

# European Citizens' Initiative: Commission registers '#NewRightsNow' initiative

The organisers call on the Commission to 'establish an obligation for digital platforms to pay a guaranteed minimum income to self-employed people who regularly work for them.' The organisers argue such measures would 'safeguard and stabilise their income and [...] specifically tackle job insecurity of 'uberised' workers'.

Under the Treaties, the EU can take legal action to make it easier for Europeans to take-up and pursue activities as self-employed persons. The Commission therefore considered the initiative legally admissible and decided to register it. At this stage in the process, the Commission has not analysed the substance of the initiative, only its legal admissibility.

The registration of this initiative will take place on 1 April 2019, starting a one-year process of collection of signatures of support by its organisers. Should the initiative receive 1 million statements of support within 1 year, from at least 7 different Member States, the Commission will analyse it and react within 3 months. The Commission can decide either to follow the request or not, and in both instances would be required to explain its reasoning.

## Background

European Citizens' Initiatives were introduced with the Lisbon Treaty and launched as an agenda-setting tool in the hands of citizens in April 2012, upon the entry into force of the European Citizens' Initiative Regulation which implements the Treaty provisions. In 2017, as part of President Juncker's State of the Union address, the European Commission tabled [reform proposals for the European Citizens' Initiative](#) to make it even more user-friendly. In [December 2018](#), the European Parliament and the Council agreed on the reform and the revised rules will start applying as of 1 January 2020.

Once formally registered, a European Citizens' Initiative allows 1 million citizens from at least one quarter of EU Member States to invite the European Commission to propose a legal act in areas where the Commission has the power to do so.

The conditions for admissibility are that the proposed action does not manifestly fall outside the framework of the Commission's powers to submit a proposal for a legal act, that it is not manifestly abusive, frivolous or vexatious and that it is not manifestly contrary to the values of the Union.

## For More Information

Full text of the proposed European Citizens' Initiative (available 1 April 2019)

[ECIs currently collecting signatures](#)

[ECI website](#)

[ECI Regulation](#)

Facebook Page: [New Rights Now](#)

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## **Daily News 25 / 03 / 2019**

### **Brexit preparedness: EU completes preparations for possible “no-deal” scenario on 12 April**

As it is increasingly likely that the United Kingdom will leave the European Union without a deal on 12 April, the European Commission has today completed its “no-deal” preparations. At the same time, it continues supporting administrations in their own preparations and urges all EU citizens and businesses to continue informing themselves about the consequences of a possible “no-deal” scenario and to complete their no-deal preparedness. This follows the European Council (Article 50) conclusions last week calling for work to be continued on preparedness and contingency. While a “no-deal” scenario is not desirable, the EU is prepared for it. Since December 2017, the European Commission has been preparing for a “no-deal” scenario. It has published 90 preparedness notices, 3 Commission Communications, and has made 19 legislative proposals. It is now important that everyone is ready for and aware of the practical consequences a “no-deal” scenario brings. The Commission published today [a press release](#) and a series of [reader-friendly factsheets](#) on a “no-deal” Brexit in all EU languages. (*For more information: Margaritis Schinas – Tel.: +32 229 60524; Mina Andreeva – Tel.: +32 229 91382; Daniel Ferrie – Tel.: +32 2 299 86500*)

### **Brexit preparedness: Removal of Galileo back-up sites from UK territory continues**

As part of its Brexit preparedness work, the Commission is taking the necessary operational steps to ensure business continuity and preserve the security of the Galileo satellite navigation system after the withdrawal of the United Kingdom from the European Union. The Galileo back-up sites located in the United Kingdom’s territory are being transferred to the EU. Following a Commission decision in January 2018, the [Galileo Security Monitoring Centre \(GSMC\) back-up site has been moved to Spain](#). Now the two Galileo Sensor Stations located on the Falkland and Ascension Islands are being removed. The Galileo sensor stations located on the Ascension and Falkland Islands host cryptographic material/EU classified information, which in accordance with the EU security rules is not allowed to be located in the territory of third countries, unless relevant agreements are in place. Today the Commission has amended the relevant legal act determining the location of

the ground-based infrastructure of the system established under the Galileo programme and setting out the necessary measures to ensure that it functions smoothly. The removal of these two stations does not affect the overall performance of Galileo services, which remains excellent, as there is sufficient capacity in the system. [Galileo, the EU's global satellite navigation system](#), has been providing positioning and timing services to around 600 million users since December 2016. The number of users continues to grow and Galileo provides an increasingly precise signal across a range of valuable services. *(For more information: Lucía Caudet – Tel.: +32 229 56282; Daniel Ferrie – Tel.: +32 2 299 86500)*

