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COMPETITION REGULATION LITIGATION

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Polish Competition Authority investigates Empire Brands' market practices

Investigation

On 7 July 2022, the Polish Office of Competition and Consumer Protection (the Polish Competition Authority, 'UOKiK') announced the launch of a preliminary investigation into anticompetitive agreements allegedly concluded by Empire Brands with its retailers.

Empire Brands is a producer of pet food for cats and dogs. UOKiK came into possession of information that the company may have fixed resale prices with its retailers. It allowed UOKiK to obtain a court warrant to search Empire Brands' premises. UOKiK carried out a dawn raid and collected further evidence which is now being examined.

Possible next steps

The investigation is at a preliminary stage, which means that the UOKiK is now assessing whether there are grounds to institute antimonopoly proceedings against Empire Brands. In light of UOKiK's recent decisional practice, if it decides to issue a statement of objections, it is likely that it will be addressed exclusively to Empire Brands, leaving out the company's distributors.

If UOKiK's investigation confirms that Empire Brands did conclude anticompetitive agreements, the company may be sanctioned with a fine of up to 10% of its turnover. Under Polish law, the company's executives may in parallel be held personally liable for the infringement. The maximum fine which may be imposed on an individual amounts to 2,000,000 PLN (approx. 417,000 EUR).

Leniency for vertical agreements

In the context of this investigation, UOKiK reminded undertakings of its leniency programme. The Polish leniency programme covers not only horizontal, but also vertical agreements. Both an undertaking and its managers may submit a leniency application to receive full or partial immunity. The applicants must provide relevant information and evidence, and fully cooperate with UOKiK. As a general rule, leniency applications filed after a dawn raid will only lead to a fine reduction.