

• **Sweden: The Market Court upholds City Court's Decision finding Abuse in Telia Sonera Case**

On 12 April 2013, the Swedish Market Court (the Market Court) ordered the Swedish telecom operator Telia Sonera Sverige AB (Telia Sonera) to pay an administrative fine amounting to SEK 35 000 000 (approximately € 4 000 000) for having abused its dominant position in the broadband market, ADSL, through a margin squeeze. In doing so, the Market Court upholds the decision of the Stockholm City Court (the City Court) finding the abuse but reduces the fine.

In 2004, the Swedish Competition Authority (SCA) filed proceedings before the City Court against Telia Sonera. The SCA claimed that it had abused its dominant position in the market for access to fixed access networks via resale services for ADSL connections during the period from 2000 to 2003. During this period, the transfer from dial-up Internet connections (via a modem) to broadband connections was in full progress.

In 2009, the City Court requested a preliminary ruling from the European Court of Justice (ECJ) asking a series of questions on the interpretation of Article 102 TFEU. In its preliminary ruling of 17 February 2011, the ECJ confirmed, inter alia, that margin squeeze is a standalone abuse and that it can be an abuse even if the dominant undertaking has no legal obligation to supply its downstream competitors. (See ECN Brief 02/2011).

After the main hearings, the City Court concluded that Telia Sonera had squeezed its margin on several occasions during the period from 2000 to 2003 and ordered Telia Sonera in December 2011 to pay fines amounting to SEK 144 000 000 (approximately € 15 000 000). (See ECN Brief 01/2012). The judgment was appealed by Telia Sonera to the Market Court, which is the court of final instance in competition cases.

Like the City Court, the Market Court found that Telia Sonera had abused its dominant position by offering wholesale and end user services for broadband connections at prices where the margin between the wholesale price and the price to households was insufficient to cover Telia Sonera's own costs for offering broadband to households (Telia Sonera charged its competitors a higher price than it charged households). The Market Court thus concluded that the margin squeeze constituted a serious infringement of the competition rules.

However, the Market Court found that the fine which had been imposed by the City Court should be reduced to SEK 35 000 000, partly because the margin squeeze took place more than ten years ago, and partly because the margin squeeze had taken place during a limited time period (between eight and nineteen months) and on a limited part of the market.

See decision of the Market Court (in Swedish)