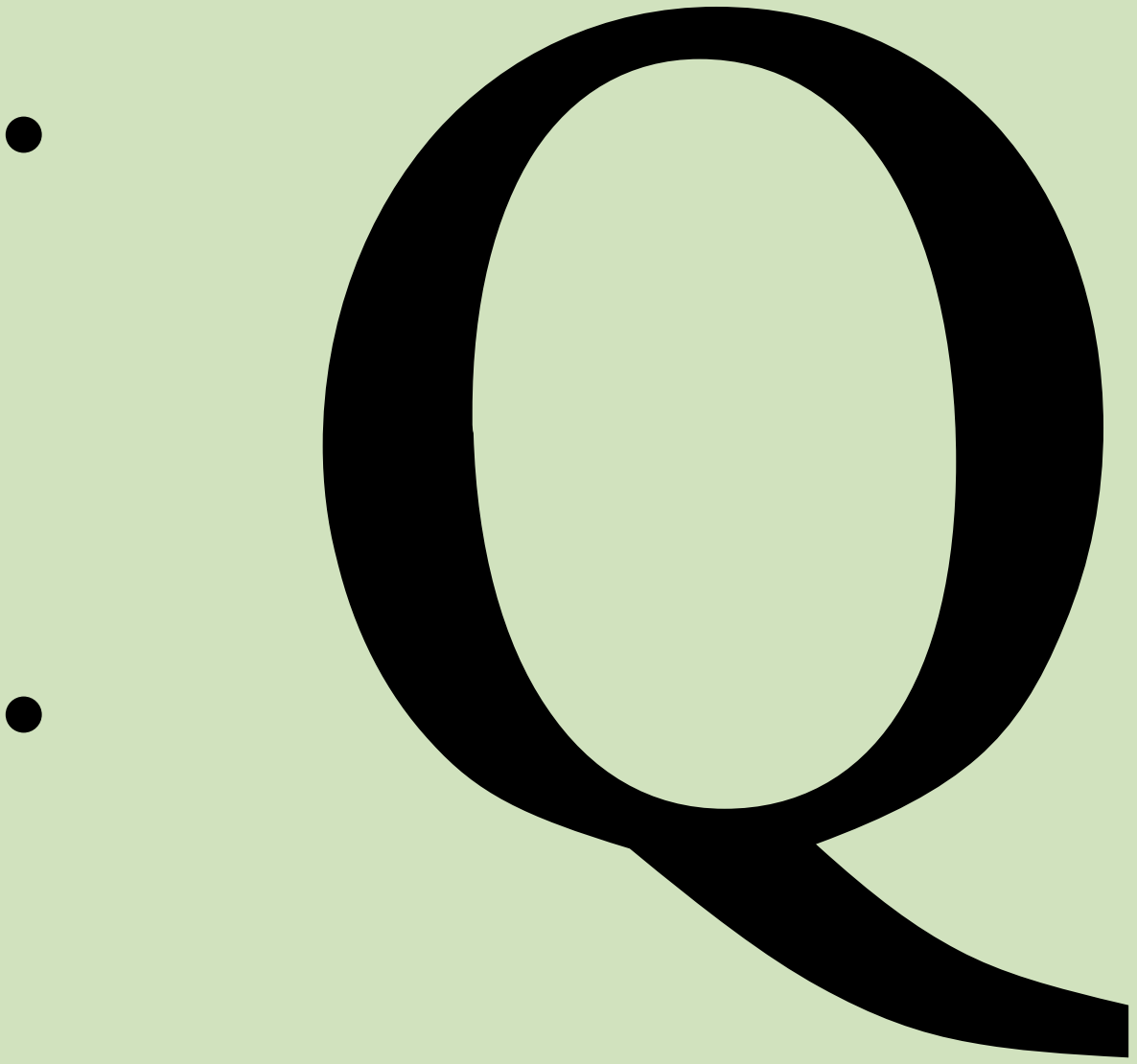
BUREAU BRANDEIS

CARTEL DAMAGES QUARTERLY



Q4 2017

We are pleased to present the fourth quarterly report on cartel damages litigation of 2017

In this review we highlight a couple of interesting developments. In the United Kingdom, British Airways argued in the Air Cargo case, the most well-known cartel damages case in the world, that there can be no claim before 1 May 2004, since air transport was exempt from cartel regulations until that date. The High Court agrees with this reasoning.

