



Competition in Practice

Case: 39.116

Updated: 25/09/2006

COCA-COLA

After receiving several complaints alleging abuse of dominant position by Coca-Cola, the Commission inspected Coca-Cola's premises in Austria, Belgium, Denmark, Germany and the United Kingdom in 1999 and 2000. By 2004, the evidence gathered against Coca-Cola covered the 25 EC Member States, Norway and Iceland.

In September 2004, the Commission decided to initiate proceedings against the company, according to the antitrust Regulation 1/2003. In October 2004 the Commission sent a so-called '*preliminary assessment*' to Coca-Cola, expressing concerns that the company and its respective bottlers may have abused their joint dominant position in the national carbonated soft drinks markets by pursuing certain practices in the distribution channels for consumption at home and for consumption on premise in the EU, Norway and Iceland.

In its preliminary assessment, the Commission gave Coca-Cola the opportunity to remedy these concerns by submitting commitments. The company took this opportunity, and in November 2004 the set of commitments which Coca-Cola submitted in response was published in the *Official Journal of the European Union*, whereby interested third parties (e.g. consumers, customers and competitors) were invited to submit their critical observations.

The observations received from 33 market players confirmed the effectiveness of the commitments in addressing the Commission's concerns. The amended Coca-Cola commitment proposal was submitted by the Commission to the Advisory Committee on Restrictive Practices and Dominant Positions (whose members are representatives of the Member States): The Committee issued an unanimous favourable opinion.

In June 2005 the European Commission adopted a decision that rendered Coca-Cola's commitments legally binding.

The commitments offered by Coca-Cola comprise the following:

- No more exclusivity arrangements. At all times, Coca-Cola customers will remain free to buy and sell carbonated soft drinks from any supplier of their choice. Where large, private sector customers or public authorities organise a competitive tender for their supplies and Coca-Cola provides the best offer, it can be the only CSD supplier.
- No target or growth rebates. Coca-Cola will no longer offer any rebates that reward its customers purely for purchasing the same amount or more of Coca-Cola's products than in the past. This should make it easier for Coca-Cola's customers to purchase from other CSD suppliers if they so wish.
- No use of Coca-Cola's strongest brands to sell less popular products. Coca-Cola will not require that a customer that only wants to buy one or more of its best-selling brands (e.g.





regular Coke or Fanta Orange) also has to purchase other Coca-Cola products such as its Sprite or its Vanilla Coke. Similarly, Coca-Cola will no longer offer a rebate to its customers if the customer commits to buy these other products together with its best-selling products or to reserve shelf space for the entire group of products.

- 20% of free space in Coca-Cola's coolers. Where Coca-Cola provides a free cooler to a retailer and there is no other chilled beverage capacity in the outlet to which the consumer has a direct access and which is suitable for competing CSDs, the outlet operator will be free to use at least 20% of the cooler provided by Coca-Cola for any product of its choosing.

These commitments will remain in force until 31 December 2010. If Coca-Cola breaks its commitments, the Commission could impose a fine amounting to 10% of Coca-Cola's total worldwide turnover.

More information:

- Press releases of the case about:
 - The [commitments](#) offered by the company¹
 - The [decision of the Commission](#) to make Coca-Cola's commitments legally binding²
- See [further information](#) about this case.
- Article in the Competition Policy Newsletter³: "[Coca-Cola: Europe-wide remedies in fizzy drinks](#)"

¹ [Commission close to settle antitrust probe into Coca-Cola practices in Europe](#) (Press release IP/04/1247, date 19.10.2004)

² [Commission makes commitments from Coca-Cola legally binding, increasing consumer choice](#) (Press release IP/05/775, 22.06.2005)

³ "[Coca-Cola: Europe-wide remedies in fizzy drinks](#)" P. Gasparon and B. Višnar, Competition Policy Newsletter number 3, autumn 2005, p. 6.

