

Antitrust: EFTA Surveillance Authority imposes fine of EUR 18.811 on Color Line for infringing EEA competition rules

Q&As

What legal basis underpins the EFTA Surveillance Authority's decision?

The EEA competition rules are set out in Articles 53 and 54 of the EEA Agreement.

[Article 53\(1\)](#) prohibits agreements or practices that distort or restrict competition, with the exception of restrictions necessary for improvements which benefit consumers and which do not eliminate competition ([Article 53\(3\)](#))

[Article 54](#) prohibits dominant firms from abusing their market power.

The substantive competition rules set out in the EEA Agreement are virtually the same as those in the EU Treaty.

The Authority's investigation followed a complaint from ferry operator Kystlink AS to the Norwegian Competition Authority. The case was referred to the Authority by the Norwegian Competition Authority in 2006.

What is the Authority's role in relation to the EEA competition rules?

The Authority and the European Commission enforce the EEA competition rules across the EEA. Responsibility for handling individual cases is divided between the Authority and the Commission on the basis of rules laid down in the EEA Agreement.

The Authority's main task in the field of competition is to ensure that undertakings active in the EFTA States comply with the EEA competition rules. For that purpose, the Authority enjoys wide powers of investigation and may impose fines of up to 10% of global turnover on undertakings that act in violation of the competition rules. Fines are imposed to deter companies from infringing the competition rules.

The Authority's guidelines on the setting of fines set out how the Authority calculates fines in competition cases: <http://www.eftasurv.int/competition/notices-and-guidelines/>.

How has Color Line infringed the EEA competition rules?

The Authority's case concerns an agreement that was concluded in 1991 with the public harbour of Strömstad in Sweden. Through that agreement, Color Line secured long-term exclusive access to harbour facilities in Strömstad harbour. Since there was a lack of alternative harbours in this area of Sweden, the agreement prevented competitors from operating routes in competition with Color Line.

The Authority has concluded that Color Line's long-term exclusivity restricted competition and constituted an abuse of Color Line's dominant market position.

An infringement is found from the entry into force of the EEA Agreement in 1994 until December 2005, when a competitor of Color Line was granted access to the harbour.

What must Color Line do to comply with EEA law?

The Decision sets out how Color Line has breached EEA antitrust law by engaging in practices which have harmed competition. The agreement has already come to an end, but Color Line is obliged not to engage in these or equivalent practices in the future.

How will the Authority's Decision help consumers?

The result of conduct such as that carried out by Color Line is to deter companies which might otherwise wish to enter and compete in the market. That results in reduced consumer choice, limited innovation and increased prices in the market.

By ordering Color Line not to engage in such practices and imposing a fine, competition on the market will play out on the merits to the benefit of consumers.

Can Color Line appeal the Decision?

Yes. Color Line has two months within which to bring an appeal before the EFTA Court.

When is the Decision going to be published?

The Decision in English (the official language version of the Decision) will be made available as soon as possible on the Authority's website (once relevant business secrets have been taken out).

A Norwegian translation will also be made available on the Authority's website in due course.

A summary of the Decision will be published in the EEA Supplement to the Official Journal of the EU in all languages.