



# ECN Brief

ECN Brief 04/2010

## Welcome to the fourth issue of the ECN Brief

### Table of contents

[Enforcement & Cases](#)

[Legislation & Policy](#)

[Other issues of interest](#)

[ECN Members' websites](#)

[ECN statistics](#)

[Click here for a complete printable version of the ECN Brief](#)

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*Any reactions, comments, ideas, suggestions with regard to the ECN Brief are welcome and should be sent to:*

[comp-ecn-brief@ec.europa.eu](mailto:comp-ecn-brief@ec.europa.eu)

### Dear Reader,

This is the fourth 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 covers news from June to September 2010.

Among a wide range of news, the present edition reflects inter alia how the issue of public procurement is addressed in several Member States. Apart from enforcement (see the *Highest Fine ever imposed in Hungary* which was in a bid-rigging case, page 2), the emphasis is also on preventive action. This year, several NCAs have undertaken major advocacy initiatives to raise awareness of the harm caused by bid-rigging and/or to prevent and detect it. The present issue reports about the new *Guidelines against Bid-Rigging* in Bulgaria as well as the *Call for Cooperation in disclosing Cartels in Public Procurements* in Slovakia. *More stringent Public Procurement Rules* in Sweden have also been introduced, which involve additional competences for the Swedish competition authority. Already in its previous editions, the ECN Brief reported about a *New Checklist for detecting Bid-Rigging Cartels* in Sweden, (ECN Brief 3/2010) and a *Bid-Rigging Road-Show* in Ireland, (ECN Brief 2/2010).

The next issue of the ECN Brief will be published in mid-December 2010. In the meantime, we wish you interesting reading.

#### DISCLAIMER:

This publication is a compilation of contributions from national competition authorities of the European Union and the Competition Directorate General of the European Commission ("the Authorities"). Information provided in this publication is for information purposes only and does not constitute professional or legal advice. The content of this publication is not binding and does not reflect the official position of any Authority. Neither any Authority nor any person acting on its behalf is responsible for the use which might be made of information contained in this publication.

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# ENFORCEMENT & CASES

## AUTHORITIES

- **Belgium:** Minimum Tariffs for Real Estate Transactions prohibited
- **Finland:** Commitments on Training of independent Car Repairers legally binding
- **France:**
  - Interim Injunctions imposed on Google in AdWords Service Case
  - Fines imposed on French Banks for illegal MIFs
- **Germany:** Energy Suppliers agree to abandon Resale Prohibitions
- **Italy:** Fine imposed on Saint-Gobain PPC Italia in Plasterboard Market
- **Poland:** UOKiK issues first Commitment Decision on the Basis of EU Law
- **Romania:** Competition Council sanctions 14 Administrators of Private Pension Funds
- **Spain:** Competition Authority imposes Fines on Freight Forwarding Cartel

## COURTS

- **Czech Republic:** Regional Court orders Competition Office to issue Decision within short Time Limit
- **Denmark:** Competition Appeals Tribunal upholds Competition Council's Decision prohibiting Viasat's Business Terms
- **Portugal:** Decision of Authority fining Chamber of Chartered Accountants under Court Review
- **European Commission:** ECJ confirms that internal Company Communications with in-house Lawyers are not covered by Legal Professional Privilege

### Germany: Manufacturers of Ophthalmic Lenses Cartel fined

On 10 June 2010, the Bundeskartellamt imposed fines totalling € 115 000 000 on five leading manufacturers of ophthalmic lenses in Germany, seven employees responsible and the Central Association of Optometrists for their involvement in cartel agreements. [Read more](#)

### Greece: Carrefour fined for Restrictive Practices in Greek Franchise Network

On 6 July 2010, the Hellenic Competition Commission levied a fine of € 12 500 000 on Carrefour's Greek business for applying resale-price maintenance among its franchise network from 2003 to 2008. [Read more](#)

### Hungary: Competition Authority (GVH) imposes highest total Fine ever

On 9 June 2010, the GVH imposed fines totalling approx. € 25 600 000 on four undertakings for having shared the market, agreed on the principles to be followed and in some instances on the winner in tenders for public procurement procedures for renovation, reconstruction and rehabilitation of railway lines in Hungary. [Read more](#)

### Spain: Competition Authority (CNC) fines Sherry Producers

On 29 July, the CNC has formally decided to levy fines on nine makers of Jerez wine (sherry), along with the industry association FEDEJEREZ and the Consejo Regulador for that designation of origin, totalling € 6 723 000 after one of the participants in the cartel filed a leniency application. [Read more](#)

### Italy: Highest Administrative Court confirms two Decisions of the Competition Authority (ICA) in Airport Services Sector

On 8 June 2010, the "Consiglio di Stato" upheld two ICA decisions concerning abuses of dominant position by respectively SEA S.p.A. (the concessionaire for the airport system of Milano Malpensa and Milano Linate airports) and AdR SpA (the concessionaire for the Airport system of Rome Fiumicino and Rome Ciampino airports). [Read more](#)

### European Commission: Recent Developments on Discovery following Amicus Curiae

On 27 August 2010, the US district Court of the Eastern District of New York, issued an order whereby access to a Statement of Objections and transcript of an oral hearing emanating from the Commission's investigation was denied. This resolves a discovery dispute. [Read more](#)

