



ECN Brief

Extended Issue

ECN Brief 05/2012



Dear Reader,

The ECN Brief is completing its third year of publication: with already 15 issues, it reflects the richness of antitrust enforcement actions and advocacy by the authorities that form the European Competition Network (ECN).

The creation of the ECN was part of the implementation of Council Regulation (EC) No 1/2003 (Regulation 1/2003) which was adopted 10 years ago. It marked the beginning of a new era for the enforcement of the EU competition rules in which the competition authorities of the EU Member States became much more active players in this field.

Most contributions of the ECN members in this Extended Issue show how Regulation 1/2003 has impacted on national competition laws and to what extent it has served as a source of inspiration for convergence in this area. Other articles illustrate the practical use of the cooperation tools put in place by the Regulation, such as the power to take investigatory measures on behalf of other network members. Moreover, the structure of the competition authorities forming the network continues to evolve and we see examples of major structural reforms reported in this issue.

The Extended Issue further highlights the recent endorsement of a strengthened ECN Model Leniency Programme (MLP) that ECN competition authorities have jointly drawn up, and around which they align their leniency procedures. Leniency programmes are a key tool for the detection of secret cartels for virtually all ECN members. The MLP is an achievement of the network of these last ten years. The Extended Issue also gives a prominent place to the ECN Reports on investigative and decision-making powers which provide an overview of the enforcement procedures in the ECN. These reports give insight into the degree of convergence achieved to date and can serve as a basis for informed debate about the need for further procedural convergence within the ECN.

Since the adoption of Regulation 1/2003, EU competition rules are more and more important to the practice of the national competition authorities. Cooperation within the ECN continuously stimulates the development and exploration of new paths. The ECN Brief will help you to remain informed.

Season's greetings,

Alexander Italianer
Director General for Competition, European Commission

Enforcement & Cases Legislation & Policy Other issues of interest 10th Anniversary of Regulation 1/2003



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ENFORCEMENT & CASES

AUTHORITIES

- **Austria:**
First Decisions in Building Insulation Case
- **Belgium:**
No Grounds for Action against Belgacom for Launch of Happy Time Tariff Plan for fixed Telephony Services
- **Bulgaria:**
Authority to investigate the Union of Bulgarian Millers
- **Germany:**
 - Fines imposed on Manufacturers of Power Transformers for collusive Tendering
 - Joint Venture in Chemicals Trading Sector prohibited
- **Italy:**
Fines imposed on Cartel in Road Barriers Sector
- **The Netherlands:**
Notaries to adjust their Code of Conduct
- **Spain:**
 - Authority fines Paper Envelope Exporters' Cartel
 - Cartel in Maritime Transport between Spain and Morocco fined
 - Authority fines Car Distributor
- **Sweden:**
Interim Order granted in Boycott of Sweden Ice Hockey League against NHL Players

COURTS

- **European Courts:**
Court of Justice upholds Commission Decision on Breach of Seal during Inspection

Bulgaria: Fines imposed on Members of Distribution Network for Hyundai Motor Vehicles

The undertakings were found to have participated in prohibited agreements to fix the resale prices of new Hyundai motor vehicles, original spare parts and out-of-warranty repair and maintenance services, to have illegally agreed to territorial restrictions on the active sales of new motor vehicles to end users, as well as to restrict cross-supplies between dealers and between distributors operating at a different level of trade between 2008 and 2012.

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Greece: Authority accepts Commitments from Dominant Greek incumbent Gas Company

The commitments which were accepted with a view to speeding up the liberalisation of the Greek gas supply market, evolve around four main axes: a) the unbundling of gas supply from gas transportation services, b) providing for a higher degree of customer mobility and increase of liquidity in the market of natural gas, c) the introduction of fair, transparent and non-discriminatory contractual terms and d) the gradual opening of reserved capacity in the natural gas transmission network.

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Romania: Fines imposed on Bid-Rigging Cartel in Natural Gas Pipelines Sector

The Romanian Competition Council (RCC) found that four undertakings had taken part in bid rigging in the framework of two public procurement procedures organised by Transgaz: the first concerned a tender for the natural gas connection for the gas-supply of a cogeneration power plant, and the second related to a gas transport pipeline tender procedure. Based on its findings, the RCC sanctioned the undertakings concerned with fines totalling € 5 600 000.

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European Commission: Producers of TV and Computer Monitor Tubes fined for two ten year-long Cartels

On 5 December 2012, the Commission fined seven international groups of companies a total of € 1 470 515 000 for participating in either one or both of two distinct cartels in the sector of cathode ray tubes. It established that for almost ten years, these companies fixed prices, shared markets, allocated customers between themselves and restricted their output.

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LEGISLATION & POLICY

- o **Denmark:**
Undertakings strive to comply with Competition and Consumer Protection Legislations
- o **Finland:**
Finnish Government's Programme for Promoting Healthy Competition proposes the Amendment of Finnish Competition Act
- o **France:**
New Law on economic Regulation in overseas Departments vests Autorité with specific Injunctive Powers
- o **Germany:**
 - Launch of Sector Inquiry into Oil Refineries and Oil Wholesalers
 - Publication of final Report on Sector Inquiry into Rolled Asphalt Industry
- o **Italy:**
Authority issues Report on Liberalisation
- o **Latvia:**
Competition Council creates Knowledge Network to fight Bid-Rigging
- o **Poland:**
Authority launches another Edition of the Campaign 'Entrepreneur, don't collude!'
- o **Spain:**
Authority publishes Report on Competition in Dairy and Olive Oil Sectors
- o **United Kingdom:**
 - OFT calls for Information about Online Personalised Pricing Practices
 - OFT refers Private Motor Insurance Market to Competition Commission

Finland: New Competition and Consumer Authority to commence Operations on 1 January 2013

The purpose of the merger between the Finnish Competition Authority and the Consumer Agency is to enhance the importance of consumer and competition affairs in society and to streamline administration (see also ECN Brief 3/2012). The current statutory duties of the authorities involved are not to be changed. The Competition and Consumer Agency is to have separate divisions for competition affairs and consumer affairs. The President of the Finnish Republic confirmed the pertinent acts on 30 November 2012.

