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Modzelewska & Paśnik
COMPETITION REGULATION LITIGATION

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Polish Competition Authority launches proceedings against Dell

Charges

On 1 August 2022, the Polish Office of Competition and Consumer Protection (the Polish Competition Authority, 'UOKiK') informed about the initiation of antimonopoly proceedings against Dell. According to the information provided by UOKiK, Dell with its authorized sellers and distributors may have entered into an agreement restricting competition. The suspicions concern market sharing arrangements.

Prohibited practice

The UOKiK suspects that Dell may have allocated orders from companies and institutions to specific sellers/distributors. As a result, companies and institutions may have been deprived of the possibility to choose the entity from which they want to buy Dell and Dell EMC equipment. In consequence, potential customers may have been unable to choose a cheaper offer.

Possible next steps

If UOKiK's investigation confirms that Dell did engage in an anticompetitive agreement, the company may be sanctioned with a fine of up to 10% of its turnover. In addition, 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 the Authority. As a general rule, leniency applications filed after a dawn raid will only lead to a fine reduction.