the title "Principles of Interpretation of Market Dominance".

[Read more](#)

Romania: New Competences for Competition Council

The CC is now competent to investigate and sanction unfair competition practices. It has also integrated the Railway Supervision Council. A considerable part of the existing secondary legislation has also been revised: regulations and guidelines on sanctions, mergers, complaints and rules regarding access to file are in the process of being reviewed and the final texts are expected for end 2011.

[Read more](#)

Spain: CNC adopts Communications on Termination of Proceedings by Commitments and on Short-Form Notification of Concentrations

On 28 September, the CNC adopted two new communications which are a further step in its strategy to provide greater transparency and predictability for its actions, thus increasing the legal certainty enjoyed by the different economic operators who interact with the CNC.

[Read more](#)

European Commission reforms Antitrust Procedures and expands Role of Hearing Officer

On 17 October 2011, the European Commission adopted a package of measures aimed at increasing interaction with parties in antitrust proceedings and strengthening the mechanisms for safeguarding parties' procedural rights. These measures will increase the transparency and fairness in competition proceedings.

[Read more](#)

OTHER ISSUES OF INTEREST

EVENTS

- **Germany:** Seminar on Sports and Competition Law Seminar
- **Lithuania:** 8th Regional Competition Conference
- **Portugal:** New Website of Competition Authority
- **Slovakia:** 20 Years of Application of Competition Rules in the Slovak Republic
- **European Commission:** 20th Anniversary of EU-US Cooperation Agreement in Competition Matters

Personalialia

- **Hungary:** Two new Members at the Competition Council
- **Ireland:** New Chairperson at the Competition Authority
- **Lithuania:** New Member at the Competition Council
- **Luxembourg:** Change at the Head of the Competition Council
- **The Netherlands:** New Board Member at the NMa

Annual Reports

- **Czech Republic:** Report 2010
- **Denmark:** Report 2011
- **Finland:** Report 2011
- **Germany:** Report 2009/2010

[Link to the Annual Reports of all ECN Members](#)

CONTACTS

ECN STATISTICS

Access to Commission Cases

Training of National Judges

Czech Republic: Conference in Brno - Celebration of 20th Anniversary of Competition Authority from 29 November to 1 December 2011

The Conference will focus on the links between consumers and public procurement, consumers and state aid and consumers and competition in general. The topics discussed will cover: "Competition and Consumers", "Collective Damages Actions", "Bid rigging" and "Economics in Competition Law".

[Read more](#)

Poland: European Competition Day in Poznan on 24/25 November 2011

As the Polish Office of Competition and Consumer Protection deals not only with competition but also protects consumer rights, the event will be devoted to the interaction between competition and consumer protection: "Competition – what's in it for consumers?"

[Read more](#)

Romania: Conference on Competition in Sensitive Sectors of the Romanian Economy on 21 October 2011

The topics debated will focus on recent sectoral developments at national and EU level regarding pharmaceutical distribution, consumer credit and public acquisitions. Screening devices for measuring the degree of competition in various sensitive economic sectors will also be discussed.

[Read more](#)

[ECN members' websites](#)

Number of envisaged decisions by national competition authority; types of envisaged decisions etc.:

<http://ec.europa.eu/competition/ecn/statistics.html>

[Case search](#)

[List of Beneficiaries published](#)