Recent Update on Competition Law: The Mondelēz case

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Commission fines Mondelēz for cross-border trade restrictions

The European Commission announced that it has fined Mondelēz International, Inc. €337.5 million for hindering cross-border trade of chocolate, biscuits and coffee products between Member States. More specifically, Mondelēz restricted retailers from obtaining these products from Member States[1] where prices are lower. As a result, Mondelēz was able to maintain higher prices, a practice which eventually harmed consumers as they were paying more for these products.

The investigation, which started back in 2019 with unannounced inspections at the premises of Mondelēz and led to the opening of formal investigation proceedings in 2021[2], showed that Mondelēz engaged in two types of infringements:

- First, Mondelēz breached Article 101 TFEU by limiting the territories or customers to which seven wholesale customers could resell their products and by preventing ten exclusive distributors active in certain Member States from replying to sale requests from customers located in other Member States without the permission of Mondelēz.

- Second, Mondelēz breached Article 102 TFEU by refusing to supply a broker in Germany with chocolate tablet products to prevent him from reselling them in high-priced countries and, by ceasing to supply these products in the Netherlands to preclude their importation into Belgium.

According to the Commission, the above-mentioned practices of Mondelēz artificially partitioned the Single Market with negative impact on price and consumer choice in the EU. As Commissioner Margrethe Vestager stated at her speech, the Mondelēz case is part of a broader effort to enforce competition rules in the food retail industry, a sector where several investigations are ongoing[3].

The Commission has a track-record of fighting territorial restrictions and is following its practice at this present case. We are looking forward to reading the decision and finding out the Commission's assessment under Articles 101 and 102 TFEU.

[1] European Commission, Press Release, Commission fines Mondelēz €337.5 million for cross-border trade Restrictions (2024)

[2] European Commission, Press Release, Antitrust: Commission opens formal investigation into possible trade restrictions by Mondelēz (2021)

[3] European Commission, Remarks by Executive Vice-President Vestager on the adoption of an antitrust decision against Mondelēz for cross-border trade restrictions (2024)

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