The European Antitrust Review

2014

Published by Global Competition Review
in association with

Art De Lex Law Firm
Asters
Baker Botts
bpv Braun Partners
bpv Hügel Rechtsanwälte
Bruun & Hjejle
Buntscheck Rechtsanwaltsgesellschaft mbH
Burges Salmon LLP
Čechová & Partners
Distefano Law Office
DLA Piper
DLA Piper Spain
Dryllerakis & Associates
Eisenberger & Herzog
ELIG Attorneys at Law
Epstein, Chomsky, Osnat & Co & Gilat Knoller & Co Law Offices
Gide Loyrette Nouel
Gide Loyrette Nouel AARPI
Herbert Smith Freehills LLP
Homburger
Karanović & Nikolić
Kastell Advokatbyrå AB
Kavčič, Rogl & Bračun
Kirkland & Ellis International LLP
Krogerus Attorneys Ltd
Lademann & Associates GmbH
Latham & Watkins
Law Office Pepeljugoski
Macfarlanes LLP
Magenta
Motieka & Audzevičius
Popovici Nitu & Asociatii
Quinn Emanuel Urquhart & Sullivan LLP
Shearman & Sterling LLP
SJ Berwin
Stibbe
Studio Legale Monaco & Associati
Taylor Wessing
Vasil Kisil & Partners
Vieira de Almeida & Associados
Wikborg Rein

GCR
GLOBAL COMPETITION REVIEW

www.globalcompetitionreview.com

Austria

Astrid Ablasser-Neuhuber and Florian Neumayr
bpv Hügel Rechtsanwälte

Regulatory framework

The main Austrian antitrust law statute is the Cartel Act 2005. The Cartel Act contains the rules on cartels, horizontal and vertical agreements, abuse of dominance, mergers and enforcement procedure. The Competition Act lays down provisions relating to the Federal Competition Authority (FCA) and its powers, and the Commission on Competition.

Apart from the Cartel Act and the Competition Act, further rules on competition are set out in various other statutes such as the Neighbourhood Supply Act, which basically governs the relationship between suppliers and retailers. Other important rules covering areas such as demonopolisation in formerly protected sectors have been brought about through several statutes, including the Telecoms Act 2003.

On 1 March 2013, amendments to the existing regulatory framework entered into force.

Authorities – institutions involved in enforcement

Cartel Court

The main competition authority is the Viennese Court of Appeals sitting as Cartel Court. The Cartel Court has the sole right to issue binding decisions and is responsible for administering all competition proceedings provided for in the Cartel Act. Since the amendment, the FCA has the authority to enforce information requests without the help of the Cartel Court. The only remaining criminal law aspects of cartel behaviour, namely bid rigging and fraud, are not dealt with by the Cartel Court but by the ordinary criminal courts. Appeals from the Cartel Court go to the Austrian Supreme Court sitting as Cartel Court of Appeals, which is the second and last instance in competition matters.

The Cartel Court sits in panels consisting of two professional judges and two expert lay judges, with the presiding professional judge having the casting vote. The Cartel Court of Appeals sits in panels of three professional judges and two expert lay judges. Thus, the Cartel Act ensures that the professional judges on a panel always have the decision-making power.

The official parties

The FCA is formally part of the Federal Ministry of Economic Affairs and Labour. In fulfilling its duties, the FCA is independent and not bound by any government instructions. It is headed by the director general for competition, who is appointed for a term of five years upon nomination by the federal government. The term of the first director general, Professor Barfuss, ended on 30 June 2007. The current director general, Doctor Thanner, took office on 1 July 2007 and was re-appointed for another five-year term in 2012. The FCA has a staff of about 30 people (including around 20 case handlers).

The main task of the FCA is the investigation of possible restrictions of competition and prosecution of such violations by bringing actions before the Cartel Court. As one of the two official parties, the FCA has standing in all proceedings before the Cartel Court. The FCA shall also assist other agencies and cooperate with the European Commission in individual cases. It can, furthermore, inquire into sectors of the economy where restrictions of competition are suspected and render expert opinions regarding competition policy. Since 1 January 2006, it has also administered merger control proceedings in Phase I (Phase II proceedings are, as under the old Cartel Act, handled by the Cartel Court).

