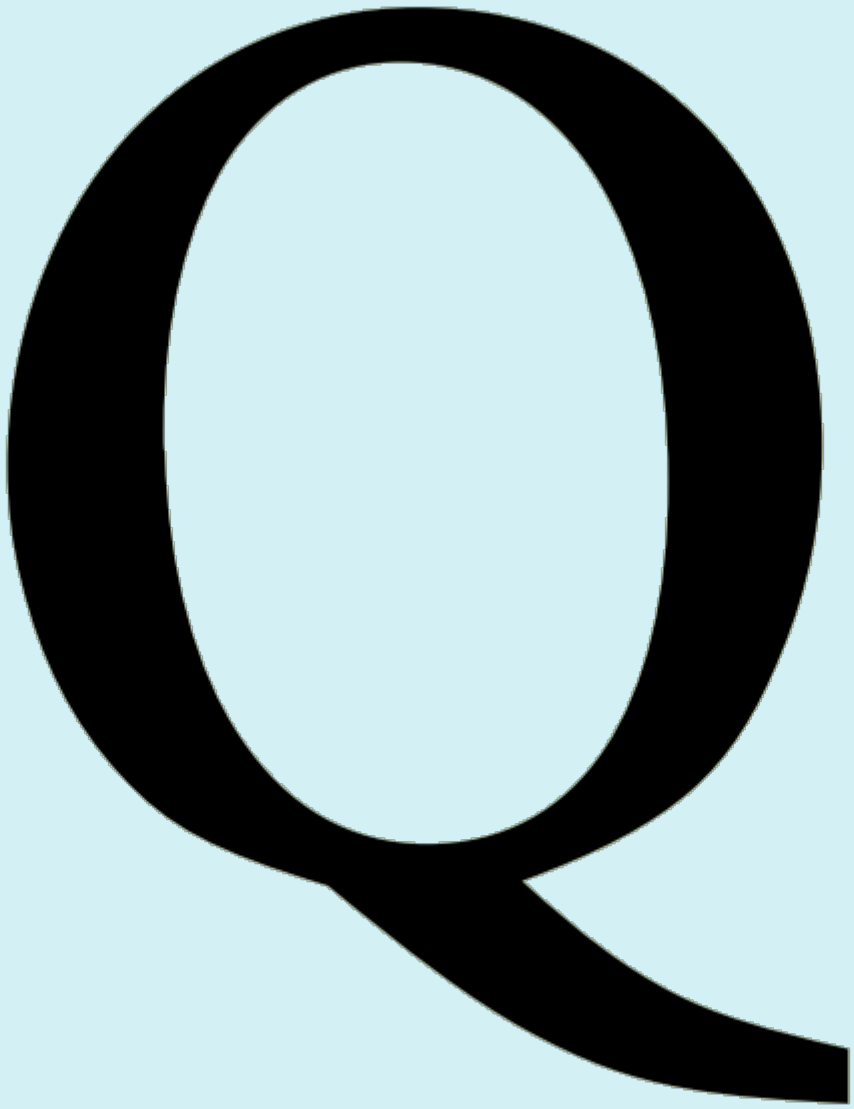
BUREAU BRANDEIS

CARTEL DAMAGES QUARTERLY



Q1 2018

We are pleased to present the first quarterly report on cartel damages litigation of 2018

The number of cases on cartel damages are starting to increase. Although the UK, Germany and the Netherlands are still the favoured jurisdictions, Spain is also rising to the occasion. In the first quarter of 2018 we have seen interesting developments in the three main jurisdictions.

In the Netherlands, the District Court of Amsterdam (the favourite court for claimants in the Netherlands) tried to convince the Dutch Supreme Court to make life easier. Why not find that Dutch law is applicable in the so-called Air Cargo case? Is it not extremely complicated to rule on a case that has links with (almost) every country in the world? The Supreme Court simply refused to give an answer since they found the question premature. We might see this question arise again in the coming year (or years).

The England and Wales High Court also had to decide on applicable law in yet another Interchange fees case. And just like the Dutch Supreme Court, the High Court held that it could not decide yet that Belgian law would be applicable in this case.