A salient characteristic of the courts in the United Kingdom is that they are not content to simply adopt lines of reasoning, including so-called counterfactual arguments. The courts in the MasterCard/Visa cases prefer to make up their own minds. For that matter, the various courts in this case are not all of the same mind, so the judgment on appeal will be of particular importance.

In news from Germany, the Regional Court of Hannover has issued the first judgement in what is becoming the largest cartel damages case to date, the trucks cartel case. This case concerns a claim brought by the City of Göttingen. The decision exemplifies much of what makes the cartel damages practice so interesting. Passing on was rejected, and a request for information by the defendants was even denied. The court very carefully focused on the period when damage could have occurred. It considered 15% a plausible average percentage for damages. In its reasoning the court followed the decisions of the courts of Jena, Düsseldorf and Frankfurt Am Main.

In the Netherlands the pickings were slim in the fourth quarter. The only published decision was that of the Dutch competition authority in collaboration with its big brother, the Bundeskartellamt, based on their joint investigation of the so-called towage cartel.

We hope you enjoy this review, and if there are any decisions or developments we have missed in this issue of Q, please let us know so we can include it in the next issue.

Kind regards,

On behalf of the team **Hans Bousie**

With contributions from **Louis Berger**, **Hans Bousie**, **Sophie van Everdingen, Nammy Vellinga, Anneli Howard** and **Evelyn Niitväli**

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Amsterdam, March 2018

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Private enforcement in cartel damages claims – case law

United Kingdom

• The Air Cargo saga continued in October 2017 with the High Court (Rose J) determining the temporal scope of Article 101 TFEU and Regulation 1/2003. The Claimants sought damages for alleged overcharges from 2001 onwards in respect of alleged cartelised freight services by British Airways ("BA")and other airlines between destinations within the European Union and between the EU and Asia, South America and the USA.

BA contended that as a matter of law, there could be no claim for damages before 1 May 2004 – i.e. the date on which air transport was brought within the EU competition law regime in Regulation 1/2003. Before that date, air transport was governed by the Treaty rule and was excluded under Regulation 17. At that time, the only authorities with competence to determine the compatibility of an agreement with the EU treaty provisions were the European Commission and national authorities, not national courts.

The High Court surveyed the authorities relating to the direct effect of Article 101 and its predecessors and their application in the air transport sector. It held that at the relevant time, the competition rules could only be applied to air-transport services on third-country routes via the transitional implementing provisions under then-Article 88 EEC. The UK had not implemented those provisions until 1996 but had not authorised the High Court to exercise those powers. Furthermore, although Article 86 EC (as Art 102 then was) had full direct effect at that time, national courts did not have the power to apply the exemption in Article 85(3) EC. Lastly, Regulation 1/2003 could not be applied retrospectively as it was not purely procedural in nature but affected substantive rights. The High Court refused to make a preliminary reference and, after upholding the defendants' position, reduced the scope of the claims considerably.

• On 7 December 2017 the Commercial Court handed down a third judgment determining the legality of interchange fees, following previous rulings by the CAT in Sainsbury's v MasterCard [2016] CAT 11 in July 2016 and by the High Court in Asda v MasterCard in the Air Cargo saga continued in July 2017. In those judgments, both courts declined to follow the Commission's findings of fact and economic analysis but reached opposite conclusions. This time it was Visa's turn. Unlike MasterCard, this was a pure standalone action as there had been no infringement decision by the Commission – indeed, the Visa MIFs had been given an exemption under Article 101(3) by the Commission which expired in 2007.