In order to fulfil the tasks assigned to it by the Competition Act, the FCA is provided with far-reaching powers of investigation. In particular, it has the right to inspect all business documents, to question witnesses and parties involved and to oblige undertakings to provide all required information. With authorisation from the Cartel Court, the FCA also has the right to conduct dawn raids.

The Cartel Act further provides for a federal antitrust prosecutor (FAP) who is, together with his deputy, located at the Cartel Court and is de jure subject to instructions by the federal minister of justice. As the second official party, the FAP has the right to bring actions before the Cartel Court, replacing the Cartel Court's power to open proceedings ex officio (as was the case under the old Cartel Act). The FAP cooperates closely with the FCA.

The regulators

In certain sectors, specific regulatory bodies like the Telecoms Control Commission have been established. They apply (sector specific) competition rules and can make certain requests with the Cartel Court. In practice, both the official parties and the Cartel Court revert to the specific knowledge of the regulators in cases involving one of the regulated sectors.

Commission on Competition

The FCA is advised by the Commission on Competition, which consists of eight ordinary members. In merger control proceedings, the Commission on Competition can issue recommendations regarding applications for an in-depth examination to the FCA. Such recommendations must be issued upon request and only one member of the Commission is needed to make a recommendation. The FCA may decide not to act on a recommendation, but not without giving sufficient reasons, which also have to be made public.

Social partners

The 'social partners' (mainly the Federal Chamber of Commerce and the Federal Chamber of Labour) have the right to deliver comments in all competition proceedings. In practice, they rarely make use of this right. However, the lay judges at the Cartel Court are appointed upon suggestion by the social partners.

Anti-competitive agreements

In 2006, the current Cartel Act has brought about far-reaching changes to the substantive and procedural rules on anti-competitive agreements and concerted practices. The traditional distinction of Austrian cartel law between various types of cartels and vertical

agreements to which a variety of different rules were applicable has been abolished and replaced with three provisions that are – mutatis mutandis – in substance (almost) identical to article 101 of the Treaty on the Functioning of the European Union (TFEU).

Definition of 'cartels'

Under the heading 'cartels', section 1(1) Cartel Act prohibits all agreements between undertakings, decisions by associations of undertakings and concerted practices that have, as their object or effect, the prevention, restriction or distortion of competition. According to section 1(2), the following practices in particular are prohibited:

- directly or indirectly fixing purchase or selling prices or any other trading conditions;
- limiting or controlling production, markets, technical development, or investment;
- sharing markets or sources of supply;
- applying dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage; and
- making the conclusion of contracts subject to acceptance by the other parties of supplementary obligations that, by their nature or according to commercial usage, have no connection with the subject of such contracts.

Further, section 1(4) also outlaws cartels by recommendation, comprising recommendations to observe specific prices, price limits, rules of calculation, trade margins or rebates that restrict or are intended to restrict competition. If, however, the recommendation explicitly states that it is non-binding and is not enforced by social or economic pressure, it will not constitute an illicit practice within the meaning of the Cartel Act (but may do so under article 101 TFEU).

Consequences of illicit conduct

Agreements and decisions prohibited by section 1(1) are void pursuant to section 1(3). Further, the undertakings involved can be subject to fines (for further details, see below). Under certain circumstances, particularly in bid-rigging cases, criminal law sanctions may be imposed against individuals as well as undertakings. It should also be mentioned that antitrust laws are generally considered to be protective provisions, the infringement of which may trigger (civil law) damage claims. For example, currently several large private claims for damages against the background of cartel court decisions are pending. Further consequences can be exclusion from public tendering procedures, damage to reputation and, for employees involved, loss of jobs.

Exemptions

Like article 101(3) TFEU, section 2(1) Cartel Act exempts cartels that, while allowing consumers to receive a fair share of the resulting benefit, contribute to improving the production or distribution of goods or to promoting technical or economic progress and that do not:

- impose restrictions that are not indispensable to the attainment of these objectives; or
- afford the possibility of eliminating competition in respect of a substantial part of the products in question.