The England and Wales Court of Appeal held in the iiyama case that the question in this case was not one of extraterritorial jurisdiction (as the High Court held) but, applying the qualified effects test, it held that there were substantial indirect effects in the European Economic Area and the case was therefore fit for trial in the UK.

Last but not least, the House of Lords European Committee issued an advice in which it advocated that the UK Government should agree on transitional agreements with regards to the coming Brexit. Already we see that parties are becoming reluctant to go to court (in an international follow-on case) in the UK because of the looming Brexit. Will a verdict be executable in the rest of Europe? Will British courts accept the supremacy of the European Court of Justice or for that matter, the European Commission? Questions for which no answer has been found as yet and this lack of certainty leads to hesitance.

In Germany, we can expect to see a number of judgments on the truck cartel over the next few Qs, but for now, we point to the verdict by the OLG Munich. This case is a classic example of how German courts are ruling in cartel damages follow-on cases. Once again it ruled against the passing-on argument. And interestingly enough, it held that there is a presumed price increase effect, not only in vertical price fixing agreements, but also in consumer protection agreements. It goes without saying that this presumption of harm strengthens the arguments of claimants.

Kind regards,

In behalf of the team **Hans Bousie**

With contributions from **Louis Berger, Hans Bousie, Sophie van Everdingen, Nathan van der Raaij, Nammy Velinga,** and **Evelyn Niitväli**

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Amsterdam, October 2018

1

Private enforcement in cartel damages claims – case law

The Netherlands

● On 16 March 2018, the Supreme Court delivered judgment in a part of the Air Cargo case.[1] This concerns the action for damages following the finding by the European Commission that air cargo carriers have been operating a cartel. However, this finding is not yet final. And that is precisely one of the reasons for the judgment that the Supreme Court has delivered. This concerns preliminary ruling proceedings. These are proceedings in which the Supreme Court can answer questions of law that are important in practice.

The claims for compensation that are central to the Air Cargo case stem from thousands of transactions. These were entered into by parties that made use of air cargo services. The prices of these services may have been affected by the cartel. The transactions took place all over the world. The injured parties have combined their claims and assigned them to a Dutch foundation which litigates in a private capacity. The parties have jointly made procedural arrangements with the District Court of Amsterdam. First of all, the applicable law must be established and only then can the admissibility of the claims be assessed.

When the court has to establish the applicable law it makes use of Dutch private international law. This has been changed quite often in recent years. In order to find the correct rule for determining the applicable law, the period when the actions causing the damage took place is relevant. The claimants stated in the Air Cargo proceedings that the period when the actions causing the damage took place covered the years 2000 – 2006.

The District Court of Amsterdam assumed that the Unlawful Act (Conflict of Laws) Act (WCOD) should be applied in order to discover the applicable law for (a part of?) the claims. In accordance with Article 4(1) of the Unlawful Act (Conflict of Laws) Act, commitments arising from unlawful competition are governed by the law of the State in whose territory the competition activity affects the competitive conditions.

The District Court of Amsterdam wanted to hear from the Supreme Court how Article 4(1) WCOD should be applied in the event of a transboundary (in this case, possibly worldwide) infringement of the competition rules. It pressed for the applicability of Dutch law as being the law of the state, or at any rate one of the states, where the (alleged) worldwide cartel has affected competitive

[1] SC 16 March 2018, ECLI:NL:HR:2018:345 (Stichting Cartel Compensation/KLM et al).

conditions. This would indeed solve the necessary problems.

The Supreme Court answers preliminary questions if the answer to the question is necessary in order to rule on the claim as well as being directly relevant to a multitude of rights of action or numerous other disputes in which the same question arises. The referring court must substantiate that this is indeed the case. The decision in which the question is posed must moreover contain the subject matter of the dispute, the established facts and the positions adopted by the parties. These requirements are incorporated in Articles 392 and 393 DCCP.

