

Eventful early spring (Anna Piszcz)

Articles

Mariusz Minkiewicz, **Effect on trade criterion and the convergence rule in the EU law application practice of Polish judicature and the President of the Competition and Consumers Protection Office (UOKiK)**

Table of contents:

- I. Introduction
- II. Effect on trade between Member States criterion
- III. Meaning of the convergence rule
- IV. Application of EU law by Polish courts and by the UOKiK President
- V. Conclusions

Summary: The article discusses the meaning of the effect on trade criterion and the convergence rule in EU jurisprudence and the case law of the European Commission. Further analyzed is the practice of parallel application of Polish and EU competition law by Polish courts and the President of the Competition and Consumers Protection Office. The article indicates the influence that the interpretation given in the EU to the term „effect on trade” and the convergence rule had on the unification of the application of Polish and EU competition rules. Assessed is also the correctness of the application of the effect on trade criterion in Polish case law.

Keywords: effect on trade, convergence rule, common rules on competition

Paulina Korycińska, **Unilateral trade information disclosure and the prohibition of anti-competitive agreements**

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- I. Introduction
- II. Unilateral information disclosure under Article 101(1) TFEU
- III. European Commission’s guidelines on unilateral information disclosure
- IV. Unilateral information disclosure under Article 6(1) ACCP (Act on competition and consumer protection)
- V. Conclusions

Summary: Information exchange between competitors has been the focus of antitrust authorities for a long time. Information disclosure may be anti-competitive in nature at least in two different ways. On the one hand, information exchange may constitute an autonomous competition restricting practice. Most of the cases, however, it is only a part of a broader anti-competitive agreement. It is noticeable that recently antitrust authorities not only analyze the phenomenon of multilateral information exchange, but also increasingly tackle the issue of unilateral information disclosure with anti-competitive effects. The purpose of this article is to discuss unilateral information disclosure by competitors and attempt to answer the question under what conditions may such behavior be considered an anti-competitive practice.

Keywords: unilateral trade information disclosure, information exchange, anti-competitive agreements, European Commission's guidelines

Michał Nowakowski, **Illegal agreements restricting parallel trade of pharmaceuticals in the light of EU competition law**

Table of contents:

- I. Introduction
- II. Definition of parallel trade of pharmaceuticals
- III. Admissibility of limitation of parallel trade
- IV. Illegal anti-competitive agreements in regard to parallel trade
- V. Conclusions

Summary: Parallel trade of pharmaceutical products is a particularly interesting aspect of European competition law. The increasing role of parallel trade is also of significance to the producers of pharmaceuticals, as it results in the lowering of their profits. Due to the existence of parallel trade within the EU, the supervisory role of antitrust authorities and courts over competition law compliance is of essence. This article analyses anti-competitive agreements concerning the limitation of parallel trade and attempts to assess their legal and social status. Described is also one of the most relevant judgments of the European Court of Justice concerning this issue. The article closes with final conclusions and a critical insight into the issue of parallel trade limitation.

Keywords: parallel trade, pharmaceutical products, parallel import, anti-competitive agreements, pharmaceuticals

Competition law abroad

Marlena Kadej-Barwik, **Turkish competition law – selected issues**

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- I. Introductory remarks
- II. Objectives of Turkish competition law
- III. Scope of Turkish competition law
- IV. Authorities responsible for the enforcement of the ban on restrictive practices
- V. Procedure on restrictive practices
- VI. Penalties for the violation of antitrust prohibitions
- VII. Private enforcement
- VIII. Summary

Summary: This publication presents selected issues concerning Turkish competition law – a country that has for many years, and so far unsuccessfully, been aspiring to join the EU. The article aims to present the readers with both the provisions of substantive law (aim of antitrust law, its scope, authorities responsible for the enforcement of the prohibitions of restrictive practices, nature of the sanctions imposed on undertakings for antitrust infringements), as well as rules of procedural nature (mode of conduct, rights and obligations of participating parties). Outlined is also the issue of civil damages claimed by entities that have been harmed as a result of acts constituting anti-monopoly practices (private enforcement).