[Read more](#)

Italy: Authority requests Modifications in Legislation in Field of Leniency and Merger Review

In its Report on Liberalisation issued at the beginning of October, the Italian Competition Authority (ICA) stated that efforts to promote competition need to be supplemented by the vigorous enforcement of competition policy. For this reason, the ICA requests legislative changes that would strengthen its effectiveness in fighting cartels and reviewing mergers.

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Poland: Council of Ministers accepts Proposal for Draft Amendment of Polish Competition Law

The changes will concern the merger procedure, the creation of a Leniency Plus programme, the introduction of liability of individuals in case of an infringement of competition law as well as the introduction of a settlement procedure to simplify and shorten antitrust proceedings. The competition authority will draft the new provisions along the lines of what has been accepted by the Council of Ministers.

[Read more](#)

United Kingdom: OFT launches revised Competition Act Procedures Guidance

On 16 October 2012, the Office of Fair Trading (OFT) set out new decision-making processes and procedural enhancements to boost the speed and robustness of Competition Act 1998 investigations and increase engagement with parties involved. It updates the OFT's guidance by providing for collective decision-making, the ability for parties to make representations on key elements of the penalty calculation ahead of the final decision, more interactive oral hearings and measures to improve transparency of ongoing investigations.

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Annual Reports

Romania: Fourth Report on Competition launched

Link to the Annual Reports of all ECN Members

OTHER ISSUES OF INTEREST

EVENTS

- o **Austria:**
First Competition Talks organised in October and November 2012
- o **Bulgaria:**
Report on Sofia Competition Forum
- o **Czech Republic:**
Report on Saint Martin Conference 2012
- o **France:**
Report on first ICN Advocacy Workshop in Paris
- o **Germany:**
Report on Meeting of Working Group on Competition Law in Bonn
- o **Malta:**
Conference held on EU Competition Law and its Application in Malta
- o **Poland:**
 - Authority hosts Conference on Bid-Rigging
 - Report on Economics Seminar
- o **Slovakia:**
Report on Workshop on Protection of Leniency Documents vs. Defence Rights

Hungary: Upcoming Programmes of OECD-GVH Regional Centre for Competition in Budapest

Having organized several highly memorable events on competition issues in 2012, the OECD-GVH Regional Centre for Competition at the Hungarian Competition Authority (GVH) in Budapest proposes for 2013 three standard events relating to exclusionary and discriminatory practices, analysis and procedures of mergers and intellectual property rights, as well as one special event on cartel investigation procedures and two workshops for judges.

[Read more](#)

European Commission: European Competition Forum on 28 February 2013

Joaquín Almunia, Vice-President of the European Commission, hosts the second European Competition Forum on 28 February 2013 in Brussels. On the agenda will be three main topics: the role of the state in the global economy; competition, innovation and the Single Market, as well as competition policy and the Single Market for financial services. Distinguished guests include Mario Monti, Prime Minister of Italy and Joaquín Almunia as well as representatives of governments and competition enforcement agencies, the business world, and the legal and economic communities.

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Personalia

- **France:**
New Vice-President at the Autorité
- **United Kingdom:**
New Executive Director at the Office of Fair Trading

CONTACTS

ECN STATISTICS

[ECN members' websites](#)

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

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

Access to Commission Cases

[Case search](#)

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10th Anniversary of Regulation 1/2003: Convergence and Cooperation in the ECN

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How Regulation 1/2003 influenced the Development of National Competition Law
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- o **Denmark and Sweden:**
Success Stories of Cooperation within the ECN - Assistance in carrying out Investigations pursuant to Article 22 of Regulation 1/2003
.....[Read more](#)
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Modernisation of Competition Law after Regulation 1/2003
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A small Authority's Perspective on Regulation 1/2003 and the ECN
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- o **Finland:**
Reforms of Competition Law lead to increased Convergence
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• European Competition Network refines its Model Leniency Programme

On 22 November 2012, the European Competition Network (ECN) published a refined Model Leniency Programme (MLP), around which ECN competition authorities align their own leniency procedures. The MLP was adopted in 2006 to make it easier for companies to apply for leniency, in particular where it is not clear which competition authority will take the case forward. The ECN has now, in particular, clarified and simplified the information that must be provided by companies that are applying for leniency with several different authorities in the EU.

[Read more](#)

• ECN: Publication of Reports on Investigative and Decision-Making Powers

In November 2012, ECN Reports on investigative and decision-making powers were published which, for the first time, provide an overview of the enforcement procedures in the ECN.

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10th Anniversary of Regulation 1/2003: Convergence and Cooperation in the ECN

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Ten Years after the Adoption of Regulation 1/2003 - the Road to further Convergence
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Draft Bill creating National Markets and Competition Commission
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