

• Austria: Further Fines imposed for Resale Price Maintenance in Food Sector

In four decisions adopted in May 2014 (27 Kt 14/14, 29 Kt 27/14 of 7 May 2014, 27 Kt 22/14 of 19 May 2014 and 24 Kt 25/12 of 21 May 2014), the Cartel Court imposed fines on three breweries and one company providing services to the members of a franchise system (in this context acting as an intermediary between producers and franchisees) for the infringement of Article 101 TFEU and § 1 Austrian Cartel Act through resale price maintenance (RPM).

A fine of € 52 500 was imposed on Braucommune Freistadt, € 58 000 on Hirter Brauerei and € 196 875 on Stiegl Brauerei for having agreed upon resale prices (regular prices as well as special offers) for beer and other brewery products with food retailers.

Similarly a fine of € 225 000 was imposed on AFS Franchise Systeme for agreeing on resale prices with their suppliers of brewery products and non-alcoholic beverages.

All cases were initiated by the Federal Competition Authority (BWB) in the framework of its ongoing investigation into the food industry and follow on from the fines imposed in 2013 (see ECN Brief 5/2013 and ECN Brief 1/2014). In all cases, inspections were carried out at the premises of the companies concerned. After the inspections, the companies decided to cooperate with the BWB and acknowledged the facts brought forward by the BWB. The proceedings were ended via settlement procedures. In all cases, the Court followed the BWB's application and imposed the fines proposed.

All decisions have become final since the parties waived their right to appeal.

See press releases (in German) in cases 27 Kt 14/14, 27 Kt 22/14 of 19 May 2014 and 24 Kt 25/12 of 21 May 2014.

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