### **Commission adopts Opinion on Luxembourg's updated Draft Budgetary Plan**

The European Commission has today adopted its [Opinion](#) on the [updated Draft Budgetary Plan](#) of Luxembourg and found the updated Plan for 2019 to be fully compliant with the rules of the Stability and Growth Pact. Nonetheless, the Commission invites the authorities to accelerate progress on the structural part of the [fiscal recommendations](#) addressed to them by the [Council last July](#). Following general elections on 14 October 2018, a new government took office in Luxembourg on 5 December 2018 and submitted an updated Draft Budgetary Plan for 2019 on 5 March 2019. It updates the [no-policy change Draft Budgetary Plan](#) presented by the outgoing government on 15 October 2018. Luxembourg is currently subject to the preventive arm of the Stability and Growth Pact. *(For more information: Annika Breidhardt – Tel.: +32 229 56153; Annikky Lamp – Tel.: +32 229 56151; Enda McNamara – Tel.: +32 229 64976)*

### **Le Plan Juncker soutient la construction d'une nouvelle unité de production agroalimentaire en Bretagne**

Le Plan d'investissement pour l'Europe – [le Plan Juncker](#) – soutient un prêt de 40 millions d'euros de la Banque européenne d'investissement (BEI) au groupe alimentaire Sill, en Bretagne. Ce financement, soutenu par le Fonds européen pour les investissements stratégiques (EFSI), au cœur du plan Juncker, permettra de construire une nouvelle unité de production de lait infantile et de développer la stratégie d'innovation du groupe. Pierre **Moscovici**, commissaire européen en charge des affaires économiques et financières, de la fiscalité et des douanes, a déclaré: « *Avec cet accord, le Plan Juncker démontre sa capacité à soutenir le développement de nos territoires. L'agroalimentaire est un secteur vital pour la Bretagne et ce prêt permettra à l'entreprise Sill de développer des procédés industriels plus innovants, d'exporter davantage sa production et – c'est le plus important – de créer des emplois dans la région.* » Un communiqué de presse est disponible [en ligne](#). Le Plan Juncker a déjà généré près de 390 milliards d'euros d'investissement, dont 64,3 milliards en France, et soutenu 929 000 entreprises dans toute l'Europe. *(Pour plus d'informations: Annika Breidhardt – Tel.: +32 229-56153; Enda McNamara – Tel.: +32 229 58615)*

### **Car rentals: EU action leads to clearer and more transparent pricing**

Following a call from the European Commission and EU consumer authorities, five industry leaders, Avis, Europcar, Enterprise, Hertz and Sixt, have changed the way they present car rental prices, making them fully transparent

to consumers. Until now, the companies concerned had not fully implemented some of their [commitments](#) in order for the European Commission and EU consumer authorities to consider them fully compliant with EU consumer law. Věra Jourová, Commissioner for Justice, Consumers and Gender Equality, said: *"Thanks to our pressure there will be no more unpleasant surprises at the check-out desk when you're renting your car. It is really frustrating to start your holidays by having to pay unplanned extra costs and read complicated contracts. I want European consumers to enjoy their holidays to the maximum, without having to worry about nasty surprises with final bills."* The companies have committed to: 1/ include all charges in the total booking price; 2/ clearly describe the key rental services in the terms and conditions in all national languages; 3/ make clear, in the price offer, the price and details of optional extras, in particular for insurance waivers that reduce the amount due in case of damage. A full press release is available [online](#). (For more information: Christian Wigand – Tel.: +32 229 62253; Mélanie Voin – Tel.: + 32 229 58659)

### **Employment and social developments in Europe: Record number of people in employment, but more investment in skills needed**

The spring edition of the Commission's Employment and Social Developments in Europe (ESDE) [Quarterly Review](#) published today shows that the number of people in employment and the number of hours worked continues to rise. Hours worked are finally above the peak of 2008. Most of the jobs created are permanent and full time jobs. But growth is unequal and the combination of labour shortages in some Member States and the lack of growth in others is slowing down EU employment rate growth overall. This points to geographical and skills mismatches on the labour market. Overall, the financial situation of households continues to improve, although unevenly across Member States. Marianne Thyssen, Commissioner for Employment, Social Affairs, Skills and Labour Mobility, said: *"The European Union keeps breaking the record for the number of people in employment: 240 million people have now a job in the European Union, with permanent jobs on the rise. At the same time, unemployment is the lowest it has ever been this century, at 6.5% in January 2019. This positive trend has improved the wellbeing of many people. However, growth is still not benefitting all citizens in the same way. Our main task for the years ahead is to continue improving the living and working conditions all over Europe. The [European Pillar of Social Rights](#) is driving this agenda forward. And with the [Skills Agenda for Europe](#), we are investing in people to equip them to make the best of the opportunities on the labour market."* The full report is available [here](#). (For more information: Christian Spahr – Tel.: + 32 229 50055; Sara Soumillion – Tel.: + 32 229 67094)

