



ECN Brief

ECN Brief 04/2012

Welcome to the October 2012 issue of the ECN Brief

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

Dear Reader,

This is the fourteenth 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.

The present edition reports developments from July to October 2012. It shows that next to enforcement actions, the NCAs have been active advocates of competition vis-à-vis their governments in particular in the area of pharmaceuticals, automotive aftermarkets and the liberal professions. Moreover, this issue highlights that authorities are bringing inquiries in a range of sectors including ports, e-commerce, gas, sunflower oil, fuel, banking and finance.

More news about the activities of the ECN and its members will be published mid-December 2012. In the meantime, we wish you interesting reading!

DISCLAIMER:

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ENFORCEMENT & CASES

AUTHORITIES

- **Belgium:** Fine imposed for Abuse of Dominant Position in Magazines' Distribution Case
- **Bulgaria:** Commitments Decision in Wholesale Fuel Market
- **France:** First Commitment Decision by Autorité de la concurrence related to Internet Neutrality
- **Germany:**
 - Fines imposed for Vertical Resale Price Maintenance in Tools Selective Distribution System
 - First Fines imposed in Sweets Case
- **Italy:**
 - Case against Telecom Italia closed with Commitments
 - Proceedings opened in Telecom Case
- **Slovenia:** Resale Price Maintenance in Electricity Market
- **Spain:** Authority fines Collecting Society for Abuse of Dominant Position
- **United Kingdom:** Office of Fair Trading issues Statement of Objections against on-line Travel booking Companies

COURTS

- **Portugal:** Court of Appeal upholds First Instance Decision on Competition Authority's Pharmaceutical Companies Case

Italy: ICA fines Rail Incumbent for Abuse of dominant Position by hindering Access to Passenger Rail Services

On 25 July 2012, the Italian Competition Authority (ICA) found that Ferrovie dello Stato, through its subsidiaries RFI and Trenitalia, had put in place a complex and unified strategy to keep Arenaways out of the route between Milan and Turin from 2008 to 2011. A fine amounting € 300 000 was imposed on FS.

[Read more](#)

Spain: CNC fines Cartel in Civil Engineering Field

The Comisión Nacional de la Competencia (CNC) found that several undertakings active in systems to reinforce concrete structures used in numerous types of buildings and to fix structures and stabilise the ground (post-tensioning and geotechnical markets), had been sharing contracts and customers from 1996 to at least 2010. Fines totalling more than € 16 000 000 were imposed on the cartel participants.

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Romania: Competition Council imposes Fines on National Association of Judicial Executors

In its decision, the Competition Council found that the decision of the association by means of which access to the market was limited and the members' conduct was coordinated with respect to the tariffs charged, constitutes a decision of an association of undertakings in the meaning of Article 5(1) of the Competition Law and Article 101(1) TFEU and infringes both provisions.

[Read more](#)

Germany: Higher Regional Court denies Third-Party-Access to Leniency Applications in Court Proceedings

This decision follows the ECJ judgment in Pfleiderer according to which granting access to leniency applications to injured parties is not prohibited by EU law in principle, but subject to a balancing of the interests of the injured party on the one hand and the interest of effective cartel prosecution on the other hand.

[Read more](#)

LEGISLATION & POLICY

- **Bulgaria:** Report on Sunflower Seeds and Sunflower Oil Sector Inquiry
- **Ireland:** Irish Ports Study gets underway
- **France:**
 - Results of Sector Inquiry into e-commerce
 - Opinion on Draft Decree about Supply of Medicinal Products for Human Use
- **Lithuania:** Competition Council approves Resolution on Activity Priority Setting
- **The Netherlands:** New Rules of Conduct for State carrying out economic Activities
- **Poland:**
 - Guidelines on Commitment Decisions
 - Report on Polish Gas Sector
- **Portugal:** Public Consultations on Guidelines and Regulations
- **Spain:**
 - Report issued on Automotive Fuel and Distribution Market in Spain
 - Report issued on proposed Amendments to Bylaws of Professional Colleges
- **Sweden:** Sector Inquiry launched into Banking and Financial Sector
- **United Kingdom:**
 - Review of Personal Current Account Market launched
 - Call for Information into Petrol and Diesel Prices

