

INFORMATIVE NOTE



EU AND COMPETITION LAW

COMMISSION REPORT ON COMPETITION POLICY 2011

On 30 May 2012, the European Commission published its Report on Competition Policy for the year 2011. With this document, the Commission explains how it used competition policy as an instrument in the resolution of the financial and sovereign debt crises. It also explains how competition policy and enforcement actions taken during the year contributed to the wider policy objectives of the Europe 2020 strategy and supported growth, jobs and the competitiveness of the EU economy.

A copy of the Report can be downloaded at: http://ec.europa.eu/competition/publications/annual_report/2011/part1_en.pdf

In this report the Commission clearly states the importance of competition policy as a key component of a common strategy to contribute to the recovery of the European economy and help it thrive at the global level.

Against this background, the importance of decisions on state aid is clear from the Commission's report. From the beginning of the crisis until 31 December 2011, 1.6 trillion euros of state aid have been used to rescue and restructure European banks. The Commission took 39 decisions on restructuring in 2011.

According to the Commission's report, the financial markets - another sector closely related to the financial crisis - have been under scrutiny. Indeed, the Commission considers that the financial

markets, like any other market, provide more efficient service when they are open and competitive. In 2011 the Commission opened two antitrust investigations regarding possible collusion and/or abuses of dominance by investment banks in the markets for CDS trade data and for CDS clearing services. In addition, in October the Commission carried out unannounced inspections at the premises of a number of companies active in the sector of financial derivative products linked to the Euro Interbank Offered Rate (EURIBOR) in a number of Member States. These inspections were the result of the Commission's concerns that these companies might have violated EU antitrust rules.

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"Portuguese Law Firm of the Year"
Chambers European Excellence Awards, 2009, 2012 / Who's Who Legal Awards, 2006, 2008, 2009, 2010, 2011/The Lawyer European Awards-Shortlisted, 2010, 2011

"Best Portuguese Law Firm for Client Service"
Clients Choice Award - International Law Office, 2008, 2010

"5th Most Innovative Law Firm in Continental Europe"
Financial Times - Innovative Lawyers Awards, 2011

"Corporate Law Firm of the Year - Southern Europe"
ACQ Finance Magazine, 2009

"Best Portuguese Tax Firm of the Year"
International Tax Review - Tax Awards 2006, 2008

Mind Leaders Awards TM
Human Resources Suppliers 2007

In 2011, the Competition DG also published a factsheet on fines, which seeks to explain the reasons for fines and how they are calculated. It also published a brochure on compliance for companies, which addresses the importance of encouraging compliance, as well as ensuring effective deterrence.

current financial crisis. However, the Commission stated that it found no indication of anti-competitive practices in this market up to 31 December 2011.

If much of the Commission's 2011 activity addressed the effects of the crisis in the financial markets, this has not been the only focus of the Commission attention. Competition enforcement and advocacy also serves other wider longer-term objectives such as enhancing consumer welfare, supporting the EU's growth, jobs and competitiveness.

On 20 December 2011, the Commission adopted a revised package of EU state aid rules for the assessment of public service compensation in respect of SGEIs (services of general economic interest). The new package clarifies key state aid principles and introduces a diversified and proportionate approach, involving simpler rules for SGEIs that are small, local in scope or pursue a social objective. It also introduces improved assessment of competition issues for larger SGEIs.

The Commission also stressed the importance of fighting against collusive agreements and abuses of dominance. In 2011, the Commission adopted four cartel decisions, including two relating to

consumer products (consumer detergents and exotic fruit) imposing fines exceeding 614 million euros on 14 undertakings. It is important to note that three out of these four decisions were settlements.

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2011 also saw a rise in mergers and acquisitions and, with it, the Commission's activity of reviewing mergers under the EU Merger Regulation. 309 cases were notified to the Commission in 2011, representing an increase of 13% as compared to 2010, and slightly above the 10 year average of 305 mergers per year. The Commission considered that notified mergers appeared to be more complex because, in 2011, it opened in-depth investigations into eight cases in a range of sectors including air transport, food, consumer goods, basic industries, IT, financial services and pharmaceuticals. It also decided on a prohibition in a case that had been notified in 2010.

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