Philips J confined his judgment to the assessment of any restriction of competition ("ROC") for the purposes of Article 101(1) and will issue a subsequent judgment on the application of Article 101(3). A large part of his judgment focuses on the identification of the correct counterfactual for assessing ROC – i.e. what the position would have been in the absence of MIFs. Like Popplewell J in the *Asda v MasterCard* case, Philips J rejected the counterfactual accepted by the CAT in the *Sainsbury's v MasterCard* proceedings – which held that MasterCard's UK MIFS restricted competition as they were higher than the levels of UK MIFS in the counterfactual

scenario involving bilateral negotiations between Issuers and Acquirers. Philips held that based on the evidence before him, the prospect of bilateral agreements being concluded was "inherently unlikely" [127-129].

Yet more interestingly, after hearing new evidence from expert economists for both parties, he also rejected the counterfactual relied on by the Commission in its MasterCard Decision. The Claimants had argued that he was obliged to use the "no-MIF" /settlement at par ("SAP") counterfactual applied by the Commission in the MasterCard Decision which had been upheld by the General Court and the CJEU. Philips J held in[139 to 151] that, although he was bound to follow the *legal principles* established by the CJEU, the Commission's conclusion that MasterCard restricted competition was a *finding of fact not a matter of law*. As such, even though those findings had been upheld by the CJEU, they were not binding. He endorsed Visa's arguments that such findings of facts arose in a dispute between different parties and in respect of a different subject matter. Although the Court might be obliged to consider the Commission's Decision by virtue of s.60(3) of the Competition Act 1998 and will give it due weight, it was only part of the evidence and it should not be followed if the assessment of all the evidence shows that it is wrong: applying *Crehan v Inntrepreneur Pub Co (CPC)* [2007] 1 AC 333 per Lord Bingham of Cornhill in [11-12] and per Lord Hoffmann in [69].

To finish the trio, Philips J also rejected the ROC/ counterfactual analysis applied by Popplewell J in *Asda v MasterCard*. Popplewell J had taken as binding the Commission's view that both Visa and MasterCard's EEA MIFs constituted a "de facto floor" for the fees charged to merchants, resulting in higher prices and thus restricting competition in the acquiring market. By contrast, Philips J considered that approach, although highly persuasive coming from a judge of the High Court, to be incorrect "*as a matter of logic, economics and the applicable legal principles*". After analysing the expert economic evidence before him, he concluded that the inevitable conclusion was that a MIF does not restrict competition any more than a no-MIF/default SAP rule.

These cases all arose before the entry into force of the Damages Directive but display the complexities of follow-on and standalone litigation, even within a single legal system, despite the binding status of a Commission infringement decision. It is somewhat embarrassing that three different judges have reached diametrically opposed conclusions, but that is to be expected in cases involving different parties, different evidence, economic analysis and legal arguments. The next instalment will be the Court of Appeal hearing, where all three appeals will be heard together in April 2018.

Germany

In Q3 2016, it was reported that on 19 July 2016 the European Commission had imposed a record fine of EUR 2.93 billion on the truck manufacturers MAN, Volvo/Renault, Daimler, Iveco and DAF for participating in a cartel. This decision keeps courts throughout Europe busy – and Germany is no exception in this regard. According to media reports, the number of cases pending in Germany alone amounts to a double-digit figure. While some companies and associations such as the European Freight Association for International Transporters or Deutsche Bahn AG – also acting on behalf of the German army and 40 other companies – only filed their damages claims against the members of the cartel in December 2017, the Regional Court of Hannover (LG Hannover) issued the first German judgement against a member of the truck cartel on 18 December 2017[1]. In detail:

- LG Hannover had to decide on damages claims brought by the City of Göttingen against a subsidiary of MAN. The City of Göttingen had purchased trucks from the defendant between 2001 and 2011. LG Hannover found the defendant liable for damages regarding purchases that took place between May 2004 and September 2010. The precise amount of the damages is still subject to dispute and will be decided upon at a later stage in a separate decision.

