



# ECN Brief

ECN Brief 03/2011

## Welcome to the July 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](mailto:comp-ecn-brief@ec.europa.eu)

### Dear Reader,

This is the eighth 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.

This issue covers the period from mid-April to July 2011. It presents a wide range of news relating to enforcement actions as well as relevant legislation and policy information. Several decisions imposing fines are reported including judgments from courts confirming the enforcement actions from the NCAs. On the legislative side, the Brief informs about initiatives to provide guidance on how competition authorities enforce competition rules (Notice on the method relating to the Setting of Fines in France, Compliance Guidance in the UK, Guidelines complementing the new Competition Act in Finland) and about other related policy initiatives such as the quantification of antitrust harm in civil cases (Public Consultation on Draft Guidance Paper on Quantification of Damages by the EU Commission).

The next issue of the ECN Brief will be published mid-October 2011. In the meantime, we wish you interesting reading and a good summer.

#### DISCLAIMER:

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# ENFORCEMENT & CASES

## AUTHORITIES

- **Denmark:**  
Customer sharing  
Agreements found in  
unaddressed Mail Sector
- **France:**
  - Competition bolstered in  
multi-brand Gift Cards'  
Sector
  - Interim Measures adopted  
in Parcel Delivery Sector
- **Italy:**
  - Authority accepts  
Commitments by SISAL in  
Games and Betting Market
  - Fines imposed in Freight-  
Forwarding Cartel Case
- **Spain:**  
CNC fines Organisations of  
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- **Sweden:**  
More Competition needed in  
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- **United Kingdom:**  
Final Decision in Reckitt  
Benckiser Case

## COURTS

- **Germany:**  
ECJ adopts Preliminary  
Ruling on Access to Leniency  
Documents
- **Portugal:**  
Court partially confirms  
Authority's Decision on  
mandatory Training for  
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- **Slovakia:**  
Supreme Court confirms  
Annulment of Competition  
Authority's Decision in  
Banking Cartel Case
- **The Netherlands:**  
Court decides that former  
Employees cannot invoke  
Right to remain silent in  
Competition Investigation

### **Spain: CNC sanctions main Electricity Companies and Sectoral Association**

On 13 May 2011, fines were imposed on the five main electricity companies in Spain as well as on the sectoral association for having fixed prices, agreed on commercial terms and colluded to raise barriers to the domestic electricity market between 2006 and 2009, thereby infringing Article 1 of the Spanish Competition Act and Article 101 TFEU.

[Read more](#)

### **European Commission: Fine imposed on Telekomunikacja Polska for having abused its Dominant Position**

On 22 June 2011, a fine of € 127 000 000 was imposed on the Polish telecom company: it was found to have systematically refused, between 2005 and 2009, to give access or made access difficult for alternative operators to its network and wholesale broadband products, thereby preventing or delaying their entry into the Polish broadband market.

[Read more](#)

### **Czech Republic: Regional Court confirms Fine imposed on Czech Railways for Abuse of Dominant Position**

On 12 May 2011, the Regional Court upheld the fine of CZK 254 000 000 imposed on the railways company for having applied discriminatory prices on the market for railway freight transport of large-volume substrates between 2004 and 2007.

[Read more](#)

### **France: Paris Court of Appeal upholds Fine imposed for Exchange of Information in Telecommunications Case**

On 30 June 2011, the Court of Appeal confirmed the fine imposed by the Autorité de la concurrence on Orange in 2005 for an infringement of national and EU competition rules consisting in particular of an exchange of strategic information with competitors on new subscriptions and churns.