The District Court assumed *for the sake of argument* that a global cartel existed. The decision of the European Commission is still subject to appeal. In the action for damages, the debate about the unlawfulness has not yet taken place. The Supreme Court held in paragraph 3.4.2 that it has not yet been established that an answer to the questions posed is necessary in order to be able to rule on the claims. It has not been established in this action that there was any unlawful competition which caused damage. Nor has the District Court established yet where the competition actions have affected the competitive conditions. Accordingly, pursuant to Article 392 DCCP, the questions are not suitable for answering.

The Supreme Court also said something about the WCOD. According to the District Court, the applicable law had to be established with this rule. This rule was already revoked in 2012 and has actually not been relevant since 2009. This was in fact the year that the Rome II Regulation came into effect. This fact also led the Supreme Court to refrain from answering the questions. There are not enough connection points to explain why (despite the fact that we have already been working with the Rome II Regulation for nine years and with Book 10 DCC for six years) the answer to the questions is important for many rights of claim or numerous other disputes. In other words, the questions are only related to the application of old laws. There are also not enough connection points which show that the answer is necessary for deciding countless other cases.

The questions are premature and are related to the application of old laws. This is clearly a lethal cocktail for providing answers to the questions. It is easy to find this in retrospect, but it is of course perfectly understandable that the District Court of Amsterdam asked the Supreme Court for assistance in the huge task of determining the applicable law for thousands of claims. However, the Supreme Court has proved to be strict and is apparently not prepared to provide answers to abstract questions about facts that are still hypothetical.

United Kingdom

- In the previous editions of Q (most recently Q4 2017), we already reported on the interchange fees lawsuits against Visa and MasterCard. Next in line is the judgment of 9 March 2018 of the England and Wales High Court (Chancery Division) in what is one of the first English judgments on the applicable law in antitrust litigation with multijurisdictional aspects. In Deutsche Bahn AG & Others versus MasterCard Inc. & Others,[2] the Court rejected the arguments of the claimants, a group of 1300 merchants, that Belgian law should be applied to parts of their claim. The claimants argued that the anticompetitive behaviour in question, the setting of the multilateral interchange fee resulting in a higher merchant service charge to the detriment of the

[2] Deutsche Bahn Ag & Ors v Mastercard Incorporated & Ors [2018] EWHC 412 (Ch) (09 March 2018)

claimants, occurred in Belgium. The claim, concisely stated, is a claim for damages for breach of Article 101 TFEU, Article 53 of the EEA Agreement and various domestic laws. Belgian law allows for a longer limitation period than the six-year period which is usually applied in England. The defendants indicated that, subject to identifying the proper (laws) of the claims and the applicable limitation periods, they would rely on a limitation defence.

The facts of the alleged restriction of competition took place from 1992 to the present. The Court identified three separate periods to which different rules apply in order to determine the law that is applicable to the individual claims. With regard to events that took place between 1992 and 1996, the Court held that English common law principles, mainly the double actionability rule, apply. Therefore, according to the Court, the law of the country in which the effects of the alleged restriction of competition arose is applicable. For events that occurred between 1996 and 2009, the Court determined that the applicable law is that of the country where the claimants were based when they paid the alleged overcharges, thereby applying the Private International Law (Miscellaneous Provisions) Act 1995. For the facts that took place from 2009 to the present, the Court stated that it is common ground between the parties that the Rome II Regulation applies, and that in accordance with Rome II "*the applicable law of the alleged tort will be determined by reference to the place of establishment of the Merchant concerned in the transaction in question*".

The Court did not yet determine which law is in fact applicable to the individual claims and therefore which limitation periods apply. The claimants are based in 18 different countries. It was determined beforehand that the court would first look at the situation in Germany, Poland, Italy and the UK as test cases.

- On 5 march 2018, the Japanese ball bearing manufacturer NTN SNR was ordered by the England and Wales Competition Appeal Tribunal to disclose patent documents concerning car wheel technology.[3] The claimants are 19 companies from within the Peugeot group headed by Peugeot S.A. Peugeot sought the order for disclosure in light of its follow-on damages claim against NTN SNR among others. In its decision of 19 March 2014, the Commission found that NTN SNR (and others) had engaged in a cartel which fixed the prices of automotive bearings supplied to car manufacturers.[4] According to Peugeot it was overcharged when purchasing ball bearings from NTN SNR. The licensing arrangements operated by NTN SNR allegedly formed part of the illegal arrangements that have given rise to liability. The patent document would shed light on the *modus operandi* of the cartel. The Tribunal thus found that disclosure was necessary in order to make a full analysis of the cartel.