The decision of LG Hannover is interesting for a number of reasons:

- As regards the time period for which the City of Göttingen can claim damages, LG Hannover found the defendant liable only for purchases that took place

1. LG Hannover, ECLI:DE:LGHANNO:2017:1218.18O8.17.00, 18 December 2017.

during the time period in which the defendant participated in the cartel according to the decision of the European Commission. The court dismissed claims for orders prior to or after that time on the grounds that the claimant had not presented facts that would indicate that the defendant had been participating in the cartel for a longer time period than found in the fining decision.

- As regards the causation of harm, LG Hannover resorted to two prima facie presumptions. Firstly, it presumed that the truck cartel had the effect of driving up prices. And secondly, LG Hannover presumed that the concrete procurement transactions of the claimant had been affected by the cartel.

  The court explicitly stressed that a price-increasing effect is not only to be presumed in the case of quota cartels. Rather, the presumption also applied to collusive agreements on pricing and gross price increases that were the subject of the truck cartel decision of the European Commission. The court also rejected the argument put forward by the defendant that the cartel only concerned gross list prices which did not have an impact on the actual retail prices paid by purchasers. It held that gross list prices are the starting point for price negotiations with customers. Therefore, an agreement concerning such gross list prices would also have an impact on the final retail price.

  As regards the second presumption, LG Hannover clarified that it was only applicable to the products that were subject to the cartel agreement. Therefore, the court did not apply the presumption to products and services of third parties, such as truck superstructures or guaranties.

- The contracts between the City of Göttingen and the defendant contained clauses stipulating that in case of a proven competition law infringement in relation to the tender, the seller would have to pay a lump sum damage in the amount of 5% (for orders in 2001 and 2002) or 15% (for later orders) of the respective order value unless damages amounting to a different total are proven. In line with the decision practice of several other German courts, LG Hannover found such clauses to be valid. In particular, it confirmed that a lump sum damage of 15% was appropriate and did not exceed the damage expected under normal circumstances. In this regard, the court explicitly referred to the so-called Oxera study ("Quantifying antitrust damages") of 2009 according to which the median overcharge was 18% of the cartel price.

- LG Hannover rejected the passing-on defence invoked by the defendant. It held that according to the decision of the German Federal Supreme Court in the ORWI case[2] a passing-on would require the existence of a cartel after-market, i.e. the supply of the cartelized goods by the claimant to its own customers. However, this was not the case as regards the City of Göttingen which had used the trucks for the provision of public services in the area of waste collection and city cleaning.

- As regards the statute of limitation, LG Hannover held that the damages claims were not time-barred. The court clarified that the knowledge-based three year limitation period had commenced at the earliest at the end of 2016, i.e. the year in which the European Commission issued its fining decision and press release regarding the decision. The court considered that the press coverage regarding the dawn raids in 2011 was not sufficient to assume knowledge.

- As regards the ten-year limitation period, LG Hannover applied section 33 para. 5 ARC (in the 2005 version) according to which the limitation period shall be suspended during a cartel investigation by the European Commission. Thus, the court followed the Higher Regional Courts of Jena and Düsseldorf as well as the Regional Court of Frankfurt am Main in applying section 33 para. 5 ARC (in the 2005 version) for claims arising prior to the date when this provision entered into force.[3]

- Finally, LG Hannover had to decide on several disclosure petitions of the defendant. These petitions were based on section 33g para. 2 ARC, a provision that was introduced in the context of the Ninth Amendment of the ARC and entered into force on

2. German Federal Supreme Court, judgement of 28 June 2011, KZR 75/10 – ORWI.
3. See Q (2017-3), page 5.

9 June 2017. According to section 33g para. 2 ARC, anyone in possession of evidence necessary to defend against a cartel damages claim must disclose such evidence to the defendant.

