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German Federal Cartel Office Fines AVM for Vertical Price Fixing

AVM Computersysteme Vertriebs GmbH, a telecommunication and network technology manufacturer, is charged with illegal conduct regarding vertical price fixing for six electronic retailers. Since 2019, AVM has implemented a software that incessantly monitored the price of goods set by retailers, as well as manually researched price comparisons online and in brick-and-mortar retail. Through their price supervision, they restricted the prices imposed on end consumers by setting a minimum price for retailers and urging retailers to increase prices. The severity of the price alteration varied depending on the retailer, with some retail prices being significantly below the AVM's "target" price, initiating greater AVM involvement. AVM had success with various retailers, as many of them agreed to raise or adjust their prices upwards after AVM's intervention.

The German competition authority, Bundeskartelllamt, fined AVM, as well as one of their employees, a total of 16 million EUR, with no fines imposed upon the retailers. The authority launched its investigation in February 2022 after receiving an anonymous tip through its whistle-blower system and insider information from other market contributors. In a statement released by the president of the Bundeskartellamt, the authority accuses AVM of interfering with "the free formation of prices" with the aim of "restrict[ing] price competition at the expense of end consumers".

Commentary

This decision reinforces the authority's strict stance on resale price maintenance. The authority has a long precedent of inflicting substantial fines in cases of vertical price fixing, with penalties often ranging in the millions. Their continued efforts in prohibiting vertical agreements fixing retail prices suggest that resale price maintenance remains at the top of the authority's priorities.

The authority's continued emphasis on the monitoring of resale price maintenance and the proven effectiveness of their whistle-blowing system produces an air of hesitancy for companies contemplating vertical price fixing practices. As anonymity and incentives are provided to those who "whistle-blow", information regarding illegal practices has become more accessible to the authority, as the incentives to whistle-blowing are much more appealing than the short-term benefits and long-term risks that come with participating in vertical price fixing.