- On 16 February 2018, the England and Wales Court of Appeal ruled that the damages action brought by the Japanese electronics company iiyama against the CRT and LCD cartels should be permitted to go to trial.[5] In the first instance, the High Court had found that iiyama's claims fell outside of the (territorial) scope of EU competition law and dismissed iiyama's claims against the cartelist in a preliminary stage. However, according to the Court of Appeal, the ECJ's recent *Intel* judgment is an important decision in the

[3] Competition Appeal Tribunal England and Wales, 9 March 2018, case no. 1248/5/7/16, [2018] CAT 3.
[4] We previously reported on the LCD cartel in Q
[5] England and Wales Court of Appeal (Civil Division) Decisions, 16 February 2018, case no. A3/2016/2765, A3/2016/4232, A3/2016/4238 & A3/2016/4246, [2018] EWCA Civ 220

context of the present cases with regard to the qualified effects test. According to the Court of Appeal, the judgment "*provides substantial support for the argument that a worldwide cartel which was intended to produce substantial indirect effects on the EU internal market may satisfy the qualified effects test for jurisdiction*." In coming to this conclusion, the Court of Appeal, like the ECJ, has stressed the importance of the need to take account of the offending conduct *as a whole* and that the ECJ in Intel has endorsed the qualified effects test as a separate route to establishing jurisdiction.

- With Brexit looming around the corner, the House of Lords' European Union Committee published a report on 2 February 2018 on competition and state aid[6] in which the Committee made various recommendations to the UK government. The Committee has advocated that the UK Government should agree on transitional arrangements for antitrust cases that would still be ongoing at the time of Brexit. The government is also strongly advised by the Committee to provide clarification on the division of post-Brexit jurisdiction between the Commission and the CMA. The report also discusses future UK policy for antitrust and merger control, stating the likelihood of future antirust and merger cases affecting both the EU and UK markets. To tackle this issue, the Committee has proposed that a formal cooperation agreement, covering both antitrust and merger case investigations and enforcement actions, should be concluded. The report also delves into the necessity of a post-Brexit framework for state aid and the requirement of a UK State aid authority in some form since the CMA currently has no experience in dealing with state aid cases.

Germany

- On 8 March 2018, the Higher Regional Court of Munich (OLG Munich) issued a decision in an appeal regarding the so-called rail cartel.7 OLG Munich had to decide on damages claims brought by the City of Munich which operates the local public transport system. Such claims concerned contracts that had been awarded to members of the cartel as well as contracts that had been awarded to competitors not party to the cartel. OLG Munich decided that the cartel damages claims with regard to certain contracts were in principle justified. The precise amount of the damages was left to a "follow-on judgement".

The decision of OLG Munich is in line with several previous decisions of Regional and Higher Regional Courts in Germany that we reported on in previous editions of Q. In detail:

OLG Munich confirmed the binding effect of decisions of the competition authority pursuant to Article 33(4) of the German Act against Restraints of Competition (ARC – in the version of 2005) as well as the suspension of the limitation period during a cartel investigation of the authority according to Article 33(5) ARC (in the version of 2005) for claims that arose prior to the date when these provisions entered into force.

Furthermore, the court held that a price increasing effect is not only to be presumed in the case of quota cartels and price fixing agreements. Rather, such presumption also applies to customer protection agreements according to OLG Munich.

[6] House of Lords European Union Committee, 'Brexit: competition and State aid', 12th Report of Session 2017–19, 2 February 2018.

[7] OLG Munich, ECLI:DE:OLGMUEN:2018:0308.U3497.16KART.0A, 8 March 2018.

