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Treaty on the functioning of the European Union – TFEU

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TFEU Article 101

1. The following shall be prohibited as incompatible with the internal market: all agreements between undertakings, decisions by associations of undertakings and concerted practices which may affect trade between Member States and which have as their object or effect the prevention, restriction or distortion of competition within the internal market, and in particular those which:

- (a) directly or indirectly fix purchase or selling prices or any other trading conditions;
- (b) limit or control production, markets, technical development, or investment;
- (c) share markets or sources of supply;
- (d) apply dissimilar conditions to equivalent transactions with other trading parties, thereby placing them at a competitive disadvantage;
- (e) make the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

2. Any agreements or decisions prohibited pursuant to this Article shall be automatically void.

3. The provisions of paragraph 1 may, however, be declared inapplicable in the case of:

- any agreement or category of agreements between undertakings,
- any decision or category of decisions by associations of undertakings,
- any concerted practice or category of concerted practices,

which contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which does not:

(a) impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives;

(b) afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products in question.

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Sherman Act

Sherman Act

15 U.S. Code § 1 - Every contract, combination in the form of trust or otherwise, or conspiracy, in restraint of trade or commerce among the several States, or with foreign nations, is declared to be illegal. Every person who shall make any contract or engage in any combination or conspiracy hereby declared to be illegal shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

15 U.S. Code § 2 - Every person who shall monopolize, or attempt to monopolize, or combine or conspire with any other person or persons, to monopolize any part of the trade or commerce among the several States, or with foreign nations, shall be deemed guilty of a felony, and, on conviction thereof, shall be punished by fine not exceeding \$100,000,000 if a corporation, or, if any other person, \$1,000,000, or by imprisonment not exceeding 10 years, or by both said punishments, in the discretion of the court.

15 U.S. Code § 7 - The word “person”, or “persons”, wherever used in sections 1 to 7 of this title shall be deemed to include corporations and associations existing under or authorized by the laws of either the United States, the laws of any of the Territories, the laws of any State, or the laws of any foreign country.

15 U.S. Code § 15 - (a) Amount of recovery; prejudgment interest

Except as provided in subsection (b), any person who shall be injured in his business or property by reason of anything forbidden in the antitrust laws may sue therefor in any district court of the United States in the district in which the defendant resides or is found or has an agent, without respect to the amount in controversy, and shall recover three fold the damages by him sustained,

and the cost of suit, including a reasonable attorney's fee. The court may award under this section, pursuant to a motion by such person promptly made, simple interest on actual damages for the period beginning on the date of service of such person's pleading setting forth a claim under the antitrust laws and ending on the date of judgment, or for any shorter period therein, if the court finds that the award of such interest for such period is just in the circumstances. In determining whether an award of interest under this section for any period is just in the circumstances, the court shall consider only—

(1) whether such person or the opposing party, or either party's representative, made motions or asserted claims or defenses so lacking in merit as to show that such party or representative acted intentionally for delay, or otherwise acted in bad faith;

(2) whether, in the course of the action involved, such person or the opposing party, or either party's representative, violated any applicable rule, statute, or court order providing for sanctions for dilatory behavior or otherwise providing for expeditious proceedings; and

(3) whether such person or the opposing party, or either party's representative, engaged in conduct primarily for the purpose of delaying the litigation or increasing the cost thereof...

15 U.S. Code § 15b - Any action to enforce any cause of action under section 15, 15a, or 15c of this title shall be forever barred unless commenced within four years after the cause of action accrued. No cause of action barred under existing law on the effective date of this Act shall be revived by this Act.

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The Competition and Consumer Act 2010

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Section 44ZZRA Simplified outline

The following is a simplified outline of this Division:

This Division sets out parallel offences and civil penalty provisions relating to cartel conduct.

A corporation must not make, or give effect to, a contract, arrangement or understanding that contains a cartel provision.

A cartel provision is a provision relating to:

- (a) price-fixing; or
- (b) restricting outputs in the production and supply chain; or
- (c) allocating customers, suppliers or territories; or
- (d) bid-rigging;

by parties that are, or would otherwise be, in competition with each other.

44ZZRD Cartel provisions

(1) For the purposes of this Act, a provision of a contract, arrangement or understanding is a cartel provision if:

- (a) either of the following conditions is satisfied in relation to the provision:
 - (i) the purpose/effect condition set out in subsection (2);
 - (ii) the purpose condition set out in subsection (3); and
- (b) the competition condition set out in subsection (4) is satisfied in relation to the provision.

Purpose/effect condition

(2) The purpose/effect condition is satisfied if the provision has the purpose, or has or is likely to have the effect, of directly or indirectly:

- (a) fixing, controlling or maintaining; or

(b) providing for the fixing, controlling or maintaining of;

the price for, or a discount, allowance, rebate or credit in relation to:

(c) goods or services supplied, or likely to be supplied, by any or all of the parties to the contract, arrangement or understanding; or

(d) goods or services acquired, or likely to be acquired, by any or all of the parties to the contract, arrangement or understanding; or

(3) The purpose condition is satisfied if the provision has the purpose of directly or indirectly:

(a) preventing, restricting or limiting:

(i) the production, or likely production, of goods by any or all of the parties to the contract, arrangement or understanding; or

