• The Netherlands: The Competition Authority fines Bell Pepper Growers’ Cooperatives and Sales Organizations

On 25 May 2012, the Netherlands Competition Authority (NMa) issued decisions imposing fines on three bell pepper grower cooperatives and sales organizations, for their participation in a price-fixing cartel between May 2006 and February 2009, thereby infringing the Dutch and EU competition rules. The fines imposed total € 14 005 000. The undertakings involved are: UWG (€ 7 000 000), Rainbow (€ 7 000 000) and ZON, which escaped the fine because it made a leniency application and fulfilled all requirements under the Netherlands’ leniency guidelines. A so-called “cartel facilitator” was imposed a fine of € 5000.

At the time of the infringement, the undertakings concerned had a combined market share of approximately 30 to 40% in the Netherlands. In 2010, the total turnover in the Dutch bell pepper industry was approximately € 400 000 000.

The NMa started its investigation in June 2009 and sent the statement of objections in December 2010. Following its investigation, the NMa found that the undertakings tried, through their cartel activities, to keep their selling prices of bell peppers high. They agreed to fix daily and weekly selling prices, for example, and minimum prices. In addition, the parties agreed not to target each other’s customers actively, and to manipulate prices at auction.

The infringements are related to the so-called ‘Holland season’, which starts each year in April and ends in November. During this period, almost all of the bell peppers sold in the Netherlands are also produced in the Netherlands. It is interesting to note that the market definition has a time dimension.

The NMa also imposed a fine on a cartel facilitator, a consultancy, who organized the cartel meetings and drew up the minutes of the meetings. This is the second time the NMa has fined a cartel facilitator.

Finally, in the opinion of the NMa, Council Regulation (EC) No 1234/2007 of 22 October 2007 establishing a common organization of agricultural markets and on specific provisions for certain agricultural products (such as bell peppers) does not stand in the way of the application of the competition rules to the behavior in question.

See press release (in English)

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