[Read more](#)

# LEGISLATION & POLICY

- **Bulgaria:**
  - CPC welcomes pro-competitive Amendments in Telecommunications Legislation
  - Opinion of CPC on Legislation regulating Provision of free-of-charge Textbooks
- **Finland:**
  - Public Consultation on Guidelines complementing new Competition Act
- **Spain:**
  - Opinion on Royal Decree regulating Access to Legal Profession

## Sector Inquiries/ Market Studies

- **Germany:**
  - Results of Sector Inquiry into Fuel Sector
- **The Netherlands:**
  - Results of Sector Inquiry into Mortgage Market shows Decline in Margins
- **Romania:**
  - Sector Inquiry Report on Wholesale of Pharmaceuticals
- **United Kingdom:**
  - Next Steps in Audit Market Research
  - Market Study launched into extended Warranties

## France: Autorité de la concurrence publishes Notice on the Method relating to the Setting of Financial Penalties

The notice which was adopted on 17 May 2011, explains the different steps followed by the Autorité when applying the criteria provided by the French Code of Commerce for setting fines, and provides guidance on the way the Autorité sets financial penalties in view of the specific circumstances of each case.

[Read more](#)

## Malta: New Legislation creates new Malta Competition and Consumer Affairs Authority and amends Competition Act

Since 23 May 2011, the Maltese Office for Competition has become part of a wider authority: the Malta Competition and Consumer Affairs Authority. The Office takes over the former responsibilities of the Office for Fair Competition and has the obligation to monitor and study markets, recommend action where required and to act as the 'advocate of competition'.

[Read more](#)

## United Kingdom: OFT publishes new Competition Law Compliance Materials

The new guidance, launched on 27 June 2011, includes two documents: the first one, 'How Your Business Can Achieve Compliance', is aimed at businesses and their advisors, and sets out the OFT's recommended approach to creating a culture of competition law compliance. The second document explains the competition law understanding expected from directors and outlines steps they should take to prevent, detect and stop infringements of competition law.

[Read more](#)

## European Commission: Public Consultation launched on draft Guidance Paper on quantifying Antitrust Harm in civil Cases

The draft Paper explains the possible approaches to quantifying harm in civil antitrust cases with a view to provide non-binding guidance that could be relied upon by courts and parties in actions for damages. The Public Consultation is open until 30 September 2011.

[Read more](#)

### Annual Reports

- **France:** Annual Report 2010 published
- **Luxembourg:** Annual Report 2010 published
- **Romania:** Annual Report 2010 published

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

# OTHER ISSUES OF INTEREST

## EVENTS

- **Bulgaria:**  
Seminars held to celebrate 20th Anniversary
- **Hungary:**  
Results and Challenges of European Competition Day on 31 May 2011
- **Lithuania:**  
Foreign Experts to advise Competition Council
- **The Netherlands:**  
10th Annual ICN Conference
- **Portugal:**  
Competition & Regulation Journal celebrates first Anniversary with Conference
- **Romania:**  
Authority hosts Conference on 'Challenges and Achievements' on 12 April 2011
- **Spain:**  
Authority celebrates Annual Competition Conference on 21 June 2011

### Personalia

- **Malta:** New Chairman and Director General appointed at the newly established Malta Competition and Consumer Affairs Authority
- **The Netherlands:**  
New Chairman of the NMa

## CONTACTS

### ECN STATISTICS

### Access to Commission Cases

### Lithuania: The Competition Council hosts 8th Annual Regional Competition Conference in Vilnius

The Conference will take place on 29 and 30 September 2011. It will be the 8th edition of the traditional Baltic Regional Competition Conference, the objective of which is to enhance the good co-operation between the Baltic Region's neighboring countries: Estonia, Finland, Latvia, Lithuania and Poland.

[Read more](#)

### Poland: UOKiK will host 12th Annual ICN Conference

The 12th ICN Annual Conference will take place for the first time in 2013 in Poland. The International Competition Network was established in 2001 in New York and gathers 117 competition authorities from 103 jurisdictions.

[Read more](#)

### European Union: Croatia on its Way to apply EU Competition Rules

The European Council of 24 June 2011 has paved the way for Croatia's membership in the EU. Negotiations with Croatia on its accession to the EU have been concluded at the end of June 2011. The accession treaty is expected to be signed by the end of this year. Thereafter, it will go through the ratification processes in the different EU Member States with a view to accession of Croatia by 1 July 2013. The EU competition rules should apply in Croatia from the date of accession.

[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](#)