
Maritime and Commercial High Court: Media agencies' agreement was illegal

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On 21 October 2019, the Maritime and Commercial High Court found that two Danish media agencies, Mediacynter Danmark A/S and MPE Distribution ApS, had breached the prohibition of anti-competitive agreements, when they colluded to share customers. With this finding, the Court agrees with the Danish Competition Council and the Danish Competition Appeals Tribunal which considered the case back in 2017 and 2018.

By assistant attorney Emil Petri

Background

Mediacynter Danmark and MPE Distribution cooperated from late 2013 to late 2014 under an agreement for joint purchase and resale of distribution of unaddressed advertising material. As part of the agreement, Mediacynter Danmark was responsible for purchasing unaddressed advertising material and entering into agreements with distributors on behalf of both parties. The agreement prohibited MPE Distribution from soliciting customers who were already customers with Mediacynter Danmark. These customers were typically retail stores and chains using Mediacynter Danmark and MPE Distribution e.g. for distribution of flyers to Danish households.

Having analysed the agreement, the Competition Council found on 30 August 2017 that Mediacynter Danmark and MPE Distribution had entered into a customer sharing arrangement contrary to the competition rules.

[See our previous news article on the Council's decision](#)

Mediacynter Danmark filed an appeal with the Competition Appeals Tribunal, which upheld the decision on 12 June 2018, however. It is the Tribunal's decision that has now been reviewed by the Maritime and Commercial High Court.

[Read our previous news article of the Competition Appeals Tribunal's decision](#)

The Maritime and Commercial High Court's decision

In its decision, the Maritime and Commercial High Court agrees with both the Competition Council and the Competition Appeals Tribunal in their findings. The Court notes that the customer sharing arrangement was detrimental to competition, having as its object to restrict competition. According to the Court, it had therefore not been necessary for the Competition Council to make a detailed financial and legal analysis in its assessment of the agreement.

In these circumstances, the Court established that Media Danmark and MPE Distribution had breached the prohibition of anti-competitive agreements, and that the Competition Appeals Tribunal's decision should be upheld, thus finding for the Competition Council.

Contact

Jens Munk Plum
Partner

Phone +45 38 77 44 11
Mobile +45 21 21 00 22
JMP@kromannreumert.com

Erik Bertelsen
Partner

Phone +45 38 77 43 11
Mobile +45 20 19 74 12
ERB@kromannreumert.com

Morten Kofmann
Partner

Phone +45 38 77 43 35
Mobile +45 24 86 00 40
mko@kromannreumert.com

Bart A. Creve
Partner

Phone +45 38 77 45 47
Mobile +45 61 61 30 27
bcr@kromannreumert.com

Emil Petri
Assistant Attorney

Phone +45 38 77 42 14
Mobile +45 24 86 00 48
ept@kromannreumert.com

Sonny Gaarslev
Attorney

Phone +45 38 77 43 62
Mobile +45 20 19 74 48
sgs@kromannreumert.com

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The case has been referred to the State Prosecutor for Serious Economic and International Crime with a view to criminal prosecution.

[Read the decision of the Maritime and Commercial High Court](#)