



Case Summary

11 January 2017

Bundeskartellamt imposes fines on account of vertical price fixing in the sale of furniture

Sector:	Sale of furniture
Ref:	B1-164/13; B1-167/13; B1-87/14; B1-47/15
Dates of Decisions:	3.8.2016; 4.11.2016; 30.11.2016; 15.12.2016

On 3.8.2016, 4.11.2016, 30.11.2016 and 15.12.2016 the Bundeskartellamt imposed fines totalling 4.43 million euros on five furniture manufacturers and four managers for enforcing resale price maintenance in the sale of furniture. The companies fined were

- hülsta-werke Hüls GmbH & Co. KG, Stadtlohn,
- Rolf Benz AG & Co. KG, Nagold,
- Heinz Kettler GmbH, Ense-Parsit,
- aeris GmbH, Haar, and
- Zebra Nord GmbH, Hatten-Sandkrug.

The authority's investigations showed that representatives of the companies had concluded a basic agreement with their retailers to maintain minimum sales prices to the end consumer and discount ranges. They had implemented the agreement by means of various measures. Despite differences in detail regarding the period of infringement and specific implementation measures, the infringements fined exhibited the following similarities:

- The minimum sales prices and discount ranges agreed were generally based on the recommended retail prices (RRP) of the respective manufacturer.
- In addition to the price targets, the companies agreed on when and which products were to be included in or excluded from individual retailer advertising campaigns.

- A key element in implementing the basic agreement was the establishment of a strict system to monitor the retailers' pricing strategies. The retailers were also actively involved in operating this system. These helped to monitor compliance with the minimum sales prices set by reporting to the manufacturers those retailers that had deviated from the set price and asking the manufacturers to ensure that the price level was maintained.
- Another major step taken to implement the measures was the threat, which was carried out in some cases, to refuse to supply retailers which did not maintain the minimum prices and discount levels set and offered the respective products at lower prices. In individual cases more or less automatic penalty mechanisms were used such as e.g. "the yellow and red card" for deviating retailers which set prices below the minimum prices.
- These measures were supplemented in some cases by special "rules of play" for online sales, the aim of which was to establish a solid and stable price architecture in the market. Compliance with these rules was monitored and enforced with the threat to withhold supply or terminate the supply contract.

The Bundeskartellamt based the calculation of its fines on the assumption of a single offence. The retailers were not prosecuted or fined for discretionary reasons. All the individuals and companies concerned agreed to a settlement, which resulted in a 10% reduction of their fines. The individual fines differ considerably depending on the gravity of the infringement and the large difference in size of the companies. The limited financial resources of some of the companies, due to ongoing reorganisation and restructuring measures, also served as a considerable mitigating factor in the calculation of the fines.

With the exception of one of the fining decisions of 15.12.2016, all the fines have since become final.

This case summary gives an account of the developments as of 11 January 2017 and does not cover subsequent events (appeals).