



ECN Brief 05/2011

ECN Brief

Extended Issue

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December Issue of the
ECN Brief

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Dear Reader,

We are happy to close the year 2011 with an Extended Issue of the ECN Brief.

The Food & Retail sector is high on the agendas of the ECN members. Both food consumer prices and the good performance of the food supply chain are of direct consequence to all EU consumers.

In this issue, we report about the recent activities of the ECN members in the Food & Retail sector. A large variety of tools such as sector inquiries, market studies, advocacy actions as well as enforcement cases have been used by the competition authorities in the last years to enhance competition in the food sector. A wide range of products from sugar to beer, baby milk, sherry grapes and bread have been looked into by the authorities. Furthermore, relations between retailers and their suppliers have been the subject of intense scrutiny.

The ECN is planning to contribute further to this picture in 2012 with a report analysing the activities of the competition authorities in the Food sector.

Next to the Food & Retail news, the present issue also reports numerous policy initiatives. Several Member States have adopted recently new legislation in the field of competition.

The next issue of the ECN Brief will be published in February 2012. In the meantime, we wish you interesting reading and Happy Holidays!

ENFORCEMENT & CASES

AUTHORITIES

- o **Denmark:**
Commitments to modify Industry Guideline on automatic Sprinkler Systems
- o **Finland:**
Authority closes Case concerning Freight Transport Services
- o **Germany:**
Fines imposed on Manufacturers of Wood-based Products
- o **Italy:**
Insurance Companies fined for collusive Behaviour in Public Procurement in Healthcare Services
- o **Lithuania:**
Authority accepts Commitments in Distribution of TV Channels
- o **The Netherlands:**
NMa imposes Fines on Ship-Generated Waste Collection Cartel
- o **Romania:**
Public Consultation on Commitments submitted by Orange Romania and its Distributors
- o **Spain:**
Fines imposed on Hauliers from Port of Bilbao
- o **European Commission:**
Producers of Refrigeration Compressors fined in fifth Cartel Settlement

COURTS

- o **Lithuania:**
Court of First Instance upholds Authority's Decision in Orthopedic Products Case

Germany: Fines imposed on Cartel in Instant Capuccino Market

On 18 October 2011, the BKartA imposed fines totalling approximately € 9 000 000 on two manufacturers of coffee products namely for having agreed on price increases. Another manufacturer participated in the cartel but benefitted from immunity due to its cooperation under the Leniency Programme. With this decision, the BKartA has now concluded all its proceedings concerning horizontal price agreements in the roasted coffee and cappuccino sector.

[Read more](#)

Lithuania: Ship Agency Companies and Lithuanian Shipbrokers and Agents Association fined

On 8 December 2011, the Competition Council imposed fines totalling € 3 383 891 on 32 ship agency companies and their trade association for having agreed on common minimum ship agency services' tariffs for a period of 13 years.

[Read more](#)

Spain: CNC imposes Fines in the Sherry Grape and Grape Must Market

On 14 October 2011, the CNC Council imposed fines totalling € 544 000 on the several professional associations for having engaged in a concerted practice to fix the prices of sherry grapes and grape must, thereby infringing Article 101 TFEU and Article 1.a of the Spanish Competition Law. It was found that prices were fixed for the period from 1991 to 2009.

[Read more](#)

Austria: Cartel Court seeks Clarification regarding third-party Access to File

Under 39/2 of the Austrian Cartel Act, third-parties may only obtain access to the file with the prior consent of all parties to the respective proceedings: this provision does not only apply to parts of the file containing leniency applications but to all documents. On 12 October 2011, the Austrian Cartel Court decided to stay proceedings concerning a third-party's application for access to the file relating to the imposition of fines in the so called Printing-Chemicals-Cartel and seek the European Court of Justice's guidance by way of a request for a preliminary ruling on the compatibility of the Austrian legislation governing third-party access to file in cartel proceedings with European Union law.

[Read more](#)

LEGISLATION & POLICY

- o **Greece:**
Competition Commission issues Opinion concerning Distribution of Infant Milk
- o **Hungary:**
Public Consultation on Review of Merger Control
- o **Lithuania:**
Extension of Scope of Presumption of Dominant Position in Competition Law
- o **Poland:**
UOKiK's Report on Pay Television Market
- o **Portugal:**
Authority issues Recommendation for the better Functioning of the System of Management and Recycling of used Oils
- o **Romania:**
Authority adopts Report on Competition in essential Sectors of the Economy
- o **Slovakia:**
 - Report on Railway Services Competition Problems
 - Amendment to Act on Protection of Competition relating to Merger Control
- o **Spain:**
CNC publishes Report on Relations between Manufacturers and Retailers in Food Sector
- o **United Kingdom:**
 - Competition Commission makes Proposals to open up Bus Markets to greater Competition
 - OFT refers Audit Market to Competition Commission
- o **European Commission:**
Brochure on Compliance with EU Competition Rules published
- o **EU Competition Authorities:**
EU National Competition Authorities agree Best Practices on Cooperation in Merger Review

Cyprus: Leniency Programme to enter into Force

The Leniency Programme, which is largely based on the ECN Leniency Model Programme, sets out in detail the procedure and conditions for the immunity and/or reduction of the administrative fine.

[Read more](#)

France: Public Consultation on the Autorité's Approach to Compliance Programmes and Guidelines on Settlements

The Autorité has consulted on draft framework guidelines for compliance programmes and on guidance on settlement procedures until 14 December 2011. A public roundtable will be held on 20 December 2011.

