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Nike and distributors under investigation

Romanian Competition Authority investigates Nike Europe and two of its Romanian distributors over possible market sharing agreement.

The investigation

The Romanian Competition Authority (the 'Competition Council') announced that it has started an investigation into possible vertical agreements that limit the clients to whom Nike's distributors are allowed to sell Nike products to. To gather evidence in support of the investigation, the Competition Council, in collaboration with the Dutch Competition Authority, conducted simultaneous dawn raids in Romania and the Netherlands.

Commentary

Although this type of infringement was very common in the past, it is still surprisingly encountered today, especially in vertical agreements that have been prolonged multiple times through amendments.

The Competition Council has extensive experience dealing with this type of infringement and, in the absence of a particular context permitting otherwise, tends to adopt a rather rigid approach to such infringements.

Depending on the specific circumstances of the case, new issues related to the VBER might arise, but we will have to wait for the investigation to conclude to see whether such issues are brought to the fore. When dealing with the 'classic' form of the infringement, the Competition Council tends to dispose of these investigations significantly faster than when more novel issues merit consideration.

Moreover, this investigation also highlights the close cooperation between the Competition Council and the other authorities within the ECN, which the Competition Council often leverages to extend the territorial reach of its evidence-gathering efforts.