



ECN Brief

ECN Brief 01/2010

Welcome to the first edition of the ECN Brief

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Dear Reader,

This is the first edition of the European Competition Network (ECN) Brief. The ECN is a network of the Member States' national competition authorities (NCAs) and the Commission (DG Competition). The network operates on the basis of Council Regulation 1/2003 which created enhanced cooperation mechanisms between the NCAs and the Commission for the enforcement of the EU competition rules on anti-competitive agreements and abuses of dominant positions.

This Brief – which is intended to be published five times a year - is meant to inform you about activities of the ECN and its members. It strives to reflect the richness of enforcement actions and advocacy by the network members and, at the same time, to focus on news that are of major interest to readers concerned with EU competition law and policy throughout the EU. It complements the extensive communications policies of the individual ECN members which are accessible via Internet (see page 4 – Contacts).

This first issue covers news from September 2009 to mid January 2010. During this period, following the entry into force of the Lisbon Treaty on 1 December 2009, Articles 81 and 82 EC have been renumbered as Articles 101 and 102 of the Treaty on the Functioning of the European Union, respectively. In this issue, this new numbering will be used for news items from that date.

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

DISCLAIMER:

This publication is a compilation of contributions from national competition authorities of the European Union and the Competition Directorate General of the European Commission ("the Authorities"). Information provided in this publication is for information purposes only and does not constitute professional or legal advice. The content of this publication is not binding and does not reflect the official position of any Authority. Neither any Authority nor any person acting on its behalf is responsible for the use which might be made of information contained in this publication.

ENFORCEMENT & CASES

AUTHORITIES

- **Austria:** Authority files Application at the Cartel Court in the Field of Domestic Tank LPG
- **Belgium:** Follow-up Civil Actions announced in Margin Squeeze Case
- **Denmark:** Authority prohibits Viasat's Business Terms
- **France:** Authority fines Incumbent Telecom Operator
- **Hungary:** Uniform Interchange Fees in Transactions by Payment Cards are anti-competitive
- **Italy:** Investigation into possible anti-competitive Agreements between international Freight Forwarders
- **Latvia:** Concerted Practices among Samsung Home Appliances Distributors' prohibited
- **The Netherlands:** Authority fines Dutch Distributors of Swimming Pool Chemicals
- **Poland:** Fines imposed on Cement Producers' Cartel
- **Slovakia:** Council of Antimonopoly Office to decide on Prohibition of Abuse in "Green Dot" Licensing Case

COURTS

- **Ireland:** BIDS Case: Supreme Court holds Infringement of Art. 81(1) – High Court to assess possible Exemption
- **Latvia:** Court dismisses Legal Proceedings in Case of Unfair Discounts imposed by Riga International Airport
- **Lithuania:** Supreme Court partly upholds Authority Decision in Paper Case
- **European Commission:** Amicus Curiae in the French Pierre Fabre Case – Referral to the ECJ by the French Court

Spain: La Comisión Nacional de La Competencia (CNC) imposes € 120 728 000 in Fines on Insurance Companies' Cartel

The CNC Council fined, on 12 November 2009, several insurance companies for a cartel agreement to set minimum prices for decennial insurance in Spain from 2002 to 2007. Several leading insurers as well as top reinsurance companies were involved. [Read more](#)

Portugal: Competition Authority (PCA) imposes largest Fine ever in Margin Squeeze Case

On 2 September 2009, the PCA announced that it had imposed a total fine of € 53 062 000 in a case in the wholesale and retail access to broadband markets. The infringement, covering a period of over one year, led to the effective exclusion of one competitor from the market, to a significant decrease in the market shares of competitors and to a very significant growth rate of new customers of the dominant undertakings. [Read more](#)

Finland: Supreme Administrative Court increases Fines to € 82 550 000 in Asphalt Cartel Case

The Supreme Administrative Court handed down, on 29 September 2009, its final judgment imposing the highest competition fine in Finland to date on a nationwide asphalt cartel operating from 1994 to 2002 and involving all major players on the market. [Read more](#)

France: Paris Court of Appeal confirms the first ever Implementation of Article 22(1) of Regulation 1/2003 by the Autorité de la concurrence

On 24 October 2009, the Paris Court of Appeal entirely upheld a decision by the Autorité de la concurrence fining four oil companies for colluding in a tender process organized by Air France for refuelling its aircrafts on the island of La Réunion. The court notably confirmed that the French NCA had correctly implemented Art. 22(1) when it sought the assistance of another ECN member, namely the Office of Fair Trading to perform inspections of business premises on its behalf. [Read more](#)

Germany: Access to the File for Claimants vs. Leniency - Local Court of Bonn asks ECJ for Clarification

In a cartel case against several producers of wall paper, a customer applied for access to the file, in particular access to the leniency applications and all documents the leniency applicants had handed over to the Bundeskartellamt, under the German Criminal Procedural Code. [Read more](#)

