

Press release

N°11/2015

3 July 2015

On 30 June 2015 the Competition College of the Belgian Competition Authority, rejected an appeal of pharmacist Cuyckens against a dismissal decision of the Investigation and Prosecution Service of 31 March 2015.

Mr Cuyckens filed on 20 November 2002 a complaint with the Competition Council against Omega Pharma for alleged abuse of a dominant position on the pricing and the assumed reduction in the range of raw materials for magistral preparations and packaging material that is used by pharmacists. A first dismissal decision of the complaint by the former College of Competition Prosecutors on 10 December 2010 was reversed by the Competition Council on 21 April 2011.

The Investigation and Prosecution Service of the present Belgian Competition Authority resumed the investigation in 2013 and took on 31 March 2015 again a dismissal decision. The Service states in its decision that the facts mentioned in the original complaint against Omega Pharma are prescribed. In 2009 Omega Pharma transferred the control over the company that continued the activity to another group. The Competition College decided that the request of Mr Cuyckens to expand the complaint to the undertaking which continued the activity, was inadmissible. However, the Investigation & Prosecution Service examined whether the case could not be opened at its own initiative, but ruled - after examination - not to do so in the light of available resources and priorities.

The College of Competition refers in its decision to its earlier decisions about the margin of appreciation the legislature granted to the Investigation and Prosecution Service as to whether or not to open or to close cases.

The College of Competition considered in light of these criteria, that the Investigation and Prosecution Service was entitled in this case to dismiss the complaint and not to open an investigation.

For more information you may contact:

Prof. em. dr. Jacques Steenbergen

President

Tel. +32 (2) 277 79 18

E-mail: jacques.steenbergen@bma-abc.be

Website: www.belgiancompetition.be



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). 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.

PRESS