





Treaty under the European regulation on the exemption of vertical agreements (Commission Regulation (EC) No 2790/1999 of 22 December 1999). In the Bundeskartellamt's view, neither do the agreements fulfil the requirements for an individual exemption under Art. 81 (3) EC Treaty. Furthermore, they are in violation of Section 1 ARC.

According to the Bundeskartellamt, Merck's exclusive supply to VWR also violates the prohibition of discrimination under Section 20 ARC. The Bundeskartellamt has found that the small and medium-sized companies in the laboratory chemicals trade depend on being supplied with Merck's chemical products. The exclusive distribution right granted to VWR forces all trading firms to purchase these chemical products from their biggest competitor, i.e. VWR. VWR is the largest domestic company trading in laboratory chemicals and equipment. The exclusive distribution of Merck chemicals via VWR thus also affects competition in the overall market for laboratory chemicals. The Bundeskartellamt has therefore obliged Merck under Section 32 ARC to directly supply without discrimination not only VWR, but the entire laboratory chemicals sector with its laboratory chemicals within 30 days upon service of the decision.

The Bundeskartellamt's decision is not yet final. The parties involved have appealed against the decision and filed an application with the Düsseldorf Higher Regional Court to grant suspensive effect to their appeal under Section 65 (3) sentence no. 3 of the ARC.