

Application of competition law during the COVID-19 crisis

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On Monday 23rd March 2020 the European competition authorities issued a joint statement on how to ensure the uniform application of European competition law during the COVID-19 crisis. This declaration was published on the homepage of the European Competition Network (ECN).

The aim is to provide the best possible support for companies facing economic challenges due to the COVID-19 crisis. The existing instruments in competition law are designed to recognise economic and market-specific developments and to take them into account in their measures. Thereby, also in times of an economic crisis that affects almost every company, the competition rules safeguard fair competition between the individual companies

In order to avoid unjustified price increases of products in times of crisis, such as unjustified price mark-ups from intermediaries, the European competition authorities reminded that producers are allowed to set maximum prices for their products.

Allowed cooperation between companies to avoid shortage in supply:

Most importantly, the European competition authorities have stated that they will not actively intervene against measures taken to avoid supply shortages, given that the respective measure is necessary to maintain supply and only of temporary nature. The cooperation in question must be related to the consequences and effects of Corona (Covid-19) and be necessary to ensure a fair and even supply of consumers with limited available products. The measures can cover both, the production and the distribution of products. They are regarded to be "unproblematic" as long as they do not lead to a restriction of competition pursuant to Article 101. Given that this may be difficult to assess, the National Competition Authorities take the unprecedented move to offer unbureaucratic assistance in interpreting planned regulations.

Combating discrimination in the purchase of healthcare products:

Further, emphasis is placed on ensuring that products for health protection are available to consumers without discrimination and at affordable prices. Therefore, any suspicion of excessive prices, artificial shortage of supply, cartel agreements or other abusive practices will be specifically pursued and punished. Complaints in this regard can be lodged directly with the national competition authorities and will be given the highest priority.

Quellen:

[Joint statement by the European Competition Network \(ECN\), 23.03.2020](#)

Covid-19, Auswirkungen auf das Wettbewerbsrecht in Österreich, BWB 23.03.2020

Mag. Markus Fellner LL.M. and Mag. Christoph Winkler are at your disposal for clarifying the existence of the exceptional or facilitating circumstances in detail.

Updated: 27th March 2020



Mag Markus P. Fellner

Attorney at Law

Vienna

T +43 1 9050100-260

F +43 1 9050100-200

m.fellner@saxinger.com