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Estonian Competition Authority struggles with narrow price parity clauses

In March 2021, the Estonian Competition Authority (ECA) initiated supervisory proceedings against Wolt (food courier service provider) because the agreement between Wolt and restaurants included a narrow price parity clause, stating the following: "*Prices must not be higher than the prices used by the partner at its own sales points*''. In May 2021, the ECA initiated supervisory proceedings against Iizi (insurance broker) on similar grounds.

The ECA reckoned in both cases that agreements contained a narrow price parity clause, and this was sufficient to merit a deeper investigation by the ECA. However, both proceedings were terminated because Wolt and Iizi removed the price parity clauses from their agreements, and this was sufficient for the ECA to conclude that competition in the market had improved.

The preliminary assessment of the ECA is not publicly available and therefore the market shares of Iizi and Wolt and their counterparties in the relevant markets are unknown. Regretfully, the ECA did not provide an assessment or clear position as to whether such narrow parity clauses are capable of restricting competition and may be prohibited or whether such clauses could be allowed under the vertical block exemption or the individual exemption. Considering also that different EU member states' competition authorities have generally allowed narrow price parity clauses, the ECA's unclear position leaves room for interpretation that the ECA sees narrow parity clauses as problematic. Cases related to the price parity clause have not been investigated in Estonia before and thus, it remains dubious what the ECA thinks of such agreements.