



EUROPEAN COMMISSION
DIRECTORATE-GENERAL FOR COMPETITION

Markets and cases V: Transport, Post and other services
Antitrust: Transport, Post and other services

Brussels, 18 December 2024
COMP.F.1/AC/ssp

Mr. Corneel Spil
Chairman of OvRAN

Via e-mail:
bestuur@ovran.nl

Subject: HT.1558 - Your email of 17 November 2024

Dear Mr Spil,

Thank you for your email to the European Commission's Directorate-General for Competition dated 17 November 2024, relating to the conduct of four accountancy firms (the "Big Four") in the Netherlands that would allegedly engage into anti-competitive conduct in breach of EU competition rules.

In particular, you claim that the Big Four would have influenced the Netherlands Institute of Chartered Accountants (the "NBA") to be exempted from certain NBA rules, which other competitors have to comply with. You claim that this conduct would constitute an unlawful agreement between the Big Four and an abuse of the alleged collective dominance enjoyed both by the NBA through its legal authority to regulate the profession and by the Big Four, because of their alleged influence within the professional association. Moreover, you argue that the alleged legal monopoly awarded to the NBA constitutes incompatible State aid.

You also explain that you had filed two lawsuits before the Highest Dutch Court and before the Dutch Authority for Competition on the above-mentioned claims, which were both rejected, and would like therefore the European Commission to intervene.

The European Commission's Directorate-General for Competition is responsible for enforcing EU competition rules. The main competition rules concerning Antitrust are contained in Articles 101 and 102 of the Treaty on the Functioning of the European Union ("TFEU"). Article 101 TFEU prohibits certain anti-competitive agreements between undertakings. Article 102 TFEU prohibits abusive practices by undertakings that hold a dominant position in a particular market. These rules only apply where there is an effect on trade between Member States.

The situation you describe appears to concern the Netherlands, and the rules defined by Dutch law and the NBA. Therefore, authorities in the Netherlands are well placed to act, including to decide on any potential infringement of Articles 101 and 102 TFEU.

Moreover, the European Commission has no powers to review the legality of decisions by national courts and competition authorities.

Regarding your claim that the legal monopoly awarded to the NBA constitutes incompatible State aid, please note that the application of Article 107(1) TFEU requires a transfer of State resources by the State, or an entity imputable to the State, to the beneficiary. In the case at hand, there does not seem to be any transfer of State resources to the NBA. Therefore, the measure would not qualify as aid within the meaning of Article 107(1) TFEU.

Consequently, your email will not lead to any follow-up actions by the Directorate-General for Competition. We nevertheless appreciate that you have chosen to contact us.

Yours faithfully,

(e-Signed)

Daniel BOESHERTZ