

LEGAL ALERT

RESTRICTIONS IMPOSED BY SPORTS ASSOCIATIONS ON THEIR MEMBERS MAY INFRINGE ANTITRUST RULES: THE CASE OF THE OLYMPIC CHARTER

The German competition authority, the Federal Cartel Office (FCO), has found the **advertising restrictions for athletes participating in the Olympic Games**, contained in Rule 40, No. 3, of the Olympic Charter, **to be excessive**. Accordingly, it considered that the International Olympic Committee (IOC) and its German national member organization (DOSB), by applying and enforcing these restrictions, were abusing their dominant position on the market for the organization of such games, **prohibited by European Union and German antitrust law**.

As IOC and DOSB have committed to the FCO to alleviate these advertising restrictions in line with the authority's concerns, the FCO refrained from formally condemning the two organizations for the infringement. More details on the legal and factual background of the case are set out in the FCO's press release which can be accessed [here](#).

This landmark decision has **important implications for the entire sports sector**, regardless of the type of sports and/or competition.

For sports associations organising competitions and requiring athletes or clubs that want to participate in the competition to be a member of the association and to abide by its regulations, **the FCO decision reveals a potentially significant risk**. They should carefully **analyse whether their regulations are compliant with antitrust rules** or whether they excessively restrict the economic freedom of their members. Given that the FCO decision can be considered a clear warning to everyone in this respect, it would appear prudent to assume that competition authorities ruling on similar issues in the future may not be as lenient as the FCO in this case but go "all the way" and **condemn and impose substantial fines and/or other sanctions** on the organisation concerned.

For athletes and sports clubs that are members of such organisations and feel **excessively restricted in their economic freedom** (apart from advertising restrictions, this may also concern other types of restrictions), **the FCO decision highlights a chance**. They should also assess whether these restrictions infringe antitrust rules, because, if they do, they are null and void and may in addition give rise to a right to claim compensation for economic damages caused by them in the past.

We will publish a comprehensive article on this topic as soon as the FCO decision itself has been published, which can be expected in a few weeks following the elimination of business secrets.

For any questions you may have in this regard, please do not hesitate to get in touch with us.

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