

Formal vs informal enforcement of competition law – Danish perspective

Deputy Director General at Danish Competition and Consumer Authority Bitten Thorgaard Sørensen



Agenda

1. Overview
2. Benefits vs. downsides/risks
3. Examples

Different types of decisions/non- decisions

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- Dismissal/close of case
- "Admonition"
- Guidance
- Commitment decision
- Infringement decision (cease and desist)
- Infringement decision and referral to SEIC for criminal prosecution

Benefits vs downsides/risks

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Benefits of formal enforcement

- Deterrence
- Development of jurisprudence
- legal certainty, predictability and proportionality

Benefits vs downsides/risks

Benefits of informal/”negotiated” enforcement

- Procedural economy and efficiency
- Faster resolution of cases
- Improved quality of remedies

NB: For companies: avoidance of fines and less exposure to damages action

Examples

Examples

- Dismissal/close
 - E.g. Booking.com/Expedia Group, Mastercard, DanAvl
- Admonition
 - Anonymous...
- Guidance
 - E.g. trade association's collection and publication of price index

Examples cont'd

- Commitment decision
 - E.g. TDC margin squeeze case
- Infringement decision (cease and desist)
 - E.g. Association of Danish Cinemas and Association of Danish Film Distributors
- Infringement decision + the SEIC for criminal prosecution
 - E.g. road marking case (consortia-case)

