



Key terms: Constitutional Court – Article 79 CEL-IV

PRESS RELEASE

n°13/2014

12 December 2014

The Constitutional Court upholds the legality of Article 79 of Book IV of the Code of Economic Law

The Belgian Competition Authority (BCA) welcomes the judgment of the Constitutional Court of 10 December 2014 dismissing the appeals brought by the French- and German-speaking Bars and the Institute of Company Lawyers against Article 79 of Book IV of the Code of Economic Law.

The judgment is important because it confirms the legality of the appeal that is available to companies in case of a dawn raid by the BCA.

In a nutshell, the legislator stipulated that an appeal against a dawn raid by the BCA is only available after receipt of the Statement of Objections, and provided that it concerns evidence, relied upon in the Statement, that was copied during the dawn raid. Inspiration for this provision comes from criminal proceedings, where parties can only challenge the legality of a dawn raid at the end of the investigation.

The French- and German-speaking Bars and the Institute of Company Lawyers, on the other hand, had argued that companies should have the right to an appeal immediately after the dawn raid.

The judgment is available on the BCA's website:

http://economie.fgov.be/en/entreprises/competition/competition_case_law/belgian_courts/



For more information you may contact:

Mr. Joachim Marchandise

General Counsel

Tel. +32 (2) 277 94 90

E-mail: joachim.marchandise@bma-abc.be

Website: www.belgiancompetition.be

PRESS

The BCA (composed of the Competition College and the President as the decision making body in formal procedures and the Prosecution body under the direction of the Competition prosecutor general) has as mission statement to promote and to safeguard the existence of an effective competition in Belgium. To this end she examines and may impose sanctions on restrictive practices (cartels, abuse of dominant position). It examines also the admissibility of concentrations which might have a noticeable effect on the market. To this end the authority applies books IV and V of the Code of Economic Law as stipulated in the act of 3 April 2013 (Belgian Official Gazette of 26 April 2013) and competition rules of the European Union such as articles 101 and 102 of the TFEU (ex-articles 81 and 82 of the EC treaty).The authority takes part in the implementation of the European competition policy. She works together with other competition authorities and is member of the European competition network(ECN), the European Competition Authorities (ECA) and the International Competition Network.