[Read more](#)

Greece: New Leniency Programme

The new law brings the leniency programme in line with the ECN Model Leniency Programme and introduces a number of improvements to render it more appealing to undertakings such as a marker system, summary applications and oral statements.

[Read more](#)

Luxembourg: In-depth Reform of Competition Law

The new law, which will enter into force on 1 February 2012, significantly modifies the institutional framework on competition law as the Competition Inspectorate which is responsible for investigating anticompetitive practices, will be absorbed by the Competition Council.

[Read more](#)

Portugal: Public Consultation on new Competition and Leniency Act

The proposed Competition and Leniency Act on which a public consultation has been held, aims at establishing a legal framework for competition which is as autonomous as possible from the Administrative and Penal Procedural Laws and is more harmonized with the EU competition legal framework.

[Read more](#)

United Kingdom: Consultation on Update of the Penalty and Leniency Guidance

The OFT recently published two revised guidance documents setting out proposals to update its approach to financial penalties and to leniency in competition cases. Stakeholders are invited to make their comments known until 26 January 2012.

[Read more](#)

OTHER ISSUES OF INTEREST

EVENTS

- **Bulgaria:**
Report on Bulgarian Competition Day
- **Czech Republic:**
Report on Anniversary Conference
- **Germany:**
Experts engage in Working Group Discussion on Fuel Prices
- **Italy:**
International Conference on Competition and Public Procurement
- **Lithuania:**
Competition Council estimates Benefits of its Activity for Consumers
- **Poland:**
Report on European Competition and Consumer Day
- **Portugal:**
Competition Authority holds Second Edition of its International Training Programme
- **European Commission:**
Consumer Video and Quiz on Competition Policy

Annual Reports

[Link to the Annual Reports of all ECN Members](#)

European Commission: European Competition Forum on 2 February 2012

The European Commission will host the first European Competition Forum, opening with a keynote speech by Vice President Almunia. Three panel sessions will cover the topics of Competition and Competitiveness, State Aid and the European Competition Model. High level decision-makers, economists, public and private competition experts, and members of the media will engage in debates and exchanges of ideas on competition policy and enforcement.

[Read more](#)

European Union: Accession Treaty signed with Croatia

On 9 December 2011, the Treaty of Accession with Croatia was signed in the margins of the European Council. The EU competition rules will apply in Croatia from the date of accession.

[Read more](#)

Personalia

- **Hungary:**
Two new Members at the Competition Council
- **Italy:**
New Chairman at the Autorità Garante della Concorrenza e del Mercato
- **Slovakia:**
New Chairman at the Antimonopoly Office
- **Spain:**
Inauguration of the new President of the Competition Authority and new Council Members appointed

CONTACTS

ECN STATISTICS

Access to Commission Cases

Training of Judges

[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 2012](#)

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Food & Retail News

- o **Austria:**
Current Investigations and Proceedings in Food Sector
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- o **Belgium:**
Belgian Supermarkets are 10 % more expensive than Dutch Supermarkets
.....[Read more](#)
- o **Bulgaria:**
Multiple Initiatives of Commission for Protection of Competition in Food Sector
.....[Read more](#)
- o **Czech Republic:**
Act on Significant Market Power in Sale of Agricultural Products – Impact Assessment
.....[Read more](#)
- o **Denmark:**
Analysis of Danish Grocery Market
.....[Read more](#)
- o **Estonia:**
Recent Activities in Food and Retail Sector
.....[Read more](#)
- o **Finland:**
Authority opens Inquiry into Food & Retail Sector
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- o **France:**
- Intense Activity in Food Sector in 2011
.....[Read more](#)

- Fruitful Follow-up of Autorité's 2010 Recommendations in Ex-Officio Sector Inquiries
.....[Read more](#)
- o **Germany:**
- Bundeskartellamt enters final Phase of Inquiry into Milk Sector
.....[Read more](#)

- Bundeskartellamt investigates RPM in Consumer Goods Retail
.....[Read more](#)
- o **Greece:**
Competition Commission wants to know more about Sale of Basic Nutrition and Daily Consumption Products in Greece
.....[Read more](#)



Food & Retail News

- o **Hungary:**
Dual Shield to protect Food Suppliers
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- o **Italy:**
Inquiry into on Food Retail Sector currently ongoing in Italy
.....[Read more](#)
- o **Latvia:**
State of Play following Introduction of Specific Provision on Retail Trade in Competition Law
.....[Read more](#)
- o **Lithuania:**
Monitoring of Retailers' Activities
.....[Read more](#)
- o **The Netherlands:**
Do sustainable Shrimp Fishing and Competition swim in the same Sea?
.....[Read more](#)
- o **Portugal:**
Competition Authority's Role in Promotion of Well-functioning Food Retail Sector
.....[Read more](#)
- o **Romania:**
Challenges for Competition Council in Food Sector
.....[Read more](#)
- o **Spain:**
Actions of Comisión Nacional de la Competencia in Agro-Food Sector
.....[Read more](#)
- o **European Commission:**
Recent Efforts in sanctioning Cartels in Food Sector
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- o **Iceland:**
Competition Authority investigates Food and Retail Sector
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- o **Croatia:**
Overview of Activities of Croatian Competition Agency in Food and Retail Sector
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