### **Antitrust: Commission fines Nike €12.5 million for restricting cross-border sales of merchandising products**

The European Commission has fined Nike €12.5 million for banning traders from selling licensed merchandise to other countries within the EEA. Nike's core business is the design and sale of athletic footwear and apparel, including for football clubs and federations, which generally feature Nike's registered

trademarks. Other products, so-called “licensed merchandise”, only feature the brands of a football club or a federation, not Nike’s trademarks. For these products, Nike acts as a licensor of intellectual property rights (IPRs) that grants licences to third parties, who become entitled to manufacture and distribute those products. It is in the context of Nike’s role as a licensor for the manufacture and distribution of these licensed merchandise products that the Commission is imposing a fine. In [June 2017](#), the Commission opened an antitrust investigation into certain licensing and distribution practices of Nike to assess whether it illegally restricted traders from selling licensed merchandise cross-border and online within the EU Single Market. The Commission investigation has found that Nike’s non-exclusive licensing and distribution agreements breached EU competition rules. The Commission has concluded that Nike’s illegal practices partitioned the Single Market and prevented licensees in Europe from selling products cross-border, to the ultimate detriment of European consumers. This restriction concerned merchandising products of some of Europe’s best-known football clubs and federations, for which Nike held the licence. Nike cooperated with the Commission beyond its legal obligation to do so, in particular by providing the Commission with information that allowed it to extend the scope of the case. Therefore, the Commission granted Nike a 40% fine reduction in return for this cooperation. Commissioner Margrethe **Vestager**, in charge of competition policy, said: *“Football fans often cherish branded products from their favourite teams, such as jerseys or scarves. Nike prevented many of its licensees from selling these branded products in a different country leading to less choice and higher prices for consumers. This is illegal under EU antitrust rules. Today’s decision makes sure that retailers and consumers can take full advantage of one of the main benefits of the Single Market: the ability to shop around Europe for a larger variety of products and for the best deals.”* The full press release is available [online](#). (For more information: Ricardo Cardoso – Tel.: +32 229 80100; Giulia Astuti – Tel.: +32 229 55344)

### **Mergers: Commission approves acquisition of Jardine Lloyd Thompson by Marsh & McLennan Companies, subject to conditions**

The European Commission has approved, under the EU Merger Regulation, the acquisition of Jardine Lloyd Thompson (“JLT”) by Marsh & McLennan Companies (“MMC”), subject to conditions. MMC and JLT are global insurance brokers specialised in assisting clients in securing suitable cover for large and complex insurance risks in specialty sectors, such as aviation and large energy projects. The two companies are also active in the broking of reinsurance, and in the provision of retirement and employee benefits-related services. The Commission examined in particular the effects of the proposed transaction on competition in the markets for (i) the supply of insurance broking services for specialty sectors and (ii) the provision of employee benefits-related services. As regards (i) insurance broking services for specialty sectors, the Commission was concerned that the transaction, as originally notified, would have significantly reduced competition in the insurance brokerage markets for the specialties of Aircraft Operators and Aerospace Manufacturing. It found that barriers to entry are high on both markets, as customers require suppliers to have a proven track record, access

to scarce expertise, and global reach in order to compete effectively. As a result, the Commission was concerned that the transaction as notified would have negatively affected competition and could have led to higher prices, less choice and lower quality of services in these markets. As regards the (ii) provision of employee benefits-related services, the Commission found that the proposed merger would raise no competition concerns because a sufficient number of alternative suppliers is present, and the companies are not close competitors. To address the Commission's competition concerns, the companies offered to divest JLT's global Aerospace practice to a suitable buyer. These commitments fully address the Commission's concerns as they remove the entire overlap between the companies' activities in the supply of insurance broking services in the specialties of Aircraft Operators and Aerospace Manufacturing. Therefore, the Commission concluded that the proposed transaction, as modified by the commitments, would no longer raise competition concerns in the EEA. The decision is conditional upon full compliance with the commitments. The full press release is available [online](#). (For more information: Ricardo Cardoso – Tel.: +32 229 80100; Maria Tsoni – Tel.: +32 229 90526)

