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Polish Competition Authority fines Merida for restricting online sales

Decision

On 20 March 2023, the Polish Office of Competition and Consumer Protection ('UOKiK', the Polish Competition Authority) announced that it imposed a fine amounting to nearly 2,5 million PLN (approx. 530 thousand EUR) on Merida Polska sp. z o.o. ('Merida'), a bicycle wholesaler. UOKiK found that Merida restricted online sales, which led to market sharing. The Polish Competition Authority based its decision on both Polish and EU law (i.e. Article 101 TFEU).

Prohibited practice

Merida's agreements with its distributors included provisions that prohibited them from selling online and through third-party online sales platforms (e.g. eBay). As a result, the agreements between Merida and its distributors were aimed at banning online sales entirely. Distributors still selling products online were sanctioned by the termination of the respective distribution agreements.

As a result, clients, knowing that they had to pick up the bicycles at a stationary store may have considered only offers from distributors located close to their residence. Therefore, UOKiK stated that the restriction of online sales led to market sharing between Merida's distributors.

Merida justified its practice on safety grounds. Additionally, Merida claimed that online sales diminish the company's reputation. However, UOKiK did not share Merida's argumentation.

Additionally, UOKiK held that the block exemption from the prohibition contained in Article 101(1) TFEU did not apply, as Merida's practice concerned a passive sales restriction. Similarly, UOKiK did not found the Polish Regulation of 30 March 2011 on the exclusion of certain types of vertical agreements from the prohibition of restrictive agreements applicable to this case.

Possible next steps

Merida may now challenge UOKiK's decision before the Court of Competition and Consumer Protection in Warsaw. If the decision will be challenged, further developments in this case can be expected.