The defendant had inter alia requested information and documents regarding certain costs of the City of Göttingen, the type and duration of use as well as the sale and sales prices of the trucks purchased. The defendants asked for this information in particular to show that an allegedly higher purchase price had been passed on.

However, LG Hannover decided that the requested information and documents were not necessary to defend against the damages claim and therefore rejected the disclosure petitions.

2

Developments regarding public law aspects of cartel damages

United Kingdom

• On 16 November 2017, Smith J issued an interim judgment setting down the principles for varying or discharging a warrant granted for a dawn raid: see *Concordia* [2017] EWHC 2911 (Ch). By urgent application, Concordia sought to partially discharge or vary an ex parte warrant initially granted by Mr Justice Mann under s.28(1)(b) of the Competition Act 1998 (the "Act") relating to suspected anti-competitive activity in relation to a number of pharmaceutical drugs. It did not contest the legality of the warrant in its entirety but sought a variation to remove references to two particular drugs, Carbimazole and Hydrocortisone. It objected to their inclusion on the basis that there were no reasonable grounds for suspecting that documents relating to those drugs would be concealed, tampered with or destroyed.

Mr Justice Smith held that the burden of proof rested on the CMA to justify that the original warrant was validly issued (Judgment, §43 and 44(b)). He clarified that the challenge to a warrant was a self-standing challenge, separate from the original ex parte application, which merited a "fresh rehearing" (Judgment §§21, 42 and 52).This creates difficulties, as a different judge overseeing the challenge will not show any deference for the initial judge's conclusions, even though the first judge has seen the totality of the evidence. Furthermore, he went on to establish that as a general principle, when hearing such a challenge, the Court should exclude all materials protected by public interest immunity ("PII") and should determine the application only by reference to the public unredacted materials. That means that in discharging its burden of proof in the subsequent challenge, the CMA is not allowed to rely on leniency or other sensitive materials that might have justified the grant of the warrant in the first place.

Permission to appeal was refused at first instance and is being considered by the Court of Appeal. If upheld, the judgment is likely to makes it much more difficult for the CMA to justify the grant of a warrant and – conversely – makes it easier for accused undertakings to challenge warrants, including those issued by way of assistance to the Commission in carrying out Article 20 inspections. That could have an adverse impact on the authorities' ability to detect and investigate anti-competitive behaviour.

Germany

• On 24 October 2017, the German Federal Cartel Office ("**FCO**") launched a sector inquiry into online price comparison websites[4]. The focus of the inquiry is on websites in the areas of travel, insurance, financial services, telecommunications and energy. The FCO is analysing different topics such as rankings, financing,

4. German Federal Cartel Office, press release of 24 October 2017.

corporate links, reviews, availability and relevant market coverage, in order to uncover possible violations of consumer law provisions. With this sector inquiry, the FCO applies its newly gained investigative powers in the area of consumer protection for the first time. In the FCO's press release regarding the inquiry, Andreas Mundt, the President of the FCO, stressed that up to now, problems with comparison websites have mainly been dealt with in private court proceedings. However, information provided to the authority by trade associations and consumers had suggested that the FCO should deal with such problems in a more fundamental way.

- On 13 December 2017, the FCO launched another sector inquiry – this time focussing on smart TVs.[5] According to the FCO's press release, the authority has reason to believe that smart TVs pass on personal data without the user being appropriately informed or being able to object this transfer. Against this background, the objective of the sector inquiry is to clarify if and to what extent smart TV manufacturers collect, pass on and commercially use personal data, and whether the persons concerned are appropriately informed of this practise.

