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Czech Competition Authority issues a RPM decision concerning a major wholesaler of electronics and DIY products

The Czech Office for Competition Protection ('CCA') has issued a decision imposing a fine of 30.2 million CZK (1.27 million EUR) on FAST, a Czech wholesaler and retailer of a wide range of goods including DIY products, watches, electronics and other items for home, office and professional use. FAST is a distributor of products of brands such as Sencor, Samsung, Philips or Zanussi.

The fine was imposed for resale price maintenance ('RPM') aimed at restricting competition and therefore constituting a prohibited vertical agreement. The CCA has found that between December 2020 and October 2021 (i.e., only for a period of 11 months), FAST set a minimum price for which its retailers had to resell the goods supplied by FAST. When the retailers did not comply, FAST urged them to increase their prices to the pre-set level by emails.

The CCA considered these practices distorting an intra-brand competition as the retailers were unable to compete for consumers due to the product prices set by FAST. Competition was restricted on the relevant markets of small and large domestic appliances, telecommunications, IT and DIY products in the Czech Republic.

FAST closely cooperated with the CCA, admitted its involvement in the anticompetitive conduct and provided the CCA with new evidence on the conduct concerned. As part of the settlement procedure, the company also significantly enhanced its compliance program. The cooperative approach was taken into account by the CCA in the form of a significant reduction in the fine for FAST.

Commentary

The FAST decision has again confirmed the increased scrutiny on vertical distribution agreements, particularly RPM, exercised by the CCA in recent years. There is no sign that the CCA had any intention of changing this approach in the near future. More likely, the opposite is true.

Another clear trend is the CCA's approach to motivating undertakings to cooperate with the authority and to undergo settlement and quasi-leniency procedures instead of protracted court battles. In combination with the relatively new possibility of obtaining a discount for implementing a truly effective compliance programme (undertakings owe this opportunity to our Czech contributor – HAVEL & PARTNERS) these procedures can lead

to a significant reduction in fines.