



Key terms: Appeal – Decision of the Competition College

PRESS RELEASE

n°3/2015

30 March 2015

The Competition College of the Belgian Competition Authority has dismissed the appeal against the decision of the Investigation and Prosecution Service in respect of the complaint of Spira against De Beers

On 15 October 2014 the Prosecution body of the Belgian Competition Authority has dismissed the complaint against De Beers. This decision was motivated by the priority management of the Prosecution body of the Belgian Competition Authority, taking into account the availability of resources and the international context of the case. Indeed it had concluded that if the Commission has decided that a complex investigation cannot be justified because of the low likelihood of finding an infringement, a decision upheld by the General Court, the same applies to the Belgian Competition Authority.

On 25 March 2015 the Competition College has found the appeal by Spira against the dismissal decision to be non-founded.

The Competition College has considered that the Investigation and Prosecution Service decided in view of its own priorities and resources. According to the College, the Investigation and Prosecution Service could take into account the fact that the European Commission rejected a complaint by Spira relying on the small likelihood of finding an infringement. The complaints by Spira at national and European level were based on identical or similar legal arguments. In the context of the modernised European competition law, it is indicated, if not necessary, that the dismissal decision has regard to the European Commission's assessment of the likelihood of finding an infringement.



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The BCA (composed of the Competition College and the President as the decision making body in formal procedures and the Investigation and Prosecution Service 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). Its 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.