



Press release

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Activity Report 2015/16 and Annual Report 2016 of the Bundeskartellamt

Bonn, 28 June 2017: The President of the Bundeskartellamt, Andreas Mundt, has today presented the authority's report on its activities in 2015 and 2016. At the same time the authority published the brochure "Annual Report 2016".

Andreas Mundt: "At the beginning of June the 9th Amendment of the German Competition Act came into force bringing with it important changes for our case practice. These amendments will enable us to react even more effectively than before to developments in the digital economy. The so-called "sausage gap" has finally been closed. In recent years this made it possible for companies to avoid fines for competition law infringements by carrying out internal restructuring measures. The Bundeskartellamt has also been given new competencies in the area of consumer protection. At the beginning of June the Bundestag also passed the act to establish a register for competition in public procurement at the Bundeskartellamt."

Digital economy

The growing importance of large internet platforms raises new and different antitrust and economic issues. The Bundeskartellamt has reacted quickly and dedicated more resources to tackle these issues. During the last few years it has already concluded a large number of "internet cases". For example, it prohibited Amazon Marketplace and well-known hotel booking portals from using their so-called "best price" clauses which obliged retailers or hotels not to offer products or services cheaper elsewhere. The authority also conducted important merger control proceedings to examine mergers between internet platforms such as real estate and dating agency portals. It is also currently investigating the online ticket retailer CTS Eventim and has opened proceedings against Facebook. In the latter case the Bundeskartellamt is following up suspicions that by violating data protection rules Facebook is abusing its possibly dominant position in the market for social networks.

Andreas Mundt: *"Here we are faced with two key tasks. Firstly we have to keep markets open to stop the internet giants from making it impossible for newcomers to enter the market and to give competitors a chance. Secondly, we have to protect consumers from the abuse of market power."*

The 9th Amendment creates legal certainty because well-proved criteria used in the assessment of markets and market positions in the internet have been incorporated into the law. A threshold was also adopted in merger control which is based on the purchase price of an acquisition.

Cartel prosecution

In the last two years the Bundeskartellamt imposed a total of approx. 332 million euros in fines in eighteen cartel cases. The fines were imposed on 69 companies and 29 individuals. The proceedings concerned various sectors, such as e.g. automotive part manufacturers, mattress manufacturers, providers of container transport services, manufacturers of prefabricated garages, sanitary wholesale, the toy industry or TV studios as well as vertical price-fixing agreements between food manufacturers and food retailers.

Many new cartel proceedings were initiated. In 2016 the authority carried out 17 dawn raids at a total of 91 companies and five private homes. This trend was continued in the first six months of 2017 with ten dawn raids at 36 companies.

Andreas Mundt: *"Cartel prosecution remains a key area of focus of our work. Here the legislator has significantly strengthened our position. In the past years nearly every one of our cases was overshadowed by risk because there was always the chance that the members of the cartel could avoid paying fines by carrying out simple restructuring measures within their companies. This fear has finally been averted."*

Consumer protection

From now on the Bundeskartellamt can launch a sector inquiry where there is a reasonable suspicion that consumer law provisions have been severely violated, such as the Act Against Unfair Competition (*Gesetz gegen den unlauteren Wettbewerb (UWG)*) or legal requirements for general terms and conditions. In addition, the Bundeskartellamt can now act as amicus curiae in court proceedings relating to such infringements. The Bundeskartellamt has set up a new decision division for consumer protection ([see Bundeskartellamt press release of 12 June 2017](#)).

Andreas Mundt: *"In the digital economy, in particular, there are cases where it only takes one illegal measure by a company to harm millions of consumers. This is why it makes sense to complement the well-established system of privately enforced consumer protection in Germany with a public authority like the Bundeskartellamt."*

Register for competition in public procurement

On 2 June 2017 the Bundestag passed the act introducing a register for competition in public procurement. In future serious violations which could lead to the exclusion of companies from the award of public contracts for several years will be recorded in a central federal register. However,

companies listed in the register can be deleted prematurely from the register if they take self-cleaning measures. The electronic register will be kept at the Bundeskartellamt.

You will find the [Activity Report 2015/2016](#) (in German) and the [Annual Report 2016](#) (in German) on the website of the Bundeskartellamt.