Section 2(2) contains a list of cartels that are exempted from the prohibition of section 1 in any case, in particular:

- de minimis cartels, for which, since the amendment has entered into force, a similar regime is set forth as under the European Commission's De Minimis Notice. Accordingly, in the case of practices where the undertakings concerned are competitors, the de minimis rule applies where their combined market share threshold does not exceed 10 per cent on the relevant market or, in the case of non-competitors, if their individual market share thresholds remain at or below 15 per cent. Hard-core restrictions such as price-fixing or market allocation agreements will no longer benefit from the Austrian de minimis exemption;
- certain agreements on retail prices in the book and press sector;
- restrictions of competition between members of a cooperative insofar as they are justified by the aim of the cooperative;
- restrictions of competition within the 'decentralised banking sectors'; and
- certain restrictions of competition within the agricultural sector.

It has to be noted, however, that even though there may be an exemption under Austrian law, a behaviour may still fall foul of article 101(1) TFEU.

In line with the concept of EC Regulation No. 1/2003, the former notification system for all types of anti-competitive agreements and decisions has been abolished by the Cartel Act.

On the basis of section 3(1) of the Cartel Act, the minister of justice can issue regulations stating that certain groups of cartels are exempt from the prohibition of section 1(2). The Act explicitly provides for the possibility that these notified regulations may refer to regulations issued pursuant to article 101(3) TFEU. However, no such regulation has been issued so far.

Abuse of dominant position

The material rules on the abuse of a dominant market position under the Cartel Act are largely identical to those of article 102 TFEU (formerly article 82 EC Treaty).

Definition of a dominant position

According to section 4(1) of the Cartel Act, an undertaking holds a dominant position if it either:

- is exposed to no or only insignificant competition; or
- holds a predominant market position in relation to other competitors. In this regard, financial strength, relationships with other undertakings, access to suppliers and markets, as well as entry barriers for other undertakings shall be considered when assessing market power. The amendment has also introduced explicit rules on collective dominance. According to section 4(1a), two or more undertakings are to be considered market dominant if there is no significant competition among them and they do not face significant external competition.

Pursuant to section 4(3), an undertaking shall also be deemed dominant if it has a predominant position in relation to its customers or suppliers. This is particularly the case if customers and suppliers are obliged to maintain business relations with the dominant company in order to avoid serious economic disadvantages.

In addition (and unlike the situation under article 102 TFEU), section 4(2) provides for a rebuttable presumption that an undertaking is market dominant if it:

- has a market share of at least 30 per cent;
- is exposed to competition by not more than two other companies and has a market share of more than 5 per cent; or

- is one of the four largest undertakings, which together have a market share of at least 80 per cent, provided it has itself a market share of more than 5 per cent of the market, regardless of whether the market is to be defined nationally, regionally or locally.

Since the amendment has entered into the force of law, additional presumptions of market dominance are provided for in the Cartel Act. According to section 4(2a), two or more undertakings are to be considered collectively market dominant if they have a market share of 50 per cent or if up to five undertakings (together) have a market share of 66.66 per cent. Notably, these presumptions are applicable irrespective of the individual undertaking's market share within such a group of potentially market dominant undertakings (ie, even a very small undertaking can be presumed market dominant in concentrated markets or markets where there is one 'big fish').

If one of these criteria is fulfilled, the burden of proof is placed upon the undertaking concerned, which may prove that this is not the case.

Abuse

As under article 102 TFEU, the abuse of a dominant position is prohibited by section 5 of the Cartel Act. The official parties, associations representing the economic interests of companies and any company having legal or economic interests, as well as certain institutions and regulatory authorities, may apply to the Cartel Court to order a company to cease and desist from the abuse in question.

Section 5(1) contains a non-exhaustive list of examples of abusive practices, following the wording of article 102 TFEU. Thus, an abuse will in particular occur if the dominant company:

- requests terms which differ from those that would likely persist under effective competition – in particular, the behaviour of undertakings on comparable markets with effective competition shall expressly be taken into account (this different wording, inspired by section 19 GWB, was introduced by the amendment);
- limits production, markets or technical development to the detriment of consumers;
- discriminates by way of imposing different contractual conditions to similar transactions;
- imposes supplementary obligations unrelated to the subject matter of the contract; or
- without factual justification, sells goods below their cost price (predatory pricing – this provision includes a rebuttable presumption, leaving it to the dominant undertaking to prove the contrary or to justify its pricing policy).