(ii) the capacity, or likely capacity, of any or all of the parties to the contract, arrangement or understanding to supply services; or

(iii) the supply, or likely supply, of goods or services to persons or classes of persons by any or all of the parties to the contract, arrangement or understanding; or

(b) allocating between any or all of the parties to the contract, arrangement or understanding:

(i) the persons or classes of persons who have acquired, or who are likely to acquire, goods or services from any or all of the parties to the contract, arrangement or understanding; or

(ii) the persons or classes of persons who have supplied, or who are likely to supply, goods or services to any or all of the parties to the contract, arrangement or understanding; or

(iii) the geographical areas in which goods or services are supplied, or likely to be supplied, by any or all of the parties to the contract, arrangement or understanding; or

(iv) the geographical areas in which goods or services are acquired, or likely to be acquired, by any or all of the parties to the contract, arrangement or understanding; or

(c) ensuring that in the event of a request for bids in relation to the supply or acquisition of goods or services:

(i) one or more parties to the contract, arrangement or understanding bid, but one or more other parties do not; or

(ii) 2 or more parties to the contract, arrangement or understanding bid, but at least 2 of them do so on the basis that one of those bids is more likely to be successful than the others; or

(iii) 2 or more parties to the contract, arrangement or understanding bid, but not all of those parties proceed with their bids until the suspension or finalisation of the request for bids process; or

(iv) 2 or more parties to the contract, arrangement or understanding bid and proceed with their bids, but at least 2 of them proceed with their bids on the basis that one of those bids is more likely to be successful than the others; or

(v) 2 or more parties to the contract, arrangement or understanding bid, but a material component of at least one of those bids is worked out in accordance with the contract, arrangement or understanding.

(4) The competition condition is satisfied if at least 2 of the parties to the contract, arrangement or understanding:

(a) are or are likely to be; or

(b) but for any contract, arrangement or understanding, would be or would be likely to be; in competition with each other.

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Antimonopoly Act

Antimonopoly Act

Section 24 A person whose interests are infringed upon or likely to be infringed upon by an act in violation of the provisions of item (v) of Article 8 or Article 19 and who is thereby suffering or likely to suffer extreme damage is entitled to seek the suspension or prevention of such infringements from an entrepreneur or a trade association that infringes upon or is likely to infringe upon such interests..

Section 25

(1) Any entrepreneur who has committed an act in violation of the provisions of Articles 3, 6 or 19 (in the case of entrepreneurs who have committed acts in violation of the provisions of Article 6, limited to those entrepreneurs who have effected unreasonable restraint of trade or employed unfair trade practices in the international agreement or contract concerned) and any trade association that has committed an act in violation of the provisions of Article 8 shall be liable for damages suffered by another party.

(2) No entrepreneur or trade association may be exempted from the liability provided in the preceding paragraph by proving the non-existence of intention or negligence on its part.

Section 27(1) The Fair Trade Commission, which has the duty to achieve the purpose set forth in Article 1, is hereby established pursuant to the provisions of Article 49, paragraph (3) of the Act for Establishment of the Cabinet Office.

Section 26

(1) The right to claim for damages pursuant to the provisions of the preceding article may not be alleged in court until the cease and desist order provided in the provisions of paragraph (1) of Article 49 (in the case that no such order is issued, the payment order provided in paragraph (1) of Article 50 (excluding those issued against an entrepreneur that constitutes a trade association

that has committed an act in violation of the provisions of item (i) or (ii) of Article 8)) or the decision set forth in the provisions of paragraph (4) of Article 66 has become final and binding.

(2) The right set forth in the preceding paragraph shall expire by prescription after a lapse of three years from the date on which the cease and desist order or the payment order or the decision set forth in the said paragraph became final and binding.

Section 27 (2) The Fair Trade Commission is administratively attached to the office of the Prime Minister.

Section 33

(1) The chairman presides over the Fair Trade Commission and represents it.

(2) The Fair Trade Commission shall designate in advance an acting chairman from among the commissioners in case where the chairman cannot execute the chairman's duties

Section 53 (2) The Fair Trade Commission may not designate any staff members who performed the duties of investigators with respect to the case pursuant to the preceding paragraph and any other staff members who conducted the administrative affairs pertaining to investigations into the said case as the presiding staff member for hearing.

Section 55 The party concerned may, instead of appearing on the date of hearing, submit written statements and evidence to designated staff member on or before the date of hearing.

Section 67. Any public office or public organization concerned may, in order to protect the public interest, provide its opinions to the Fair Trade Commission.

Section 82

(1) A petitioner for a protective order or a person to whom a protective order was issued may file a petition for rescission of the protective order with the court that retains the case record (if no such court exists, the court that issued the protective order) on the grounds that the requirement prescribed in the preceding Article have not been met or are no longer met.

(2) Whenever the court makes a decision on a petition for rescission of a protective order, it shall serve a written decision on the petitioner and the adverse party.

(3) An immediate appeal may be lodged against a decision on the petition for rescission of a protective order.

(4) A decision to rescind a protective order shall not take effect until the decision becomes final and binding.

(5) When a court has rendered a decision to dismiss a protective order, if the court had issued a protective order for the protection of the trade secret against any person other than the petitioner for rescission of the protective order or the adverse party during the same action in which the protective order was issued, the court shall immediately notify the person of its decision to rescind the protective order.