OLG Munich rejected the passing-on defence invoked by the defendants. It stated that the defendants had not sufficiently demonstrated that the City of Munich had passed on the price increase caused by the cartel by means of increases in the fare it charges for its public transport services. It pointed out that the pricing for such fares was not directly related to the purchase price for transport infrastructure. Rather, pricing depended on a number of other factors, such as the costs for personnel and energy. While the costs for investments in the rail infrastructure might be taken into consideration in a mixed calculation, they would not be passed on to customers one-on-one. Moreover, the fares for public transport are not solely based on a commercial calculation but also take social factors into account. OLG Munich further noted that it would be highly doubtful whether the passing-on defence could be applied in the case at hand at all. Applying such a defence in

a case where a price increase due to a cartel had been passed on to a large number of consumers would result to a large extent in an inappropriate benefit for the cartel members as it was unlikely that the consumers would claim their damages from the cartelists.

OLG Munich confirmed that the damages caused by a cartel can include damages suffered by so-called umbrella pricing; i.e. the fact that competitors that were not part of the cartel were able to charge a price that was higher than it would have been if the cartel had not existed.

2

Developments regarding public law aspects of cartel damages

United Kingdom

- Gallaher Group and Somerfield Stores claim that they are entitled to the same benefit as one of the other members of the alleged cartel, RM Retail, which also settled the case in 2008, but which was reimbursed 2.7 million from the OFT after it's decision was overturned by the Competition Appeal Tribunal in 2011. The OFT agreed to pay back the fine of RM Retail because an assurance was included in it's settlement agreement against the possibility of other companies bringing successful challenges against the decision of the OFT. Whereas the High Court upheld the settlement penalties of Gallaher Group and Somerfield Stores in 2015, the decision was overruled by the Court of Appeal in 2016, saying that there was no "objective justification" for the breach of the principle of fair and equal treatment in this case.

The counsel of the CMA, Daniel Beard, told the Supreme Court on the first day of the hearing that he admitted that the assurance made by the OFT was a mistake, but that an "objective justification" for not applying the principle of equal treatment in this case lies in not replicating a mistake. He said: *Public authorities should proceed on the correct understanding of the law, and where it makes a mistake, it should endeavour not to replicate that mistake."*[8]

Germany

- In a decision of 12 December 2017, which was published on 19 January 2018, the German Federal Court of Justice rejected an appeal against the decision of the German Federal Cartel Office (FCO) in the so-called ASICS case.[9] In a decision of 26 August 2015, the FCO had declared that certain restrictions in the distribution system of ASICS constituted a violation of competition law. This applied in particular with regard to the ban on retailers of using price comparison engines for their online presence. The Federal Court of Justice now confirmed that ASICS may not forbid its distributors to use such price comparison engines. It considered a prohibition that is not tied per se to quality requirements as a hardcore restriction

- On 1 February 2018, the FCO launched a sector inquiry into market conditions in the online advertising sector.[10] The focus of the

[8] Global Competition Review, CMA urges Supreme Court not to repeat OFT's mistake, 14 March 2018.
[9] Federal Court of Justice, ECLI:DE:BGH:2017:121217BKVZ41.17.0, 12 December 2017; German Federal Cartel Office, press release of 25 January 2018.
[10] German Federal Cartel Office, press release of 1 February 2018.

sector inquiry will be on the effects of current and foreseeable technical developments on the market structure and the market opportunities of the various players. The FCO will also assess whether there are closed systems of a few large providers and what significance, if any, these systems have. In the FCO's press release regarding the inquiry, Andreas Mundt, the President of the FCO, stressed the great economic importance of the online advertising sector for advertisers and content providers active on the internet and added that large single companies with considerable market relevance like Google or Facebook had emerged in the sector. He further indicated that the issue of access to and the processing of data would be highly relevant from a competition point of view.

- On 28 February 2018, the Higher Regional Court of Düsseldorf (OLG Düsseldorf) not only confirmed a decision of the FCO in a case of vertical price fixing but rather significantly increased the fine imposed on the company that had appealed the FCO's decision.[11] In 2015, the FCO imposed fines on several retailers for vertical price fixing agreements with regard to the sale of roasted coffee products.[12] The drugstore chain Rossmann, being one of such retailers, was fined EUR 5.25 million by the FCO but appealed against this decision. In its decision, OLG Düsseldorf increased the fine imposed on Rossmann (more than fivefold) to EUR 30 million. The court calculated the fine using a different approach than the FCO – it based its calculation on the company's global turnover rather than just taking into account the turnover generated in the markets affected by the cartel. Rossmann has filed an appeal against the decision of OLG Düsseldorf with the Federal Court of Justice.

