

The Belgian Competition Authority holds bpost, DPG Media, Mediahuis, PPP and two natural persons liable for manipulating the public procurement procedure for the award of the 2023-2027 newspaper distribution concession

The Belgian Competition Authority (BCA) imposed a combined fine of EUR 11,898,483 on bpost, DPG Media, Mediahuis and PPP for having rigged the public tender procedure (“bid rigging”) for the award of the 2023-2027 newspaper distribution concession. For the first time, the BCA also prosecuted and fined two natural persons directly involved in the infringement.

The common objective of the companies in question was to ensure that bpost – the incumbent postal operator – would be awarded the 2023-2027 newspaper distribution concession. Together, they agreed that bpost’s competitor PPP would not submit an offer in exchange for being granted additional newspaper distribution volumes by DPG Media and Mediahuis. The withdrawal of PPP from the tender procedure left bpost as the only bidder and effectively eliminated competition.

In its decision, the BCA found that these practices infringed Belgian and European competition rules, in particular the prohibition of anti-competitive agreements. The companies and natural persons involved acknowledged their participation in the infringement and accepted the terms of a settlement proposed by the BCA’s Investigation and Prosecution Service.

The BCA Prosecutor General, Damien Gerard, explains:

“bpost, PPP and the publishers concerned have been definitively held liable and fined by the BCA for having manipulated the award of the public concession for the distribution of newspapers. This concession has been abolished in the meantime, which has had a major impact on the press sector in our country. This case confirms that the manipulation of public procurement procedures remains a top priority for the BCA, as also apparent from the ongoing public consultation on a draft guide for public buyers aimed at raising their awareness of distortions of competition.

This decision is also important as it signals that individuals can also be held liable for competition infringements, next to the companies for which they operated. The persons in question were employed by bpost at the time of the infringement and actively contributed to the perpetration or implementation of the prohibited conduct.”

Under the leniency programme, bpost benefited from full immunity from fines because it revealed to the BCA the facts underpinning the infringement. DPG Media and Mediahuis also sought the benefit of the leniency programme, which resulted in reduced fines of respectively EUR 3,786,574 for DPG Media and EUR 7,788,423 for Mediahuis. These amounts include a 50% and 40% reduction in fine, respectively, to reward the contribution of these companies to the establishment of the facts underlying the infringement, as well as a 10% settlement reduction. PPP is fined EUR 323,486 reflecting also a statutory 10% settlement discount.

In determining the fine of the two natural persons involved for a total amount of EUR 6,300 a 50% reduction of the fine was taken into account for it is the first time that the BCA imposes fines on natural persons, while a statutory 10% discount was also awarded as part of the settlement. Thirteen individuals requested and obtained immunity from prosecution due to their cooperation with the investigation.

The decision will be published shortly on the website of the Belgian Competition Authority.

Companies or individuals wishing to report their knowledge of or participation in a cartel, and potentially obtain immunity from fines or a reduction in the penalty incurred, are invited to contact the BCA Prosecutor general.

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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).