- The smart TVs sector inquiry is not the only proceeding in which the FCO is investigating the collection and use of data. On 19 December 2017, the authority informed the public about its preliminary assessment in the Facebook case.[6] According to the preliminary assessment, the FCO assumes Facebook to be dominant in the German market for social networks. The authority further takes the view that Facebook is abusing its dominant position by making the use of its network conditional on its being allowed to unrestrictedly collect any kind of data generated by third sources and merging these data with the user's Facebook account. The authority is now offering Facebook the chance to comment on its allegations. A final decision in the matter is not expected before early summer 2018.

- On 18 December 2017, the FCO imposed fines totalling approx. EUR 13 million on three harbour towage service providers.[7] According to the FCO's press release, the companies concerned are Schleppdampfschiffsreederei Richard Borchard GmbH (Hamburg), Bugsier-, Reederei- und Bergungs GmbH & Co. KG (Hamburg), Petersen & Alpers GmbH & Co. KG (Hamburg), Unterweser Reederei GmbH (Bremen) and its subsidiary Lütgens & Reimers GmbH & Co. KG (leniency applicant) and Neue Schleppdampfschiffsreederei Louis Meyer GmbH & Co. KG (which has exited the market in the meantime). Investigations into another company are still ongoing. The FCO found that between 2002 and 2013 at least, these harbour towage companies divided orders and turnover earned from several German harbours among themselves by setting quotas. This practice had apparently started in 2000/2001 after Dutch harbour towage companies started operating on the rivers Elbe and Weser. In this case, the FCO cooperated closely with the Netherlands Authority for Consumers and Markets as there were also some Dutch companies that were involved in the cartel.

5. German Federal Cartel Office, press release of 13 December 2017.
6. German Federal Cartel Office, press release and background paper of 19 December 2017.
7. German Federal Cartel Office, press release of 18 December 2017.

3

Fines and procedural regulations by the Commission and European Court of Justice

• On 3 October 2017, the European Commission started unannounced inspections concerning access to bank account information by competing services, as it confirmed three days later. The Commission has concerns that the companies involved and/or the associations representing them may have engaged in anti-competitive practices, in order to prevent non-bank owned providers of financial services from gaining access to bank customers' account data, even if the respective customers have given their consent for this access.[8]

• On 23 October 2017, the European Commission confirmed that its officials had carried out inspections at the premises of car manufacturers in Germany.[9] The European Commission suspects that the car manufacturers violated the European cartel prohibition. The dawn raids were carried out following an inspection carried out by the European Commission on 16 October 2017.[10]

• On 30 October 2017, the official journal of the European Union published a summary of Google's appeal against the European Commission's decision of 27 June 2017 concerning an alleged abuse of dominance relating to Google's shopping website. The Commission imposed a € 2.42 billion fine and ordered Google to change how it presents shopping comparison results when users search for products. We reported on this decision in Q (2017-3).[11]

In September 2017, Google committed to running its comparison shopping service as a separate business, which would be reviewed by the DG Comp.[12] In October, the European Parliament requested that the European Commission ensure that Google properly implements the Commission's order and called for a 'full-blown structural separation' between its general and specialised search services. Global Competition Review (GCR) reported that a European Commission spokesperson had no comment on the report, and that the European Parliament must still approve the final text.[13]

• On 10 November 2017, the EU General Court issued a first decision concerning the Libor-scandal. The General Court partly annulled the European Commission's decision against Icap Gropu in the cartel relating to Yen interest rate derivatives. The Icap Group, which

8. European Commission, Memo/17/3761, 6 October 2017.
9. European Commission statement, Antitrust: Commission confirms inspections in the car sector in Germany, 23 October, Brussels.
10. European Commission statement, Antitrust: Commission confirms inspection in the car sector in Germany, 20 October 2017, Brussels.
11. Action of 11 September 2017, case T-612/17, OJ C-369/37.
12. See Q (2017-3).
13. 'EU parliament subcommittee calls for Google break-up', 27 October 2017.

