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A useful reminder of basic competition law principles applying to vertical agreements!

The preliminary ruling of 29 June 2023, in case C-211/22, Super Bock v. Portuguese Competition Authority, is useful reading as it contains a useful reminder of several basic competition law principles applying to vertical agreements.

Asked about the commercial policy of Super Bock to transmit a list of monthly minimum resale prices on distributors in Portugal, the requirement for those distributors to report to Super Bock their resale data, and the retaliatory measures of Super Bock in case of non-compliance with the minimum prices, the preliminary ruling reminds the referring court of the distinction between hardcore restrictions in the sense of the VBER and restrictions of competition by object in the sense of Article 101(1) TFEU. It furthermore reminds the referring court of the broad scope of the concept of an “agreement” under Article 101(1) TFEU, and of the (direct and indirect) evidence that may support the finding of an agreement. Also in line with existing case law, the Court reminds the referring court that an agreement which covers almost the entirety, but not all, of the territory of a Member State may affect trade between Member States.