Initially, it was foreseen that the amendment shall prohibit market dominant electricity and gas utilities to request terms and conditions that are less favourable than those of other utilities on comparable markets or prices that unduly exceed costs. It would have been the market dominant utility's task to prove that any deviation is objectively justified. This proposed rule was heavily criticised. It was, inter alia, asserted that such a provision would amount to a price regulation. The adopted amendment does not include provisions in that regard.

Sanctions

The intentional or negligent abuse of a dominant position is subject to fines (see below). In addition, section 26 of the Cartel Act empowers the Cartel Court to order measures intended to weaken or even eliminate the dominant position, even for first-time abuse.

Upon application by the official parties, the Cartel Court increasingly imposes considerable fines (both in cartel and abuse cases). In the following, some leading cases are mentioned:

- €75.4 million against the main elevator companies operating on the Austrian market for customer allocation;
- €75,000 against five (rather small) driving schools in Graz for price fixing;
- €7 million against Europay Austria for abuse of a dominant market position and infringement of the prohibition of cartels (fixing of certain fees in connection with debit cards); and
- €1.5 million against Lenzing, the worldwide market leader in the production of lyocell because of the implementation of a merger prior to clearance.

In some cases, fines have also been imposed because of infringements of procedural provisions.

It should be noted that anti-competitive practices can also be challenged before the ordinary civil courts. Apart from private damage claims, based on section 1 of the Act Against Unfair Trading Practices (UWG), undertakings may be forced to terminate cartel practices as well as the abuse of a dominant position. In addition, interim relief can be granted through interlocutory injunctions and damages may be awarded. With regard to the latter, the amendment has brought about a significant strengthening of private enforcement. A separate section in the Cartel Act now deals with damage claims as a result of cartel law infringements, stipulating that anybody harmed by such illegal behaviour is entitled to claim compensation for the damages caused.

Mergers

In the field of mergers, the Cartel Act has brought about a plethora of changes in comparison with the old law, concerning the definition of a merger, the thresholds for merger control to apply, as well as the procedural rules for mergers.

Notion of concentration

According to section 7(1) of the Cartel Act, a concentration is deemed to arise when:

- an undertaking acquires, wholly or to a substantial extent, a business, in particular by merger or change of corporate form;
- an undertaking acquires control of another undertaking by contractual agreement (eg, assignment of the right to use, operate or manage the place of business);
- an undertaking acquires, directly or indirectly, either 25 per cent or more or 50 per cent or more of the shares in another company (regardless of whether this leads to a change of control);
- at least half of the members of the management board or the supervisory board of two or more companies are identical; or
- undertakings are linked in any other way that confers upon one company the possibility of exercising, directly or indirectly, a decisive influence over the other company (general clause).

As under article 3(4) EC Merger Regulation, section 7(2) foresees that the creation of a joint venture constitutes a concentration within the meaning of the Cartel Act if it performs on a lasting basis all the functions of an autonomous economic entity ('full-function' irrespective of whether or not it is concentrative, cooperative or both).

Intra-group transactions are exempted from merger control (section 7(4) of the Cartel Act).

Thresholds, notification

According to section 9(1), a concentration must be notified to the FCA if:

- the combined aggregate worldwide turnover of all undertakings concerned exceeds €300 million;
- the combined aggregate turnover on the Austrian market of all undertakings concerned exceeds €30 million; and
- each of at least two of the undertakings concerned has a worldwide turnover exceeding €5 million.

However, to limit the broad scope of application of Austrian merger control, section 9(2) provides for an exemption to the above rule so that mergers (despite meeting the above criteria) are not notifiable if:

- only one undertaking concerned has achieved more than €5 million within Austria; and
- all the other undertakings concerned have achieved an aggregate turnover of no more than €30 million worldwide.