[11] German Federal Cartel Office, press release of 1 March 2018.
[12] German Federal Cartel Office, case report of 18 January 2016, case no. B 10 –50/14.

3

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

- On 24 January 2018, the European Commission fined Qualcomm EUR 997 million for abuse of dominant market position. Qualcomm is the world's largest supplier of 4G baseband chipsets. In 2011, Qualcomm signed an agreement with Apple, committing to make significant payments to Apple on condition that Apple would exclusively use Qualcomm chipsets in all its iPhones and iPads. In 2013, the agreement was extended to the end of 2016. The European Commission found that the issue with this agreement is that the exclusivity condition denies rivals the possibility to compete, therefore amounting to an abuse of market dominance. In its assessment, the Commission took into account evidence that Qualcomm's payments reduced Apple's incentives to switch to rivals and the importance of Apple as a key customer in the relevant market.[13]

- On 1 February 2018, the European Court of Justice (ECJ) denied the claim of Kühne + Nagel International, Schenker Ltd, Panalpina World Transport, Deutsche Bahn AG in the Air Cargo case against the European Commission's fine for rigging the international freight forwarding market. In a decision of March 2012, the European Commission fined 14 companies a total of € 169 million for various agreements and concerted practices on the market for international air freight forwarding services. The aforesaid fined companies brought actions before the General Court seeking the annulment of the Commission's decision or a reduction in their respective fines. The General Court however upheld the amount of fines imposed on these companies. They lodged an appeal. The ECJ rejected all arguments put forward and upheld the amount of the fines imposed. It stated in particular that it is appropriate to base the calculation of the amount of fines on the value of sales associated with freight forwarding services, as the European Commission did.[14]

- On 19 March 2018, the European Commission revealed that it has opened an investigation into TenneT, the largest of the four German transmission system operators that manage the high-voltage electricity network in Germany. The investigation will focus on indications that TenneT may be reducing the amount of transmission capacity available on the electricity interconnector at the border between Western Denmark and Germany. This behaviour may breach EU

[13] European Commission, press release: Antitrust: Commission fines Qualcomm €997 million for abuse of dominant market position, Brussels 24 January 2018.

[1414] ECJ 1 February 2018, cases C-261/16 (Kuehne Nagel/European Commission), C-263/16 (Schenker Ltd/European Commission), C-271/16 (Panalpina World Transport/ European Commission), C-264/16 (Deutsche Bahn AG e.a./ European Commission).

antitrust rules as it would amount to discrimination against non-German electricity producers and to a segmentation of the Single Market for energy. This investigation is part of a broader effort, as stated by Commissioner Margrethe Vestager:

Our investigation into TenneT is part of our efforts to ensure that electricity grid operators do not unjustifiably restrict the free flow of electricity between Member States, to the detriment of European energy consumers.[15]

- On 21 March 2018, the European Commission fined eight producers of capacitors EUR 254 million for participating in a cartel. The producers that were fined are Elna, Hitachi Chemical, Holy Stone, Matsuo, NEC Tokin, Nichicon, Nippon Chemi-Con and Rubycon. Sanyo was not fined as it is the immunity applicant. The European Commission investigated the Japanese companies and found that from 1998 to 2012, they coordinated behaviour and avoided price competition. This led to a cartel for the supply of aluminium and tantalum electrolytic capacitors according to the European Commission.[16]

- On 5 February 2018, the General Court issued a decision between Edeka-Handelsgesellschaft Hessenring mbH and the European Commission concerning the EURIBOR cartel decision. Edeka requested access to a non-confidential case file and table of contents concerning the Euribor decision from the European Commission's file in order, among other things, to determine the chances of a follow-on cartel damages case. The European Commission denied this request. Edeka appealed the rejection. The General Court also rejected the request of Edeka stating:[17]

In the first place, it must be noted that the applicant merely claimed that access to the table of contents would allow it 'to form an opinion on whether the documents listed in the table may be needed to support a future action for compensation'. This very general argument is not sufficient to demonstrate how the refusal to grant access to the table of contents prevents the applicant from actually exercising its right to compensation. Consequently, the applicant does not substantiate its claim that access to the table of contents is necessary to enable it to bring an action for compensation.

