



EUROPEAN COMMISSION

PRESS RELEASE

Brussels, 18 July 2013

Antitrust: Commission sends statement of objections to ARA for suspected abuse of dominance on Austrian waste management markets

The European Commission has informed Altstoff Recycling Austria AG ("ARA") of its preliminary view that ARA may have abused its dominant position on the markets for the management of packaging waste (mainly packaging made of plastic and metal) in Austria by hindering competitors to enter or expand on these markets. Such conduct, if established, would harm competition and customers in violation of EU antitrust rules. The sending of a statement of objections does not prejudge the outcome of the investigation.

Under EU law, producers are obliged to take back packaging waste that results from the use of their products. They may transfer this task to a company that takes care of the collection and recycling for them, against a licence fee. Since its creation in 1993, ARA has been the dominant provider of these services for both household and commercial packaging waste in Austria.

The Commission has concerns that ARA may have hindered competitors from accessing the household collection infrastructure. This infrastructure consists of containers and bags as well as related collection services set up on a contractual basis by companies collecting waste ("collectors") and municipalities for and on behalf of ARA in the whole of Austria. Since Austrian law requires a nation-wide network of collection services and since the setting up of duplicated collection infrastructures is impossible, any competitors are dependent on receiving access to the existing ARA-infrastructure. ARA may have so far refused such access to potential competitors.

ARA may also have foreclosed competitors from the market for the management of commercial packaging waste. A few small competitors have entered this market since the requirements regarding a nation-wide coverage can be met through a limited number of regional collection centres. However, the Commission has reached the preliminary view that ARA has used its monopoly for household packaging waste to extend its reach into the market for commercial packaging waste. Indeed, ARA has offered certain organisations and companies to collect waste directly from their premises via ARA-collectors and ARA-containers, in the same way as it does for households. The ARA-containers in place may, however, be used only for ARA-waste. At the same time, clients do not want to have several containers for each type of waste on their premises. Therefore, in order to avoid any complications in dividing the waste, the affected organisations took care that their suppliers choose ARA as waste manager. By this, ARA effectively shut out competitors from a part of this market.

Such behaviour, if established, would breach Article 102 of the Treaty on the Functioning of the European Union (TFEU) which prohibits the abuse of a dominant market position.

Background

The Austrian government has recently submitted a new draft waste law to the Austrian parliament. The draft law aims in certain aspects at opening the markets for the management of packaging waste for competition. In principle, competition had been legally possible already before. It might, however, have been prevented by ARA's behaviour as the Commission sets out in its statement of objections. It is therefore important to ensure that the legal possibility of market entry will ultimately translate into effective competition.

A statement of objections is a formal step in Commission investigations into suspected violations of EU antitrust rules. The Commission informs the parties concerned in writing of the objections raised against them. The addressees can examine the documents in the Commission's investigation file, reply in writing and request an oral hearing to present their comments on the case before representatives of the Commission and national competition authorities.

If, after the parties have exercised their rights of defence, the Commission concludes that there is sufficient evidence of an infringement, it can issue a decision prohibiting the conduct and impose a fine of up to 10% of a company's annual worldwide turnover.

More information is available on the Commission's [competition](#) website, in the public [case register](#) under the case number [39759](#). New decisions on competition policy are listed in the electronic newsletter [Competition weekly news summary](#).

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