NEWS | 3 December 2021

Bundeskartellamt strikes again – hefty fine for resale price maintenance

The German competition authority - Bundeskartellamt - continues its strict enforcement practice in the area of vertical agreements. For the third time this year it imposed a significant fine against a supplier for interfering with the resale prices of its distributors. Audio equipment manufacturer Bose has to pay a fine of approx. EUR 7 million – and this following cooperation with the authority and a settlement.

The sanctioned practices

According to the authority, the employees of Bose not only conducted the usual yearly negotiations on purchase prices but agreed with their counterparts on measures aiming at an increase of their sales prices. In some cases, the sales prices were specifically set. Officially, Bose only communicated price recommendations but in practice interfered when retailers deviated from them too much. Bose monitored resale prices through its own employees but also welcomed complaints of other retailers about low prices of their competitors. In a number of cases, Bose's interventions were successful and the dealers raised prices.

Further details will become available when the authority issues its case report.

Commentary

The Bundeskartellamt regularly intervenes against resale price maintenance. Earlier this year, several manufacturers of musical instruments and a manufacturer of school bags were hit. The fines always go in the millions. The authority has a strict enforcement practice in this area going back to some big procedures against food manufacturers and food retailers. The Bundeskartellamt laid down its approach to RPM in a guidance paper of 2017 which sets very high standards for suppliers. Many suppliers have a strong interest to prevent a deterioration of resale prices as this creates pressure on their sales prices towards their distributors. This contrasts with the very strict standards stipulated by the Bundeskartellamt.

The enforcement practice shows that these standards are not just theory but that suppliers are well advised to

ensure compliance with them.