# LEGISLATION & POLICY

- **Austria:** Report on Platts Price Assessments
- **Bulgaria:** Competition Authority presents new Guidelines against Bid-Rigging
- **Denmark:** Competition Authority merges with Consumer Agency
- **Finland:** Study on EU Competition Rules on Technology Agreements
- **France:** Ex-officio Opinion on Crossed Usage of Client Databases in Telecom Sector
- **Germany:**
  - [Positive](#) Development in the Gas Distribution Sector
  - [Advantages](#) of efficient and successful Fight against Cartels
- **Ireland:** Competition Authority makes Recommendations to improve Competition among Family Doctors
- **The Netherlands:** Informants' Identity properly safeguarded
- **Poland:**
  - [Report](#) on Development of Competition and Consumer Protection in Railway Transport
  - [Collective Redress](#) Act enters into Force
- **Portugal:**
  - [4th Report](#) on Electronic Communications published
  - [Study](#) on Postal Sector anticipating full Liberalisation
- **Slovakia:** Antimonopoly Office calls for Cooperation in disclosing Cartel Agreements in Public Procurements
- **Spain:** Report on Competition and the Agrifood Sector
- **United Kingdom:**
  - [Working Paper](#) on mixed Public/Private markets
  - [Roundtable](#) on Horizontals

## Sector Inquiries

- **Bulgaria:** Sector Inquiry into Motor Vehicle Retailing and After-Sales Servicing Markets
- **Hungary:** Initiation of Sector Inquiry into Building Society Market

## Bulgaria: Competition Authority (CPC) analyses Pros and Cons of Law regulating Supermarket Chains/Suppliers Relations

On 13 July 2010, the CPC adopted an opinion on the necessity to introduce a regulation intended to guarantee fair competition and to hinder market distortion through monopoly pressure by supermarket chains on suppliers. [Read more](#)

## The Netherlands: Competition Authority (NMa) releases New Procedure for Inspection and Copying of Analog and Digital Data and Documents

On 17 August 2010, a revised version of the NMA Procedure in relation to the Inspection and Copying of Analog and Digital Data and Documents came into force. [Read more](#)

## Romania: Substantial Amendments to Competition Law

On 6 August 2010, amendments to the Competition Law regarding the procedural framework for enforcing competition rules entered into force: Antitrust rules, sanctions, investigation powers, LPP and mergers are subject to new provisions. [Read more](#)

## Slovakia: Leniency extended to Criminal Enforcement

On 1 September 2010, an amendment to the Criminal Code of the Slovak Republic came into force according to which every individual fulfilling the conditions for leniency according to the Act of Competition Protection will be exempted from criminal enforcement. [Read more](#)

## Sweden: Role for Competition Authority in Enforcement of more stringent Rules on Public Procurement

New rules were introduced into the procurement legislation on 15 July 2010 that should lead to more bodies following the rules and regulations and more public tenders being subject to competition. Administrative fines can be imposed by the courts at the request of the Competition Authority. [Read more](#)

## United Kingdom: Public Consultation on Guidance for Handling Competition Investigations

The aim of the consultation, which remains open until 12 November 2010, is to increase transparency about how the OFT handles all stages of Competition Act investigations, from the opening of a case through the final outcome. [Read more](#)

# OTHER ISSUES OF INTEREST

## EVENTS

- **Austria:**
  - [ECA](#) Directors' General meeting
  - [Vienna](#) Competition Conference 2010
- **Slovakia:** International Conference "Private Enforcement"

### Personalialia

- **Ireland:** Competition Authority appoints two new Members
- **European Commission:** New Hearing Officer for Competition Cases appointed

### Annual Reports

- Recently published Annual Reports 2009: [Czech Republic](#), [Finland](#), [United Kingdom](#)
- [Link to the Annual Reports of all ECN Members](#)

## Belgium: Competition Day 21 October 2010, Brussels

The Belgian Presidency of the European Union organises the 21<sup>st</sup> European Competition Day. This event will not only gather policymakers from Belgium, Europe and elsewhere, but also stakeholders from the business, judiciary and academic world, to discuss recent developments in the field of "private enforcement". [Read more](#)

## Czech Republic: St. Martin Conference on New Trends and Developments in Competition Law and Policy

The Czech competition authority is pleased to announce that its traditional autumn conference will take place on 11 and 12 November at its premises in Brno, Czech Republic. Owing to the date, the conference is called St. Martin Conference. It focuses on new trends and developments in competition law and policy. [Read more](#)

## Poland: Invitation to the Conference in Poznan – Closing Event of the Celebrations of the 20<sup>th</sup> Anniversary of UOKiK

The series of events and conferences organised to celebrate UOKiK's anniversary will culminate in the Poznan Conference "Competition law: for or against undertakings". In particular, issues such as undertakings' rights of defence during antitrust proceedings and liability for breach of the competition law will be discussed. [Read more](#)

## Spain: International Conference on "Reviewing Vertical Restraints in Europe: Reform, Key issues and national Enforcement" – Madrid, 11 and 12 November 2010

The conference which will touch upon the recent reform of the Vertical restraints BER and the Motor Vehicles sector BER will include officials from the European Commission and the CNC. [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](#)

Call for proposals 2009: deadline extended until 29 October 2010: [http://ec.europa.eu/competition/calls/proposals\\_open.htm](http://ec.europa.eu/competition/calls/proposals_open.htm)

## CONTACTS

## ECN STATISTICS

## Access to Commission Cases

## TRAINING of NATIONAL JUDGES in EC COMPETITION LAW

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