

National Reports

Austria

ANTI-COMPETITIVE PRACTICES

Infringement—restrictive business practices—price coordination, market sharing, bid-rigging—cartel—waste management sector—fines

☞ Anti-competitive practices; Austria; Cartel offences; Collusive tendering; Fines; Market sharing; National competition authorities; Price fixing; Waste management

Fines imposed for waste management cartel

Upon the request of the Austrian Federal Competition Authority (AFCA), the Austrian Cartel Court has imposed a fine of €7.085 million on the waste management companies Saubermacher Dienstleistungs AG, Trügler Recycling & Transport GesmbH and pink robin gmbh (jointly: “SDAG”) for their involvement in anti-competitive practices. The Cartel Court’s decision is final.

Following dawn raids in 2021 at the premises of 18 companies in the waste management sector, as well as leniency applications, numerous whistleblower reports and questionings, additional dawn raids were carried out in 2022. The AFCA secured over 60 TB of IT data.

The cartels in the waste management sector which existed from July 2002 until March 2021 ultimately covered the whole of Austria, with certain companies only participating regionally. The infringements that were held to have been committed were price fixing, market sharing and customer sharing, as well as sharing sensitive information concerning public and private tenders, with the aim of winning contracts, reducing uncertainty relating to business opportunities, and enabling the companies to adapt their conduct and secure market shares.

Investigations by the AFCA are still underway. The large amounts of data secured during the dawn raids as well as the degree of cooperation by the companies participating in the leniency programme have helped the investigations to progress. Pursuant to § 11b of the Federal Act on the Establishment of a Federal Competition Authority (Wettbewerbsgesetz—WettbG), the AFCA has the right to reduce a fine to be imposed or waive entirely its right to apply for imposing a fine.

Mag. Melanie Gassler-Tischlinger

Partner, GPK Pegger Kofler & Partners, Innsbruck