Keywords: competition law in Turkey, the Turkish Competition Law of 1994, Competition Authority, restrictive practices, prohibited agreements, abuse of dominant market position, antitrust sanctions, private enforcement, damages

Beata Mäihäniemi, **Competition protection in Finland**

Table of contents:

- I. Introduction
- II. Development of competition law in Finland
 1. History of Finnish antitrust
 2. Current competition legislation in Finland and recent changes
- III. Main organs of competition law protection in Finland
 1. Finnish Competition and Consumer Authority
 2. Market Court
- IV. Recent cases in Finnish antitrust
 1. Valio (predatory pricing)
 2. Asphalt cartel
 3. Cartel Damage Claims versus Kemira Oyj
- V. Summary

Summary: The purpose of this article is to present the principles of Finnish competition law to Polish lawyers concerned with antitrust matters. For that reason, the paper focuses on the history and the current state of Finnish competition law, as well as on recent legal changes. It also provides an introduction to the competition authorities operating in Finland, their organization and responsibilities. Moreover, it briefly discusses these decisions and judgments of the competition authorities in Finland, which were most widely analyzed in domestic legal literature and press.

Keywords: competition law, Finland, Finnish Competition and Consumer Authority, Market Court, equitable competitive conditions for public and private players, provision on grocery trade, Cartel Damage Claims, asphalt cartel, Hydrogen Peroxide cartel, abuse of dominance, predatory pricing, Valio Oy, Kemira Oyj

Legislation and case law reviews

Anna Piszcz, **Surrounding the Act on Consumer and Competition Protection – review of amendments to Polish legal provisions in 2013**

Table of contents:

- I. Introduction
- II. Amendments to the executing regulation to the Act on Competition and Consumer Protection (uokik)
- III. Amendments to the *soft law* of the President of the Competition and Consumer Protection Office (UOKiK)

Summary: This article acts as a continuation of earlier overviews covering the years 2010, 2011 and 2012 published in iKAR in biennium 2012-2013. Analyzed here are the 2013 amendments to the legal provisions of the regulation on the exemption of certain categories of vertical agreements

from the prohibition of agreements restricting competition. Presented also are developments in the area of non-binding guidelines of the UOKiK President.

Keywords: vertical agreements; group (block) exemptions; prohibition of agreements restricting competition; guidelines of the UOKiK President

A few remarks on the concept of entrepreneur in competition law. Case comment to the judgment of the Supreme Court of 24 September 2013, III SK 1/13 (Maciej Etel)

Between illegal agreement and imitation by price. Case comment to the judgment of the Competition and Consumer Protection Court of 1 March 2011, XVII AmA 87/09 (Łukasz Kierznowski)

The long story of the acquisition of Real by Auchan. Commission's decision of 7 March 2013, COMP/M.6822, and the UOKiK President's decision of 21 January 2014, DKK-4/2014 (Anna Piszcz)

Tables of judgments of the Competition and Consumers Protection Court in competition cases in 2013 (Anna Oponowicz)

Tables of decisions of the President of the Competition and Consumers Protection Office adopted between 1/04/2013 to 31/12/2013 (Ewa Mandrosz, Tomasz Krzyżewski, Mateusz Zawistowski, Anna Archacka)

Tables of rulings of the Supreme Court, Court of Appeals in Warsaw and Competition and Consumers Protection Court in telecommunication matters – the second part of 2013

Table of rulings of the Supreme Court (Ewa M. Kwiatkowska)

Table of judgments of the Court of Appeals in Warsaw (Ewa M. Kwiatkowska)

Table of judgments of the Competition and Consumers Protection Court (Ewa M. Kwiatkowska)

Books reviews

Massimo Merola, Jacques Derenne, José Rivas (eds.), *Competition Law in times of Economic Crisis: In Need of Adjustment? GCLC Annual Conference Series*, Groupe Larcier s.a. Éditions BRUYLANT, Bruxelles 2013, pp. 649 (Anna Piszcz)

Events and activity reports

Report on the conference *Living with Competition Law Issues*. Warsaw, 14/03/2014 (Dominik Wolski)