



ECN Brief 01/2013

# ECN Brief

## Welcome to the February 2013 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](mailto:comp-ecn-brief@ec.europa.eu)

### Dear Reader,

Having closed 2012 with an Extended Issue on the 10th anniversary of Regulation 1/2003, we are happy to open the fourth year of publication with news from November 2012 to February 2013. The ECN Brief is a publication from the European Competition Network (ECN): it 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 on enforcement actions from the ECN members in a large variety of sectors. In addition, a range of legislative developments are taking place in the Member States, mostly adjusting and strengthening procedures for the enforcement of competition law. Newly restructured competition authorities have started operating in some Member States.

More news about the activities of the ECN and its members will be published in May 2013. In the meantime, we wish you interesting reading!

#### DISCLAIMER:

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# ENFORCEMENT & CASES

## AUTHORITIES

- o **Belgium:** Fine for Abuse of Dominance in Postal Sector
- o **France:** Two Telecom Operators in Mobile Telephony Sector fined
- o **Germany:**
  - Anticompetitive Agreements on basic Encryption of TV Programmes fined
  - Lufthansa changes anticompetitive Clauses in Corporate Client Programme
- o **Italy:** Formal Proceedings opened against Insurance Companies for alleged Bid-rigging
- o **Lithuania:** Fines in Cash Handling and Cash in Transit Services Case
- o **Luxembourg:** Commitments in Press Distribution Sector
- o **The Netherlands:** Fining Decision in Onion Sets Case
- o **The Netherlands and Germany:** Joint Solution to cross-border Inability to Pay Claim in Flour Cases
- o **Spain:**
  - Fines imposed in Road Transport of Containers Case
  - Fines imposed in Wholesale Telephone Short Messaging Markets Case
- o **European Commission:** Spanish and Portuguese Incumbent Telecom Operators fined for non-compete Agreement

## COURTS

- o **Lithuania:** Supreme Court upholds Authority's Decision in Fuel Sector Abuse case
- o **Sweden:**
  - Market Court's Decision in Automobile Sports Sector
  - Interim Order annulled in Hockeyleague Case

### **Finland: Competition Authority proposes Fines for Abuse of Dominant Position in Fresh Milk Market**

On 20 December 2012, the Finnish Competition Authority (FCA) proposed to the Market Court to impose on Valio a € 70 000 000 penalty payment for the abuse of its dominant position in the production and wholesale market of fresh milk, infringing the Finnish competition rules as well as Article 102 TFEU. The FCA has also ordered Valio to cease its antitrust infringement which has continued for almost three years.

[Read more](#)

### **France: National Incumbent Railway Operator fined for Unilateral Practices**

On 18 December 2012, the Autorité de la concurrence imposed on SNCF a fine of € 60 900 000 as well as an injunction for having implemented several practices that have hindered or delayed the entrance of new operators in the railway freight sector in France.

[Read more](#)

### **European Commission accepts Commitments in E-Books Case**

The Commission decided to close proceedings against four publishers after they had agreed to terminate all agency agreements in the EEA, to ban retail price, wholesale price and agency commission Most Favoured Nation clauses (MFNs) for a five-year period and allow retailers to discount e-books for a two-year period. Similarly, Apple agreed to terminate its agency agreements with five major publishers and ban retail price MFNs for a five-year period.

[Read more](#)

### **Germany: Federal Constitutional Court confirms Constitutionality of Provision on Interest charged on Antitrust Fines**

Since 2005, the Act against Restraints of Competition (GWB) contains a provision according to which interest is charged on fines for competition law infringements from two weeks after the Bundeskartellamt's fining decision has been issued. In a ruling of 19 December 2012, the Federal Constitutional Court has decided that this provision is in accordance with the German constitution.

[Read more](#)

# LEGISLATION & POLICY

- o **Bulgaria:** Guidelines adopted on Corporate Competition Compliance Programmes and Advocacy
- o **Denmark:**
  - Guidelines on fighting Bid-Rigging in Public Procurement published
  - Non-transparent Markets make Switch of Service Providers difficult
- o **France:** Report on Importance of Mobile Virtual Network Operators for Competition in Mobile Telephony Market
- o **Germany:** Authority prepares for Launch of Transparency Unit for Fuels
- o **Hungary:**
  - New Law affecting Application of Hungarian Competition Act
  - Authority provides Guidance on Competition Compliance Programmes
- o **Portugal:**
  - Annual Competition Policy Priorities published for first Time
  - Market Study on Cork Sector published
- o **United Kingdom:**
  - Launch of Workplace Pensions Market Study
  - Office of Fair Trading Report points to Competition working well in UK Road Fuel Sector
  - New Help for Consumers and Businesses for taking action against Price-Fixing

## **Austria: Competition Law Amendments to be in force from 1 March 2013**

These amendments constitute the first major amendment to the Austrian competition regime since 2005 and include a new set of substantive rules which enhances the effective enforcement of competition law and strengthens the investigative powers of the Federal Competition Authority.

[Read more](#)

## **Czech Republic: Amendment to Competition Act**

On 1 December 2012, several amendments in the legal framework for competition proceedings in the Czech Republic entered into force. They concern namely the leniency programme, settlement procedure, inspections and sanctions. Prioritization which, among others, helps save public resources, has also been newly implemented.

[Read more](#)

## **Denmark: Amendment to Competition Act**

The revised competition act enters into force on 1 March 2013. It amends the legal framework for sanctioning infringements of the Danish Competition Act and introduces a number of key procedural changes.

[Read more](#)

## **Italy: Results of Inquiry into national Retail Fuel Sector**

In December 2012, the Italian Competition Authority published the findings of its inquiry into the national fuel retail sector covering the period 2010-2012.

[Read more](#)

## **Portugal: New Leniency Regulation and Guidelines**

This new Regulation and its explanatory Guidelines aim at ensuring that the Portuguese leniency programme is both predictable and attractive.

[Read more](#)

## **ECN: Heads of ECN Authorities endorse Resolution**

On 21 December 2012, the Heads of ECN Authorities endorsed a joint resolution on the Reform of the Common Agricultural Policy.

[Read more](#)

# OTHER ISSUES OF INTEREST

## EVENTS

- o **Finland:** New Competition Authority takes up Operations and new Chairs are appointed
- o **Latvia:** New Website of Competition Authority

### Personalia

- **The Netherlands:** New Board Member at Competition Authority

### Annual Reports

- **Spain:** Annual Report 2011-2012 published

**Link to the Annual Reports of all ECN Members**

### Poland: 12th ICN Annual Conference to take place in Warsaw

The 12th Annual Conference of the International Competition Network (ICN) will be held in Warsaw, Poland, from 23 to 26 April 2013. The Polish Office of Competition and Consumer Protection (UOKiK) will, for the first time, organize this worldwide event which is expected to gather over 500 representatives of antitrust agencies.

[Read more](#)

### Slovenia: Competition Protection Agency commenced Operations on 1 January 2013

With effect from the beginning of 2013, the former Competition Protection Office (CPO) has been transformed into the new Slovenian Competition Protection Agency (CPA), an independent public body which is now responsible for the enforcement of antitrust and merger control rules in Slovenia.

[Read more](#)

### Spain: Anniversary of the Spanish Competition Act

The year 2013 marks the 50th anniversary of the enactment of the Spanish Act 110/63 of 20 July 1963 which was the first special Act to defend free competition in Spain. This anniversary will be marked by an event in May with the participation of Mr Joaquín Almunia, Vice-President of the European Commission.

[Read more](#)

## CONTACTS

## ECN STATISTICS

## Access to Commission Cases

### [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](#)