



March 2020

COVID-19 - European Competition Law Joint Statement on permitted co-operation between Competitors

On March 25 2020 the Competition and Consumer Protection Commission (CCPC) posted on their website, www.ccpc.ie, a joint statement by the European Competition Network (ECN) on the application of competition law during the Corona crisis.

The CCPC is a member of the ECN, which is a network of 27 competition authorities within the European Union and the Directorate-General (DG) for Competition of the European Commission. The aim of the Network is to ensure an effective and consistent application of EU competition rules.

Competition authorities across Europe are united in their recognition of the social and economic impact of the crisis and in the joint statement, which was originally issued by the ECN on 23 March 2020, they have set out how European competition rules should be applied in order to take account for the current changes in market circumstances.

The statement is set out in its entirety below:

Antitrust: Joint statement by the European Competition Network (ECN) on application of competition law during the Corona crisis

- The ECN is fully aware of the social and economic consequences triggered by the COVID-19 outbreak in the EU/EEA.
- The different EU/EEA competition instruments have mechanisms to take into account, where appropriate and necessary, market and economic developments. Competition rules ensure a level playing field between companies. This

For further information on any of the issues discussed in this article please contact:



Lorcan Tiernan

DD: + 353 1 673 1736

Lorcan.Tiernan@dilloneustace.ie



Joseph Lynch

DD: +353 1 673 3890

Joseph.Lynch@dilloneustace.ie

objective remains relevant also in a period when companies and the economy as a whole suffer from crisis conditions.

- The ECN understands that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers. In the current circumstances, the ECN will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply.
- Considering the current circumstances, such measures are unlikely to be problematic, since they would either not amount to a restriction of competition under Article 101 TFEU/53 EEA or generate efficiencies that would most likely outweigh any such restriction. If companies have doubts about the compatibility of such cooperation initiatives with EU/EEA competition law, they can reach out to the Commission, the EFTA Surveillance Authority or the national competition authority concerned any time for informal guidance.
- At the same time, it is of utmost importance to ensure that products considered essential to protect the health of consumers in the current situation (e.g. face masks and sanitising gel) remain available at competitive prices. The ECN will therefore not hesitate to take action against companies taking advantage of the current situation by cartelising or abusing their dominant position.
- In this context, the ECN would like to point out that the existing rules allow manufacturers to set maximum prices for their products. The latter could prove useful to limit unjustified price increase at the distribution level.

Dillon Eustace
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DILLON  EUSTACE

Dublin

33 Sir John Rogerson's Quay, Dublin 2, Ireland. Tel: +353 1 667 0022 Fax: +353 1 667 0042.

Cayman Islands

Landmark Square, West Bay Road, PO Box 775, Grand Cayman KY1-9006, Cayman Islands. Tel: +1 345 949 0022 Fax: +1 345 945 0042.

New York

245 Park Avenue, 39th Floor, New York, NY 10167, U.S.A. Tel: +1 212 792 4166 Fax: +1 212 792 4167.

Tokyo

12th Floor, Yurakucho Itocia Building, 2-7-1 Yurakucho, Chiyoda-ku, Tokyo 100-0006, Japan. Tel: +813 6860 4885 Fax: +813 6860 4501.

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