LEGISLATION & POLICY

- **Austria:** Monthly Newsletter on Fuel Prices
- **Bulgaria:** Authority adopts Guidelines on Competition Impact Assessment
- **Czech Republic:** New Competence of the Czech Competition Authority
- **Estonia:** Authority proposes to amend Medicines Market Regulation
- **France:** Autorité de la concurrence issues its first ex-officio [Opinion](#) on Competition in the Railway Sector and an [Opinion](#) on the Dairy Sector
- **Lithuania:** Amendment to the Law on Competition
- **The Nordic Competition Authorities:** Joint Report on Competition Policy and Financial Crisis
- **Portugal:** Monthly Bulletin on Liquid Fuel Statistics
- **Sweden:** Research Report on Collective Instalment of Broadband Internet or Cable-TV
- **United Kingdom:** Office of Fair Trading publishes:
 - [Assessment](#) of Discretionary Penalties Regime
 - [Guide](#) on Competition as an Essential Consideration for Successful Government Policy

Sector inquiries

- **Italy:** Authority closes Sector Inquiry on Editorial Distribution
- **Romania:** Competition Council publishes the Final Report of the Sector Inquiry into the Retail Food Sector

Annual reports of all ECN members

http://ec.europa.eu/competition/ecn/annual_reports.html

ECN Convergence Report on Model Leniency Programme

On 13 October 2009, the heads of the ECN authorities endorsed a report which reviews the state of convergence of the ECN members' leniency programmes with regard to the provisions of the ECN Model Leniency Programme. The report concludes that the work within the ECN was a major catalyst in encouraging Member States to introduce leniency programmes and in promoting convergence between them. [Read more](#)

Slovenia: Leniency Programme functioning from 1 January 2010

On 1 January 2010, a Government Decree on the procedure for granting immunity from fines and reduction of fines in cartel cases came into force. This Decree sets the rules for leniency applications as well as the rules for handling such applications. The aim of those rules is to increase transparency and legal certainty in the handling of leniency applications. Largely based on the ECN Model Leniency Programme, the Slovenian framework also foresees the use of standard forms for the applications as well as for the list of evidence provided by the applicant. [Read more](#)

Greece: New Notice on Enforcement Priorities and Adoption of new Forms

On 12 January 2010, the Hellenic Competition Commission (HCC) issued a Notice on Enforcement Priorities, with a view to improving the efficiency of its enforcement action while also increasing transparency of its activities. In general, prioritization of cases will be based on the criterion of public interest. In addition revised forms have been adopted in November 2009 for several purposes.

[Read more](#)

European Commission: Best Practices improve Transparency and Predictability of Proceedings

On 6 January 2010, DG Competition and the Hearing Officers published detailed explanations concerning how European Commission antitrust procedures work in practice in order to further enhance the transparency and the predictability of Commission antitrust proceedings. The explanations are outlined in three documents, namely Best Practices for antitrust proceedings, Best Practices for the submission of economic evidence (both in antitrust and merger proceedings) and Guidance on the role of the Hearing Officers in the context of antitrust proceedings. They will be applied by the Commission provisionally as from 6 January 2010, but stakeholders are invited to submit comments within 8 weeks from that date.

[Read more](#)

OTHER ISSUES OF INTEREST

EVENTS

- **Austria:** Bilateral Contacts of the FCA with Representatives of European and non-European Competition Authorities
- **Czech Republic:** Report on St. Martin Conference
- **Hungary:** Visit of Competition Commissioner Kroes to the Competition Authority
- **Slovakia:**
 - [International Seminar on Competition Enforcement](#)
 - [Seminar on Agreements Restricting Competition](#)

Personalia

- **Germany:** New President of the Bundeskartellamt
- **Hungary:** Authority has new Vice Presidents
- **Lithuania:** New Chairman of the Competition Council
- **The Netherlands:** Two new Board Members of the NMa
- **United Kingdom:** Re-appointment of John Fingleton at the Office of Fair Trading

CONTACTS

ECN STATISTICS

TRAINING of NATIONAL JUDGES in EC COMPETITION LAW

20th Anniversary of the Italian and the Polish Competition Authorities in 2010

The Italian Competition Authority (ICA) and the Polish Office of Competition and Consumer Protection (UOKiK) will both celebrate their 20th anniversary in 2010. Both occasions will be marked with a series of events and conferences promoting competition as well as consumer protection.

- **Poland:** the culmination point of the celebrations will be the Jubilee Conference on Current Issues in Competition Law on 27 May 2010 in Warsaw. [Read more](#)

- **Italy:** the final conference will be held on 11 October 2010 and will deal with free competition and protectionism in the framework of the financial and economic crisis. [Read more](#)

Spain: European Competition Day – Madrid

The Spanish Presidency of the Council (first semester of 2010) is planning to hold its European Competition Day on 12 May 2010 in Madrid.

<http://www.eu2010.es/en/agenda/grupostrabajoycomites/evento12.html?idioma=en>

Portugal: Competition Authority hosted III Lisbon Conference

On 14 and 15 January 2010, the PCA hosted the III Lisbon Conference on Competition law and Economics which took place in Lisbon, Portugal. Several topics such as two-sided markets, reconciliation between competition policy, security of energy supply and environmental protection, competition policy in times of crisis, as well as intellectual property and single firm conduct were 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>

Call for Proposals on training projects for national judges in EC Competition Law and Judicial Cooperation published in 2009: <http://ec.europa.eu/dgs/competition/proposals2/> [Read more](#)

List of grant beneficiaries who will provide training programmes in 2010:

http://ec.europa.eu/dgs/competition/proposals2/call_2008_results.pdf