



# ECN Brief

ECN Brief 03/2010

## Welcome to the third issue of the ECN Brief

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### Dear Reader,

This is the third 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. It focuses on news of major interest about EU competition law and policy.

NCAs are diverse as to their structure and organisation. First level public enforcers include numerous administrative authorities and some courts. Judicial review of decisions by competition authorities also involves different types of courts, e.g. administrative, civil and other types of courts.

The ECN Brief covers jurisprudence of review courts where reported by the members of the network. It particularly highlights references to the Court of Justice of the European Union (ECJ) seeking interpretation of EU law. The present issue also reflects another interesting development at the judicial review level, namely the creation in Portugal of a Court specialised in Competition matters (see page 3).

The next issue of the ECN Brief will be published mid-October 2010. In the meantime, we wish you interesting reading.

Any reactions, comments, ideas, suggestions for the improvement of this Brief are very welcome and should be sent to the following address: [comp-ecb-brief@ec.europa.eu](mailto:comp-ecb-brief@ec.europa.eu)

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# ENFORCEMENT & CASES

## AUTHORITIES

- **Austria:**
  - [Fines](#) imposed on Printing Chemical Wholesalers
  - [Cartel](#) in Freight Forwarding Sector uncovered
- **France:** Sanctions on four Container-Handling Companies for Restrictive Agreements in Le Havre Harbour
- **Italy:**
  - [Sanctions](#) on Butangas and Liguigas for Competition-restricting Agreement in the LPG Domestic-Use Sector
  - [Widening](#) of Investigation against Google
- **The Netherlands:** Competition Authority confirms Fines imposed on former Employees for Failure to cooperate in Investigation
- **Spain:** Decision in Case involving TV Broadcasters and Football Clubs
- **Sweden:** Arla Farmers allowed to supply more to rival Dairies
- **United Kingdom:**
  - [Royal Bank of Scotland](#) agrees on fine for disclosing Information to competitor
  - [Statement of Objections](#) issued against Cathay Pacific Airways and Virgin Atlantic
- **European Commission:** EDF Commitments to open French Electricity Market

## COURTS

- **Bulgaria:** Supreme Administrative Court obliges Competition Authority to monitor the Work of Telecoms Regulator
- **Denmark:** Competition Appeals Tribunal upholds Competition Council Decision against Post Danmark A/S for abusing its Dominant Position
- **Lithuania:** Supreme Administrative Court upholds Competition Authority's Decision on Abuse of Dominance by Vilnius Airport
- **Poland:** Competition Authority wins Cases against Telekomunikacja Polska before the Supreme Court

### Belgium: Fines imposed on Cartel in the Market for Radiators

On 20 May 2010, the Competition Council fined four undertakings for participating in a cartel on the Belgian steel plate radiators market. The investigation of the competition authorities was based on two leniency applications. [Read more](#)

### Spain/Italy: Italian Competition Authority (AGCM) carries out Inspections on behalf of the Spanish Competition Authority (CNC)

On 2 March 2010, the CNC carried out inspections at leading makers and sellers of plastic containers for fruit and vegetable packaging. Simultaneously, the AGCM carried out inspections at one of the leading Italian companies, on behalf and for the account of the CNC pursuant to Article 22(1) of Regulation 1/2003. [Read more](#)

### European Commission: First Decision under Settlement Procedure adopted

On 19 May 2010, the European Commission adopted its first settlement decision in a case involving ten producers of memory chips or DRAMS used in computers and servers. The fine totalling € 331 273 800 includes a settlement reduction of 10% for the companies concerned. [Read more](#)

### Denmark: Supreme Court refers Questions concerning Discriminatory Pricing to the ECJ

On 27 April 2010, the Danish Supreme Court referred two questions concerning discriminatory pricing in the Post Danmark case to the ECJ. The case relates to an abuse of dominant position on the market for unaddressed bulk mail. [Read more](#)

### France: Supreme Court upholds the Autorité de la concurrence's Case Practice on Information Exchange

On 7 April 2010, the French Supreme Court upheld a ruling of the Paris Court of Appeal which had confirmed a decision by the Autorité de la concurrence fining three mobile phone operators for engaging in anti-competitive agreements, including sharing strategic information. The Appeal Court had taken over the Autorité's reasoning in a detailed manner. [Read more](#)

### Poland: Court of Appeals overrules Judgment of the Court of Competition and Consumer Protection (SOKiK) in Interchange Fees Case

On 22 April 2010, the Polish Court of Appeals confirmed the arguments of the President of the Polish Office of Competition and Consumer Protection (UOKiK) in the appeal against the judgment of the SOKiK which had modified the UOKiK's decision imposing fines on a majority of banks for fixing interchange fees. [Read more](#)

