

Austria

COMPETITION

*Unfair Trading Practices—
agricultural and food products—
fines requested*

☞ Anti-competitive practices;
Austria; Cartels; EU law; Fines;
Food products; Supermarkets;
Unfair commercial practices

First fines requested under the Federal Act on Improvement of Competitive Conditions

The Federal Competition Authority (*Bundswettbewerbsbehörde*—BWB) has filed 16 applications against the Tyrolean supermarket chain MPreis with the Cartel Court. The applications are directed at imposing “appropriate fines” for violations of the Federal Act on Improvement of Competitive Conditions (*Faire-Wettbewerbsbedingungen-Gesetz*—FWBG), a statute in effect since 1 January 2022, which implements the European Union (EU) Unfair Trading Practices Directive in Austria. This is the first time the BWB has requested that fines be imposed under the FWBG. The 16 applications relate to unfair trading practices in connection with the sale of agricultural and food products.

The BWB received information that MPreis had sent pro forma invoices to suppliers of agricultural and food products for lump sums of varying amounts, in circumstances where the payments demanded were not related to the products purchased by them. Specifically, MPreis demanded payments to support a transformation process within MPreis.

The FWBG aims, among other things, to protect suppliers of agricultural and food-related products against economically superior buyers. Unfair trade practices thus prohibited are, for example, unilateral contract amendments, the demand for payments that are unrelated to the sale of agricultural and food products of the supplier, the unlawful use of trade secrets, the threat of retaliation if a company wants to file a complaint with the authorities, discrimination, etc. Under the FWBG, fines of up to €500,000 can be imposed by the Cartel Court for a breach of the prohibition on the use of unfair trading practices.

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