

• Germany and United Kingdom: Antitrust Cases against Amazon formally closed

On 26 and 29 November 2013, the German Bundeskartellamt (BKartA) and the UK's Office of Fair Trading (OFT) terminated their respective antitrust investigations into Amazon's price parity policy applicable to third party sellers trading on Amazon's "Marketplace" retail platform.

The price parity clauses prohibited sellers from selling products which they offer on Amazon more cheaply on any other online sales channel. In 2012 the BKartA and the OFT each began investigating whether the price parity clauses relating to Amazon Marketplace breached applicable national or EU competition rules.

In order to become active on an internet marketplace, sellers must pay the operators of the marketplace (such as Amazon) various fees, e.g. a specific percentage of the retail price achieved. As the sellers cannot allow any favourable fees to translate into more favourable retail prices for end consumers, it can be difficult for other internet marketplaces that compete with Amazon, especially new platforms entering the market, to reach a large number of customers. These clauses may also soften competition between Amazon and other internet marketplace operators, leading to increased seller fees and generally higher retail prices with insufficient countervailing benefits, to the detriment of consumers.

The BKartA in particular considered the price parity clauses were a horizontal, price-related agreement between competitors. Amazon and the third party sellers using its Marketplace compete to sell their products to the same group of customers on the same level of trade. For the BKartA the price parity clauses affected the pricing policy of the third party sellers on the Marketplace as well as on their own homepages.

In August 2013 Amazon informed the regulators that it would abandon the price parity clauses for its Marketplace across the EU, and changed its general terms and conditions for some of the sellers. The BKartA and the OFT both announced that they were considering closing their respective cases, but still wanted clarification that sellers were sufficiently aware of Amazon's decision to end the price parity policy, that contractual conditions would change for all sellers, and that Amazon would not revert to its previous business practices. It followed that Amazon took several further measures to reassure the BKartA and the OFT sufficiently to enable the authorities to close formally their respective cases.

Throughout these proceedings the BKartA and the OFT cooperated well together, within the Network of European Competition authorities (the ECN). Together, the authorities have helped bring about the end of Amazon's price parity clauses on an EU-wide basis.

Further information:

See BKartA press release (in English) and case summary (in German)

See OFT case page and press release (in English)