

Corona makes it possible: partial suspension of antitrust law

Due to the COVID-19 epidemic, the European Commission published special, temporary regulations for cooperation between companies. These were determined on the 8th of April 2020 and primarily concern the pharmaceutical, medical technology and medical supplies sectors. Some of the regulations differ from the applicable European competition law. These regulations also affect companies which are now entering these market fields, although selectively only. The main points can be summed up as followed:

- The European Commission facilitates the cooperation between companies who will pool their resources to answer the increased demand as efficient and quick as possible for essential health sector services and goods, like medical equipment and medicines. The Communication specifies the main criteria of the European Commission to assess the admissibility of this type of cooperation.
- Such cooperation may include the coordination of the production of medicines essential to fight the epidemic and a coordination on production resources and quantities, med stock and further on.
- Particularly worth mentioning is that an – normally prohibited – exchange of company-specific information between the cooperation partners may be permitted under certain conditions (e.g. coordination of quantities or production lines to avoid future bottlenecks with regard to other (non-Covid-19) meds due to production resources required for Covid-19). For reasons of legal certainty, the European Commission creates the possibility for companies to informally obtain information on the admissibility of their planned cooperation in the form of so-called "comfort letters".
- Attention: The above-mentioned facilities are not allowed to be misused for price fixing.

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We point out that the legal situation can change constantly, but we are on effort to keep the contents up to date.



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