Further, section 24(2) explicitly confirms that there is an 'effects doctrine' stating that the Cartel Act only applies to cases having an effect on the Austrian market. Owing to various partly conflicting judgments by the Austrian Supreme Court (sitting as Cartel Court of Appeals), the application of the effects doctrine is largely unclear. In the above-mentioned *Lenzing* case, the acquirer of a business located outside Austria was fined €1.5 million for the implementation of a merger before clearance, although the target did not generate any turnover within Austria. On the other hand, a decision of the Cartel Court, by which it held that a large Austrian bank (Erste Bank) had failed to file a notification in Austria for the acquisition of a Czech and Slovakian bank was quashed by the Cartel Court of Appeals. The Cartel Court of Appeals stated in the latter case that an effect on the Austrian market could not be established since the target undertakings were active in a different geographic market (not including Austria) and had no turnover in Austria. The FCA takes a very strict approach to the effects doctrine, construing the exemption very narrowly. Due to this situation, it is highly recommended to clarify in advance whether or not a filing may be avoided in Austria.

Calculation of turnover

Section 22 stipulates that the turnover of all undertakings interlinked within the meaning of section 7 Cartel Act (see above) has to be taken into account. This means in particular that, unlike the situation under European law, the turnover of undertakings that are connected only via a non-controlling stake of 25 per cent or more must also be included in the calculation.

It should be noted that certain limits to this rule have been developed in a number of cases. The Cartel Court and the Supreme Court have limited the calculation of 'endless chains' of minority shares. Thus, the turnover of undertakings holding a minority share in another minority shareholder may be disregarded under certain circumstances. The principles are, however, not entirely clear.

Special rules for the calculation of turnover apply in the media, banking and insurance sectors.

Obligation to suspend implementation

Concentrations requiring notification must not be put into effect before clearance. In this context, section 17(1) and (2) list a whole set of various conditions as to when a merger may be implemented. Section 17(3) stipulates that agreements are void insofar as they contradict this prohibition to implement.

Procedure and substantive test

Since 1 January 2006, mergers have had to be notified to the FCA, which forwards the notification to the FAP (section 10(3) of the Cartel Act).

The official parties may request, within four weeks of receipt of the notification, that the Cartel Court opens an in-depth examination of the contemplated concentration (Phase II). Upon application by the notifying parties, Phase I may now be extended to six weeks. If the official parties make no such request or, upon reasoned application by the notifying party, waive prior to the elapse of Phase I their right to make such request, the merger is deemed cleared and may be implemented.

Pursuant to section 10(4) of the Cartel Act, any undertaking whose legal or economic interests might be affected by the planned concentration may, within 14 days of the publication of the merger (on the FCA's website), submit a written comment. Although the submitting undertaking has no right to have its comment taken into consideration, such submissions serve as an additional source of information for the official parties. In Phase II cases, further comments may be submitted without any formal deadline to be observed. However, 'last-minute submissions' only have a small chance of being considered by the Cartel Court.

If an in-depth examination is requested, the Cartel Court must, within five months, assess whether the proposed concentration will create or strengthen a dominant position in the relevant market (the concept of substantial lessening of effective competition known from the EC Merger Regulation is not the substantive test in Austria). Since the amendment, Phase II may also be extended upon request by the notifying parties from five to six months. Unlike Phase I, the proposal does not set any limit to such extension (provided it's timely applied for). If the outcome of the in-depth examination is that the merger is expected to create or strengthen a dominant position, the Cartel Court must either prohibit the concentration or grant clearance on special grounds.

Clearance on special grounds will be granted if it can be established that the concentration will improve competition in the market in such a way that the advantages outweigh the disadvantages of the creation or strengthening of a dominant position, or if the concentration is indispensable to the international competitiveness of the undertakings concerned and justifiable on macroeconomic grounds.

The Cartel Court may also impose restrictions on and conditions to its clearance in order to prevent the creation or strengthening of a dominant position or to achieve at least one of the compensating improvements mentioned above.

Notification form

Notifications have to be made in quadruplicate. At the end of December 2005, the FCA issued (in comparison to the first published version slightly revised) a form for the notification of mergers that is published on the FCA's website. Although not legally binding, it is highly recommended to use this form in order to avoid incomplete notifications. In the event of an incomplete notification, the Cartel Court may issue a formal decision on incompleteness ordering the applicants to file the missing information; in practice, it more often happens that the official parties use their right to ask for an in-depth examination in order to gain time for the assessment of the merits of a case. Since the form requires extensive information even in minor cases, it may be advisable to discuss with the FCA upfront as to whether certain parts of the notification form can be 'carved out' owing to the specific merits of the case at hand.

