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COMPETITION REGULATION LITIGATION

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Polish Competition Authority orders Dell to modify sales model and imposes fine

Decision

On 11 October 2024, the Polish Office of Competition and Consumer Protection ('UOKiK', the Polish Competition Authority) issued a commitment decision addressed to Dell Sp. z o.o. The decision is based either on the Polish Competition and Consumer Protection Act or on Article 101(1) TFEU.

Prohibited practice

UOKiK's investigation focused on market sharing arrangements between Dell and its authorised sellers and distributors concerning IT infrastructure products under the Dell or Dell EMC brands.

Under Dell's sales system, if an authorised seller registered a potential transaction with a business or institutional customer in Dell's internal registration system, other authorised sellers were prevented from offering competitive prices to that customer, even upon the customer's request. This practice effectively assigned resellers to specific transactions, amounting to a form of market sharing. As a result, companies and institutions may have been deprived of the opportunity to purchase Dell products at more competitive prices or better technological conditions.

Following UOKIK's decision, Dell is required to modify its sales model. The company must implement new sales rules within six months after the decision becomes final. This period accounts for the need to modify global IT systems. Dell will also be required to report its progress to UOKIK.

Fines

While the commitment decision did not result in a fine, UOKiK separately penalised Dell for providing false information during the investigation. Providing false or misleading information is a serious hindrance to effective antitrust enforcement, as it can delay proceedings and obstruct the detection of violations. Consequently, UOKiK imposed a fine of 6 million PLN (approx. 1.38 million EUR). Under Polish law, the maximum penalty for such

misconduct could have reached 50 million EUR.

Next steps

Dell may choose to challenge both decisions before the Court of Competition and Consumer Protection in Warsaw. If challenged, further developments in this case can be expected.