according to the Commission facilitated six of the seven cartels discovered, did not settle the case with the Commission and was fined almost € 15 million. The General Court held that the Commission did not succeed in proving that Icap participated in one of the six cartels and therefore annulled the relevant part of the Commissions' decision. In addition, the General Court held that the evidence adduced by the Commission does not prove the duration of three of the cartels in which Icap is deemed to have participated. Furthermore, the General Court annulled the part of the decision setting the fines, because it was insufficiently reasoned by the Commission.[14]

- On 14 November 2017, the European Court of Justice delivered a decision in Air Cargo case. As discussed in Q (2016-2), British Airways appealed the judgment of the General Court. The European Court of Justice dismissed the appeal of British Airways. The European Court of Justice stated – in agreement with the opinion of Advocate-General Paolo Mengozzi (Q (2016-2)) – that the General Court was right in concluding that it was unable to annul the decision in its totality on the basis of the principle of *ne ultra petita*.[15]

- On 22 November 2017, the European Commission fined five car safety equipment suppliers for € 34 million in a cartel settlement. The suppliers Takai Rika, Takata, Autoliv, Maratuka and Toyoda Gosei admitted that they were involved in cartels for supplying car seatbelts, airbags and steering wheels to Japanese car manufacturers in the EEA. Takata and Tokai Rika were not fined for some of the cartels, since they were protected by the Leniency Notice for revealing the cartels to the Commission.[16]

This is the latest decision in a series of investigations by the European Commission into cartels in the automotive parts sector. Prior to this decision, the Commission had fined suppliers of automotive bearings, wire harnesses in cars, flexible foam, parking heaters in cars and trucks, alternators and starters, air conditioning and engine cooling systems and light systems. The total amount of Commission fines for cartels in this sector now adds up to € 1.6 billion.

- On 12 December 2017, Scania filed an appeal against the decision of the European Commission in the so-called trucks cartel. As discussed in Q (2017-3), the European Commission fined several truck producers for acting in breach of article 101 TFEU. Scania contests the findings and allegations of the European Commission's decision and states that

> *"Scania has not entered into any pan-European agreement with other manufacturers with regard to pricing. Also, the company has not delayed the introduction of new engines compliant with EU-legislation for exhaust emissions."*[17]

14. EU General Court 10 November 2017, T-180/15.
15. ECJ Case C-122/16 P (British Airways/European Commission), 14 November 2017.
16. European Commission statement, Antitrust: Commission fines five car safety equipment suppliers € 34 million in cartel settlement.
17. Scania press release, "Scania files appeal against decision of the European Commission regarding EU antitrust rules", 12 December 2017.

4

Fines and procedural regulations by national competition authorities

The Netherlands

● On 12 October 2017 the ACM reported that Schiphol and KLM have made a commitment that they will no longer have any contact with each other about the growth potential of other airlines.[18] This is to create a level playing field for the competition at Schiphol. The commitment pertains to the following:

- *KLM and Schiphol will not have any contact with each other about limiting the growth potential of other airlines.*

- *Schiphol will independently determine its plans for investments, airport tariffs and marketing policies. KLM and Schiphol will be transparent about any contact between them and will document these contacts so the ACM can monitor the contacts and the content of the communication.*

- *KLM and Schiphol will not have any contact regarding requests from other airlines for bases, lounges or other specific facilities. Communication is permitted only if the other airline has given permission for this. Schiphol will independently assess requests from airlines.*

● On 18 December 2017 the ACM reported that settlements had been reached in a joint investigation with the German competition authority (the "Bundeskartellamt") of the towage sector in the Netherlands and Germany. The ACM and the Bundeskartellamt exchanged information during the investigation and coordinated the investigation. The investigation revealed that German and Dutch towage companies had been working under cartel agreements since 2000/2001. The Bundeskartellamt reached settlements of 13 million euros with three companies and executives.[19]

United Kingdom

● In November 2017, the CMA issued a Statement of Objections against Concordia, accusing it of abusing its dominant position and overcharging the National Health Service by hiking the price of an essential thyroid drug by 6,000%. This is part of an active campaign by the CMA to tackle alleged pricing abuses in the pharma field – in 2016 the CMA fined seven pharma companies a total of £45m in respect of antidepressants and Pfizer was fined £90m for antiepileptic drugs. Both of those decisions are under appeal. The CMA is investigating 7 more companies for suspected excessive pricing and competition-law abuses.