# LEGISLATION & POLICY

- **Bulgaria:** Competition Authority initiates a Milk Sector Inquiry
- **Finland:** Opening Rail Transport to Competition
- **France:** Competition Authority to deliver Ex-officio Opinions in the Distribution Sector
- **Greece:** New Notice on the Handling of Complaints
- **Poland:** Competition Authority issues Report on Competition and Liberal Professions of Architects and Construction Engineers
- **Portugal:** Competition Authority concludes Study on Retail Prices for Mobile Telecommunications
- **Romania:** New Regulation on the Organization and Functioning of the Competition Council
- **Slovakia:**
  - [Competition](#) Authority's comments on Electric Waste Disposal Decree
  - [Competition](#) Authority disagrees with Draft Act concerning Joining of Railway Companies
- **Sweden:** New Checklist for detecting Bid-Rigging Cartels
- **United Kingdom:**
  - [Guide](#) to Private Litigation published
  - [First time](#) Competition Advice under New Process issued
  - [Report](#) on Incentives for Compliance and Non-Compliance with Competition Law published
- **European Commission:** Revised Competition Rules for Distribution of Goods and Services adopted

## Denmark: Competition Act amended

On 29 April 2010, the Danish Parliament adopted an amendment to the Competition Act, which has the primary aim of strengthening merger control in Denmark. A number of other initiatives for strengthening enforcement of the competition rules were also adopted. The amendment enters into force on 1 October 2010. [Read more](#)

## The Netherlands: Competition Authority revises its Guidelines for the Health Care Industry

The Nederlandse Mededingingsautoriteit (NMa) published, on 12 March 2010, a revised edition of its Guidelines for the health care industry. The NMa expects that this revised edition will clarify to health care providers, health insurers and other parties what types of collaboration agreements and conduct are allowed under the Dutch Competition Act. [Read more](#)

## Portugal: Government Decision to create a new Court specialized in Competition Matters

The Competition Court will be the first Court competent exclusively in competition, sector regulation and supervision matters in Portugal. Its creation aims at increasing efficiency in the judicial system and reducing the number of pending appeals. [Read more](#)

## European Commission: Public Consultation on Review of Rules applicable to Horizontal Co-Operation Agreements

On 4 May 2010, the Commission published draft Regulations and Guidelines for the assessment of co-operation agreements between competitors, so-called horizontal co-operation agreements, in order to update and further clarify the application of competition rules in this area and to ensure their continuing relevance in the changing economy of today. Comments can be submitted until 25 June 2010. [Read more](#)

## Sweden: New General Guidelines on Trading Prohibition for Infringement of Competition Rules

The guidelines explain how the Competition Authority interprets and applies rules on Trading prohibitions which may be imposed on natural persons or representatives of some legal persons who were involved in a cartel, and prevents them from running businesses for a minimum of 3 years up to a maximum of 10 years. [Read more](#)

# OTHER ISSUES OF INTEREST

## EVENTS

- **Italy:** Report on Anniversary Conferences on 9 and 23 April 2010
- **Romania:** Briefing on Conference on "Competition Council – Achievements and Perspectives"
- **Spain:** Report from the European Competition Day

### Personalia

- **Ireland:** New Chair of the Competition Authority
- **Latvia:** New Board Members of the Competition Authority
- **Luxembourg:** New Rapporteur general of the Competition Inspectorate to be appointed

### Annual Reports

- **Lithuania:** Annual Report 2009 published
- **Luxembourg:** Annual Report 2009 published
- **The Netherlands:** Annual Report 2009 published
- **[Link to the Annual Reports of all ECN Members](#)**

## CONTACTS

## ECN STATISTICS

## Access to Commission Cases

## TRAINING of NATIONAL JUDGES in EU COMPETITION LAW

### Cyprus/Greece: International Conference on Competition Law and Policy

On 21 and 22 May 2010, the Institute for Studies in Competition Policy and Law (IMEDIPA) and University College London organized the 4<sup>th</sup> International Conference on Competition Law and Policy under the auspices of the Cyprus Commission for the Protection of Competition and the Hellenic Competition Commission. The conference was held in Nicosia, Cyprus. The event mainly focused on information exchange and gathered together world-renowned experts in competition law and economics.

[Read more](#)

### Hungary: First Meeting of Multilateral Conference Series on Controversial Issues of Competition Policy (Agriculture)

On 8 April 2010, Mr. Zoltán Nagy, the President of the Gazdasági Versenyhivatal (Hungarian Competition Authority, GVH) opened a roundtable conference "Competition in Agriculture". This conference is the first meeting of the event series entitled "Wasps' nests of competition law". [Read more](#)

### Poland: Libertas et Auxilium – Contest for Journalists

The Polish Office of Competition and Consumer Protection (UOKiK) organizes for the fifth time the "Libertas et Auxilium contest for journalists" in cooperation with the Adam Smith Centre, the Institute of Journalism of the University of Warsaw, as well as the Association of Polish Journalists. The aim of this initiative is to honour journalists who publish materials raising awareness of antitrust and consumer protection law. The official award ceremony will be held on 8 July 2010 in Warsaw. [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](#)

[Call for Proposals 2009](#)

[Call for Proposals 2010](#)