Media concentrations

A concentration in the media sector may be prohibited if it is expected that media diversity will be impaired. Section 13(2) of the Cartel Act explicitly defines the term 'media diversity' as the existence of numerous independent media that are not connected within the meaning of section 7(1) and guarantee press coverage reflecting a range of opinions.

Penalties

Fines, criminal charges

The system of fines is similar to that of Community competition law. In 2002, the previous system of criminal sanctions was abolished. However, the criminal sanctions, directed towards the persons responsible, have remained applicable to violations committed before 1 July 2002. Meanwhile, the prosecution of all such offences would appear to be time-barred (the relevant limitation period being three years). Nevertheless, criminal sanctions still exist, in particular, for bid rigging and cartel behaviour qualifying as fraud.

Pursuant to section 29 of the Cartel Act, the Cartel Court may, upon the request of the official parties, impose fines against undertakings and associations of undertakings of up to 10 per cent of the worldwide group turnover in the preceding business year for serious violations of the Cartel Act, such as:

- violation of the prohibition on cartels;
- abuse of a dominant position;
- infringement of articles 101 or 102 TFEU;
- prohibited implementation of mergers; or
- non-compliance with orders of the Cartel Court prohibiting or prescribing certain behaviour.

Less serious violations, such as non-compliance with certain procedural rules and decisions of the Cartel Court can trigger fines of up to 1 per cent of the worldwide group turnover in the preceding business year of the undertakings involved.

With regard to mergers, section 16 of the Cartel Act provides for the possibility of measures being imposed in order to reduce or eliminate the negative effects of a concentration approved on the basis of false or incomplete information. The same applies to violations of conditions imposed by the Cartel Court in connection with the clearance of a merger. The assessment of the amount of the fine depends upon the seriousness and duration of the violation, the material gain arising from it, the degree of fault and the economic capacity of the undertaking concerned. In this regard, the amendment has also introduced a more extensive rule that, in addition, now expressly contains further aggravating and mitigating circumstances. Notably, one of these aggravating reasons that allows for the imposition of higher fines are cases of repeat offenders, when a fine had already been previously imposed on an undertaking. Equally, where the respective undertaking was the leader or instigator of the infringement, this will lead to a higher fine. On the other hand, mitigating reasons are particularly where the undertaking's involvement in the infringement is substantially limited or if the undertaking stopped the infringement by its own motion or if the undertaking has significantly contributed to the clarification of the infringement.

Leniency programme

As of 1 January 2006, a leniency programme has been in force in Austria. The scarce statutory rules are contained in section 11(3) to (7) of the Competition Act. These provisions are completed by a handbook published on the FCA's website.

According to section 11(3) of the Competition Act, the FCA can refrain from applying for a fine against undertakings or associations of undertakings, if four conditions are met:

- the respective undertakings or associations of undertakings have ended their involvement in an infringement of section 1 of the Cartel Act or of article 101(1) TFEU;
- they inform the FCA of this infringement and (as introduced by the amendment) the leniency applicant provides enough information to enable a dawn raid or even a direct fine application to the Cartel Court;
- they cooperate fully, promptly and truthfully with the FCA and must submit all evidence concerning the infringement in their possession or available to them in order to clarify the circumstances of the case completely; and
- they did not coerce other undertakings or associations of undertakings to participate in the infringement.

Since the coming into force of the leniency programme, several leniency applications have already been made to the FCA, in some cases triggering fine proceedings.

The Austrian official parties seem determined to fight against anti-competitive practices. Since its establishment, the FCA has performed various sector inquiries, conducted (both alone and in collaboration with the European Commission) several dawn raids and brought in a number of cases applications for fines. The official parties are also very active in merger control and have requested commitments in several cases. Private enforcement also plays an increasingly important role, with many cases currently pending before various Austrian civil courts.

