
Danish Competition Appeals Tribunal: Companies agreed on illegal discounts

11.20.2019

The Competition Appeals Tribunal upholds the Competition Council's decision regarding Clear Channel Danmark A/S's and AFA JCDecaux A/S's illegal coordination of discount rates when selling advertising space on outdoor media, and will now report the case to the State Prosecutor for Serious Economic and International Crime for criminal prosecution purposes.

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Background: The Danish Competition Council's initial decision

In December 2018, the Competition Council ruled that Clear Channel Danmark A/S and AFA JCDecaux A/S had entered into an agreement on, and/or a concerted practice in relation to, coordination of discount rates in connection with media commission, security and information compensation. In addition, the Council concluded that, for a limited period, the companies had also agreed a joint cash discount. Clear Channel Danmark A/S and AFA JCDecaux A/S both provide outdoor media such as billboards and advertising pillars in the urban landscape and at bus stops, supermarkets, shopping malls, train stations and airports.

In the opinion of the Council, the illegal coordination was initially orchestrated through a series of written agreements setting out joint discount rates; after the expiry of the agreements, the parties continued their common understanding. The competition authorities concluded that that practice had been continued at least until (and including) April 2015 despite the fact that the latest agreement had expired in 2010. In the opinion of the Competition Council, such horizontal coordination of discounts was contrary to the prohibition of anti-competitive agreements in the Danish Competition Act.

Clear Channel Danmark A/S and AFA JCDecaux A/S subsequently appealed the decision to the Competition Appeals Tribunal.

The Competition Appeals Tribunal's ruling

The Competition Appeals Tribunal has now upheld the Competition Council's decision. Accordingly, the Tribunal confirms that even if an illegal agreement has expired, the agreement may be problematic if there are circumstances indicating that the illegal concerted practice continues. The Council will now report the case to the State Prosecutor for Serious Economic and International Crime for criminal prosecution purposes.

[Read the Competition Appeal Tribunal's ruling](#)

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