- On 21 February 2018, the European Commission fined several companies in three different cartels: (i) four maritime car carriers were fined EUR 395 million, (ii) two suppliers of spark plugs were fined EUR 76 million and (iii) two suppliers of braking systems were fined EUR 75 million.

In the first cartel, the maritime carriers CSAV, "K" Line, MOL, NYK and WWL-EUKOR were part of a cartel in the market for deep-sea transport. They agreed among other things to respect each others business and coordinated prices. MOL was the immunity applicant.

In the second cartel, the spark plug suppliers Bosch, Denso and NGK exchanged commercially sensitive information and coordinated prices. Denso was the immunity applicant.

[15] European Commission, press release: Antritrust: Commission opens investigation into German grid operator TenneT for limiting cross border electricity capacity with Denmark, Brussels 19 March 2018.
[16] European Commission, press release, Antitrust: Commission fines eight producers of capacitors € 254 million for participating in cartel, Brussels 21 March 2018.
[17] General Court, 5 February 2018, T-611/15.

In the third cartel involving the braking systems, two different cartels were fined by the Commission. First a cartel involving the supply of hydraulic braking systems (HBS) in which TRW, Bosch and Continental took part, and second a cartel involving electronic braking systems (EBS) in which Bosch and Continental took part. In both cartels, the suppliers coordinated their behaviour and coordinated prices. [18]

[18] European Commission press release, Antitrust: Commission fines maritime car carriers and car parts suppliers a total of € 546 million in three separate cartel settlements, Brussels 21 February 2018.

4

Fines and procedural regulations by national competition authorities

The Netherlands

- The Netherlands Authority for Consumers & Markets (ACM) has announced that it will focus in 2018 and 2019 on the four areas of digital economy, energy markets in transition, prescription drug prices and ports and transport.[19] With regard to the last area, the ACM specifically announced that its investigation team will focus on possible infringements of competition rules in this field.

United Kingdom

- On 2 March 2018, the UK's Competition and Markets Authority (CMA) fined two of the biggest suppliers of charcoal and coal for households in the UK, CPL and Fuel Express. They have agreed to pay a fine of £ 3.4 million after they admitted to having participated in a market sharing cartel. Besides exchanging competitively-sensitive, confidential pricing information, the companies engaged in a form of bid-rigging for contracts with two supermarkets, Tesco and Sainsbury's. CPL and Fuel Express agreed that one of them would submit a higher bid that was designed to lose so that the existing supplier could retain the contract with 'its' supermarket. The investigation of the CMA revealed that the cartel lasted from June 2010 to February 2011.[20]

- On 2 March 2018, the CMA revealed that it is investigating suspected anti-competitive arrangement(s) in the residential estate agency sector which may infringe competition law. The launch of the investigation is based on information the CMA received during a previous investigation into local residential state agency services in south-west England which was opened in December 2015 and resulted in the issuance of an infringement decision on 31 May 2017 which ruled that 6 estate agents had infringed competition law. [21] The new investigation is at an early stage and the CMA has not formed an opinion regarding whether there is sufficient evidence for it to issue a statement of objections to any of the parties under investigation.[22]

[19] Website of ACM on ´Mission and Strategy, ACM Agenda 2018-2019´.

[20] Competition and Markets Authority, £ 3.4m fine for household coal and BBQ supplier cartel, 2 March 2018.

[21] Competition and Markets Authority, Residential estate agency services in the Burnham-on-Sea area, last updated on 18 September 2017.

[22] [22] Competition and Markets Authority, Provision of residential estate agency services, 2 March 2018.

5

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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 beef up 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. Hans is currently 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 and 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 an experienced litigator with a focus on competition law. Before joining bureau Brandeis in September 2016, Sophie worked in the competition law department at 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.

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.

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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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