The recent amendment further strengthened both public and private enforcement. For example, during dawn raids, the FCA can now directly request information concerning documents and it is, inter alia, also entitled to seal premises. The search can only be objected to (claiming a legal privilege or that something falls outside the scope of the dawn raid) with regard to individually specified documents. Further, a limitation on the passing-on defence (a private damage claim by the direct purchaser is not excluded by the fact that goods or services have been sold on), as well as a clarification that interest may be claimed as of the moment of the damaging event (which may well lead to more than 'just' treble damages), are foreseen. In addition, the Cartel Act now explicitly stipulates a binding effect of cartel decisions finding an infringement (which is of particular importance for subsequent follow-on damage claims) as well as an interruption of the limitation period for the time of the duration of cartel proceedings plus six months.

Astrid Ablasser-Neuhuber
bpv Hügel Rechtsanwälte

Astrid Ablasser-Neuhuber is a partner with bpv Hügel Rechtsanwälte and head of the competition law practice group. She has been practising EC competition law in Vienna and Brussels since 1998. She represents national and international clients in antitrust and merger cases before the Austrian and European competition authorities, as well as in proceedings before the European Courts.

She graduated from the University of Salzburg, where she also obtained a degree in journalism and French. She gained profound experience in merger control and antitrust law while working with several antitrust authorities (stage/European Commission, Merger Task Force, legal assistant to the president of the Austrian Cartel Court in Vienna). Following her doctoral thesis, she worked in the competition department of Linklaters, London and joined Hügel & Partner in 1998.

Astrid is a frequent speaker at conferences on competition law. Her publications include *Antitrust Law and Trade Regulations – Austrian Section*, Matthew Bender & Company; co-author with Loewenheim/Meessen/Riesenkampff (Hrsg); *European and German Competition Law*, CH Beck.

Florian Neumayr
bpv Hügel Rechtsanwälte

Florian Neumayr is a partner with bpv Hügel Rechtsanwälte, based in Vienna. He advises on all aspects of Austrian and EU competition law. A special focus of his is private enforcement. He has a considerable track record in representing national and international clients before Austrian as well as European courts and authorities. Clients include top undertakings in the telecoms, financial, construction and waste disposal industries.

Following law school and an LLM in international commercial law, Florian earned a PhD in procurement law. He is an honorary fellow of the Centre for International Legal Studies and an active member of, inter alia, the Austrian bar, the Association of German Speaking Competition Lawyers (Studienvereinigung Kartellrecht), UIA and LIDC. He joined bpv Hügel in 2002.

Florian has been highly regarded in numerous national and international rankings. He is a frequent speaker at congresses and seminars. Florian's publications include *Risk Minimization through Compliance* (chapter on antitrust law), *Handbook Community Law* (chapters on state aid and market dominance), contributions to the *Public Procurement Law Review*, the Austrian journal *Österreichische Zeitschrift für Kartell- und Wettbewerbsrecht* (Austrian Competition Journal), etc.

bpv Hügel Rechtsanwälte

ARES-Tower, Donau-City-Strasse 11
1220 Vienna
Austria
Tel: +43 1 260 50 0
Fax: +43 1 260 50 133

Astrid Ablasser-Neuhuber
astrid.ablasser@bpv-huegel.com

Florian Neumayr
florian.neumayr@bpv-huegel.com

www.bpv-huegel.com
www.bpvlegal.com

bpv Hügel Rechtsanwälte is one of the leading law firms in Austria. Its competition law team, consisting of specialised lawyers in Vienna and Brussels, is one of the most experienced and largest in Austria. The practice group has built up a considerable track record in the following core areas:
- joint ventures, cooperation agreements and vertical relationships such as distribution systems;
- advice with regard to all aspects of market dominance and abuse issues;
- representation of undertakings subject to antitrust proceedings before national and European authorities and courts;
- competition litigation;
- leniency applications; and
- Austrian and EU merger control as well as co-ordination of multi-jurisdictional filings.

bpv Hügel not only offers high-quality services in competition law but also provides premium integrated M&A, corporate, regulatory (including public procurement and state aid), real estate, finance, labour and tax law advice to national and international clients.

bpv Hügel is a founding member of bpv Legal, an affiliation of independent law firms in Central and Eastern Europe counselling on cross-border transactions and foreign investments in most CEE countries.

Strategic research partners of the ABA International section

THE QUEEN'S AWARDS FOR ENTERPRISE: 2012

The Official Research Partner of the International Bar Association

Law
Business
Research