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Mobotix case: Paris Court of Appeal upholds sanctions imposed by French Competition Authority

On 27 March 2025, the Paris Court of Appeal (No. 21/21452) upheld Decision No. 21-D-26 of 8 November 2021, in which the French Competition Authority sanctioned Mobotix, a manufacturer of video surveillance equipment, along with three of its distributors – ACTN, Be IP and EDOX – for implementing two vertical agreements.

These practices, deemed anticompetitive by object, involved imposing resale prices disguised as 'recommended' prices and unjustified restrictions on the online distribution of Mobotix products. The Court confirmed the findings and rejected the procedural and substantive arguments raised by the appellants.

The proceedings: alleged irregularity in the Authority's self-referral dismissed

The appellants contended that the proceedings were flawed due to an unlawful self-referral decision by the Competition Authority, claiming that the two-month period prescribed by Article D. 450-3 of the French Commercial Code — between the transmission of the investigation file and the Authority's decision to initiate proceedings *ex officio* — was not adhered to.

The Court dismissed this claim, noting that the time period is not accompanied by any legal penalty. Consequently, even a delay of several months does not invalidate the referral or taint the proceedings with procedural irregularity.

On the applicability of EU law: presumption of non-affection rejected

Mobotix contested the applicability of EU law, arguing that its turnover in the European Economic Area was below the 40 million EUR threshold outlined in Article 52 of Guidelines 2004/C 101/07. According to Mobotix, this circumstance should have given rise to a presumption that there was no appreciable effect on trade between Member States.

The Court dismissed this plea, observing that although Mobotix's turnover was indeed below the threshold during its last financial year, it had exceeded this amount during the period of the infringement. Therefore, the presumption could not be relied upon.

Resale price maintenance: a concerted practice confirmed

Regarding the resale price maintenance allegations, the Authority had established that Mobotix disseminated 'recommended' prices by contract and on its website, encouraging wholesalers and resellers to comply with them. This constituted a vertical agreement aimed at restricting the resellers' freedom to set prices.

The Authority considered that the distribution agreements containing such provisions constituted direct evidence of an agreement between Mobotix and its wholesalers.

Mobotix, on the other hand, argued that establishing the existence of an agreement required a body of precise, serious, and consistent evidence, including: (i) reference to resale prices, (ii) the implementation of a price monitoring system or price policing mechanism, and (iii) evidence that the prices were effectively applied.

The Court of Appeal rejected this argument. It held that while such a body of evidence may be necessary in the absence of direct proof, it is not a prerequisite for establishing an agreement. In the present case, the convergence of wills was evidenced by coherent and significant contractual and behavioural elements, attesting to the resellers' acquiescence to the 'suggested' prices.

The Court thus confirmed that this constituted a restriction of competition by *object*, aimed at standardising price communications across the French territory and thereby dissuading price competition among reseller-installers.

Restriction of online sales

The second grievance concerned contractual restrictions on online sales imposed by Mobotix. The Authority highlighted clauses within the 'Mobotix Partner Programme' requiring distributors to work only with resellers whose sales were not predominantly online.

The Court confirmed that the execution of these agreements constituted direct evidence of consent to the manufacturer's restrictive commercial policy.

The appellants argued that such limitations were justified on qualitative grounds, notably the need to accompany product sales with physical installation services. The Court refuted this argument, noting that installation and sale are distinct services that can be offered separately, including online. Moreover, the restrictions were not uniformly applied across all Mobotix partners, which further weakened the alleged qualitative justification.

The Court concluded that the contested clauses were, in essence, aimed at restricting passive sales via the internet, and as such, amounted to an unjustified restriction to free competition in the video surveillance sector.

Penalties

Accordingly, the Paris Court of Appeal confirmed the sanctions imposed by the French Competition Authority in full.

The official press release on the original decision of the Competition Authority is available here in French and English.