● Another key enforcement area is the digital economy, where the CMA is not just focusing on internet sales bans, resale price maintenance for internet sales and 'most favoured nation' provisions in price comparison websites, but also on more subtle ways of collusion, including the use of price-matching software, artificial intelligence and personal data. It recently fined Ping £1.45m for prohibiting sales of golf

18. ACM nieuwsbericht, Toezeggingen KLM en Schiphol aan ACM: gelijk speelveld luchthaven Schiphol, 12 oktober 2017.
19. ACM, Samenwerking Bundeskartellamt en ACM leidt tot schikkingen sleepsector, 18 december 2017.

clubs online, which is on appeal to the CAT with a hearing listed for May 2018.

- In a speech in November 2017, Michael Grenfell of the CMA emphasised the range of enforcement tools at its disposal in addition to or as an alternative to fines, including warning and advisory letters, settlements and commitments, pre-investigation discussions to remedy concerns (*BMW*), interim measures (*Online auctions*), withdrawal of immunity (*Mobility Scooters*), no grounds for action decisions (*Impulse ice creams*) and director disqualification.

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Hans Bousie is a founding partner of bureau Brandeis. Internationally, Hans specializes in cross-border antitrust damage litigation. His excellent skills in combining market economics with legal frameworks reinforce his in-depth knowledge of antitrust law obtained through 20 years of experience in antitrust litigation before the Dutch Courts, the European Commission, the Dutch competition authority and the European Court of Justice. As we speak, Hans is involved in the main cartel damages cases in the Netherlands: the Air Cargo Case and the Trucks Case. Hans is the founder and editor of the Cartel Damages Quarterly: the world's only journal on cartel damage competition case law. Hans is consequently on top of all new developments in cartel damage case law and regularly speaks at conferences and symposia on this matter.

Sophie van Everdingen is experienced in litigation with a focus on competition law. Before joining bureau Brandeis in September 2016, Sophie worked at the competition law department of an international law firm in Brussels, where she advised manufacturers and dealers in the automotive sector and litigated several times against the Belgian competition authority (BMA) and the Dutch competition authority (ACM). At bureau Brandeis, Sophie is involved in civil litigation on the plaintiff's side against the members of the truck cartel. In addition, she advises several national and international clients on competition issues.

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Evelyn Niitväli is one of the co-founding partners of RCAA, a dedicated antitrust boutique firm with offices in Frankfurt and Brussels. She has extensive experience advising clients on all aspects of German and European antitrust law, with a particular focus on merger control, cartel and abuse of dominance cases, and private antitrust litigation. Prior to founding RCAA, Evelyn was a partner at a Munich-based antitrust boutique firm and headed the German antitrust practice of Weil, Gotshal & Manges LLP in Frankfurt. She started her career at Hengeler Mueller in Düsseldorf and Brussels. Evelyn is recognized in various directories, including Chambers Europe, The Legal 500 Germany, and JUVE.

Nammy Vellinga is a junior associate at bureau Brandeis. She specializes in corporate litigation and focuses on civil enforcement of competition law. Nammy is involved in corporate as well as commercial dispute resolution.

bureau Brandeis is a Dutch law firm which specializes in complex litigation. bureau Brandeis is a boutique firm, but at the same time also one of the largest firms in the Netherlands with a 100% focus on litigation. We litigate amongst others corporate, commercial, and competition disputes. We represent our clients during all stages of proceedings, before all courts and tribunals. From courts of first instance to the Dutch Supreme Court and the European Court of Justice.

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