• Denmark: Competition Act amended

On 19 December 2012, a revised competition act was adopted. The amendments that come into force on 1 March 2013 are compiled in the Consolidated Act No. 23 of 17 January 2013. The legal framework for sanctioning infringements of the Danish competition act is amended as follows:

- Imprisonment for up to 18 months for participating in a cartel, provided the infringement was committed intentionally and is of a grave nature, particularly as a result of the scope of the infringement or its likely damaging effects. Under particularly aggravating circumstances, a sanction of up to six years imprisonment may be imposed. Such circumstances could for instance be that the cartel is of a substantial scope or has substantial harmful effects.

- The level of fines imposed on natural persons and undertakings is increased considerably, by increasing the basic amounts for the gravity of an infringement.

The fines currently imposed have been quite low. The average fines imposed on undertakings have amounted to approximately DKK 500 000 (€ 67 000) and the fines imposed on natural persons have not exceeded DKK 25 000 (€ 3 300).

In relation to undertakings and as from 1 March 2013, the basic amount for a minor infringement can be up to DKK 4 000 000 (€ 536 500); the basic amount for a serious infringement is set between DKK 4 000 000 and DKK 20 000 000 (€ 2 700 000) and the basic amount for a very serious infringement is from DKK 20 000 000 and upwards.

For natural persons the basic amount will be at least DKK 50 000 (€ 6 700), DKK 100 000 (€ 13 400) or DKK 200 000 (€ 26 800) depending on the nature of the infringement.

- The leniency rules will also apply to imprisonment, however, only for the first applicant who can obtain withdrawal of the charge (i.e. the immunity applicant). For subsequent applicants it is for the courts to decide on a possible reduction of sentences in accordance with the general rules of the Danish Penal Code.

Furthermore, Law 1385 introduces a number of other key procedural changes as follows:

- Interim measures: The Competition Council’s decision shall be brought before the Competition Appeals Tribunal within ten working days and needs to be upheld by the Tribunal before it becomes effective.

- Introduction of a preliminary statement of objections at a very early stage in the proceedings and with a time limit of two weeks for the parties to reply. After the conclusion of the investigation, a statement of objections will be sent to the parties with a time limit of six weeks to reply. A third consultation of the parties may take place if the draft decision contains new information resulting in an assessment different from the one presented in the statement of objections.

See Act No. 23 (in English)