Finland: Report on Provision of Pharmaceutical Products

On 28 August 2012, the Finnish Competition Authority published an extensive report on the provision of pharmaceutical products in Finland in which several amendments to the current regulation on the Finnish pharmacy system and provision of pharmaceutical products are proposed. These amendments aim at improving the effectiveness and productivity of the provision of pharmaceutical products and at lowering the costs imposed of their distribution.

[Read more](#)

France: Autorité de la concurrence calls for progressive Lifting of Restrictions on Distribution of visible Spare Parts

Following the launch of its sector inquiry into the automotive aftermarkets in 2011, the Autorité issued its final Opinion on 8 October 2012. The conclusions relate to the five main concerns identified during the inquiry and are intended to stimulate price competition and innovation in the supply of maintenance and repair services.

[Read more](#)

Greece: Hellenic Competition Commission exercises Advocacy Powers and issues formal Opinions on Liberal Professions and other regulatory Restrictions

Free and undistorted competition is a key remedy for the Greek economy, troubled for many decades by the challenges which can arise in a small market economy and a tradition of regulatory state intervention. In that context, the Hellenic Competition Commission, while realigning its strategic objectives, focused its advocacy efforts in 2012 on two crucial sectors of the economy, the liberal professions and market regulation restrictions.

[Read more](#)

United Kingdom: New Guidance on Penalties for breaching Competition Law

On 10 September 2012, the Office of Fair Trading (OFT) published new guidance on how it will set penalties for breaches of competition law. This is intended to allow the OFT to continue to set substantial penalties to deter anti-competitive activity while ensuring that penalties are proportionate in the specific circumstances of individual cases.

[Read more](#)

OTHER ISSUES OF INTEREST

EVENTS

- **Cyprus:** Report on European Competition Day on 2 October 2012
- **Lithuania:** Competition Council commemorates 20th Anniversary of Law on Competition
- **Poland:**
 - Report on II International Competition Law Forum on 27 September 2012
 - Debate on State of Competition in Polish Gas Sector
- **Portugal:** Report on Conference on recently approved Competition Law
- **European Commission:** signs Memorandum of Understanding with China

Personalia

- **Hungary:** New Member of the GVH Decision-making Body

Annual Reports 2011 published:

- **Czech Republic**
- **Lithuania**
- **Poland**

Link to the Annual Reports of all ECN Members

CONTACTS

ECN STATISTICS

Access to Commission Cases

Training of National Judges in EU Competition Law

Czech Republic: 6th St Martin Conference on 13/14 November 2012

The conference will take place at the premises of the Office for the Protection of Competition in Brno and will focus on recent trends and developments in competition law and policy in the EU and the Czech Republic, as well as on practical issues of competition enforcement.

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France: Autorité de la concurrence hosts first ICN Advocacy Workshop on 26/27 October 2012

The workshop will take place in Paris and will cover substantial policy issues, such as advocacy towards governments, the role of competition authorities in advocacy and the contribution of the ICN as a whole towards advocacy. Participants of the workshop will be ICN members as well as Non-Governmental Advisers.

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Latvia: Competition Council hosts 9th Annual Regional Competition Conference on 18/19 October 2012

The conference is organised annually by one of the three Baltic states' competition authorities. Its purpose is to offer a platform to share information on competition policy, on the implementation of competition legislation and the most important tendencies in the markets of Baltic States. It also intends to strengthen cooperation and information exchange among Baltic competition authorities in order to ensure the effective implementation of competition legislation and the carrying-out of sector inquiries.

[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](#)

Award Decision in Call for Proposals 2012 adopted