

PRESS RELEASE

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The Belgian Competition Authority concludes its preliminary investigation into the banking sector's alleged "gentlemen's agreement" not to compete with the State treasury bond

On August 22 and 23, several media outlets reported on the existence of a possible "gentlemen's agreement" within the banking sector and/or with the Federal Debt Agency not to compete with the State treasury bond via other financial products, and not to increase the rates of return on savings accounts during the subscription period.

This information was subsequently denied by the banks cited in these reports, which claimed communication errors. The Federation of the Belgian Financial Sector (Febelfin) also issued a press release stating that there are "no agreements on commercial policy, and therefore on interest rates, between the banks" and that "this is not permitted under competition law, and is therefore absolutely out of the question".

The Prosecution Service of the Belgian Competition Authority undertook to reconstruct the chronology of events leading up to the publication of the information in question, including the exchanges that took place within and between the banks concerned, as well as with Febelfin. This preliminary investigation revealed a free, extensive and inaccurate interpretation on the part of certain banks of a very specific provision of the contract binding each of them to the Federal Debt Agency concerning the issuance of the State treasury bond. This provision only restricts the release by banks of savings certificates ("bonds de caisse/kasbons") during the subscription period of the State treasury bond. However, as Febelfin pointed out in its press release, "savings certificates are hardly offered by the banks today", which has been confirmed elsewhere. The Prosecution Service concludes that it was therefore unjustified to interpret this clause as covering a range of savings and investment products, and their yields.

In addition, the Prosecution Service questions the concomitant use by two of the country's leading banks of the term "gentlemen's agreement" to designate a specific contractual provision when, in the banks' own opinion, this term is not commonly used in the banking sector. This question is reinforced by the fact that the people involved in the communications in question were experienced.

For the Prosecution Service, the level of approximation in the communication of certain banks on this topic raises a series of questions. These questions converge with the concerns about the functioning of the banking sector referred to the Belgian Competition Authority by the Minister for Economy and Labour, and on which it has been asked to provide a report by the end of October. They relate in particular to the signals that banks could send and/or exchange via their corporate communications.

In view of the fact that the situation in question has already been widely publicized and has given rise to a reminder of the law from Febelfin, the Prosecution Service has decided to suspend its investigation at this stage in order to focus its resources on the report requested by the Minister.

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The Belgian Competition Authority (BCA) is an independent administrative authority that contributes to the definition and implementation of competition policy in Belgium. Concretely, the BCA pursues anti-competitive practices, such as cartels and abuses of a dominant position, and reviews the main merger operations. The BCA cooperates with the other competition authorities of the member states of the European Union and the European Commission within the European Competition Network (ECN)