## **ANNOUNCEMENTS**

### **High Representative/Vice-President Federica Mogherini on a visit to Pakistan**

Today, High Representative/Vice-President Federica **Mogherini** is in Islamabad, Pakistan, to discuss cooperation between the [EU and Pakistan](#), as well as regional developments. The High Representative/Vice-President is co-chairing the 4<sup>th</sup> EU-Pakistan Strategic Dialogue, together with her counterpart Foreign Minister Shah Mehmood Qureshi. The Strategic Dialogue was established under the [EU-Pakistan 5-year Engagement Plan](#) and meets regularly at Ministerial level to progressively expand the bilateral cooperation, address issues, and discuss foreign policy priorities and global challenges. Federica **Mogherini** and Foreign Minister Qureshi together held a joint press conference, which will be broadcast on [EbS](#) at 13:00 CET. High Representative/Vice-President **Mogherini** will also meet with the Prime Minister of the Islamic Republic of Pakistan, Imran Khan, and with President Arif Alvi. Coverage of the visit is provided by [EbS](#). More information on EU-Pakistan relations is available on the [website](#) of the EU Delegation to Pakistan. (For more information: Maja Kocijancic – Tel.: +32 229 86570; Adam Kaznowski – Tel.: +32 229 89359)

### **Commissioner Stylianides discusses EU Civil Protection in Rhineland-Palatinate, Germany**

Today, Christos **Stylianides**, Commissioner for Humanitarian Aid and Crisis Management, visits the German State of Rhineland-Palatinate, Germany. Together with the regional Interior Minister Roger Lewentz, he will hold a dialogue with students at a school in Lahnstein. In the afternoon the



Commissioner and the Minister will visit the Fire brigade training centre in Koblenz. The visit offers the Commissioner the occasion to present and discuss the reinforced [EU Civil Protection Mechanism](#) and new [rescEU](#) capacities, following the entry into force of the new legislation earlier this week. (For more information: Carlos Martin Ruiz de Gordejuela – Tel.: +32 229 65322; Daniel Puglisi – Tel.: +32 229 69140)

### **Commissioner Vella participates in the 10th Monaco Blue initiative to improve global ocean governance**

Commissioner for Environment, Maritime Affairs and Fisheries, Karmenu **Vella**, is today participating and delivering a keynote speech at the 10<sup>th</sup> “Monaco Blue Initiative” event. The high-level event, hosted by Prince Albert II of Monaco, provides a framework for discussions on global challenges of ocean management. In his speech, Commissioner **Vella** took stock of achievements made by the EU to protect the oceans in the past two years. The international community has agreed to set aside 10% of the planet’s waters as Marine Protected Areas by 2020. Protecting marine and coastal areas and their biodiversity through the Natura 2000 network, the EU has already surpassed that goal. Speaking at the conference Commissioner **Vella** said: “*Marine Protected Areas need to be well-designed and well-run. Only then can they contribute to better ocean health. And our research shows that well-managed Marine Protected Areas are not just good for the environment. They are good for the economy as well.*” In Southern Europe MPAs generate an average of 640,000 euros each in income to sectors like hospitality and tourism services. The European Union is also promoting new and effectively managed Marine Protected Areas beyond Europe, including in the Southern Ocean. The Commission and the European External Action Service published recently a Joint report outlining the progress made since the adoption of the [Joint Communication on International Ocean Governance](#) two years ago. The 50 actions for safe, secure, clean and sustainably managed oceans in Europe and around the world are all successfully being implemented. With the [Single-use Plastics Directive](#) the Commission took ambitious steps to reduce plastics litter in the seas and oceans. The speech by Commissioner Vella can be found [here](#). (For more information: Enrico Brivio – Tel.: + 32 229 56172; Daniela Stoycheva – Tel.: +32 229 53664)

### **Commissioner Navracsics travels to Rome and the Vatican to discuss Erasmus+ programme**

Commissioner for Education, Culture, Youth and Sport, Tibor **Navracsics**, will be in Rome tomorrow (26 March) where he will give a speech at the Università Gregoriana on the Erasmus+ programme and the future participation of the Holy See, organised by the Congregation for Catholic Education, with the participation of the Council of Rectors of Pontifical Universities. He will welcome the agreement signed last year between the Holy See and Italy on the mutual recognition of academic qualifications issued in both states as a good starting point for further cooperation and participation in international programmes. The Commissioner will also meet Cardinal Giuseppe Versaldi, Prefect of the Congregation for Catholic Education. Tomorrow, the

Commissioner will also hold bilateral meetings with Italy's Minister for Education, Universities and Research, Marco Bussetti. On Wednesday, he will meet Minister for Family and Disability, Lorenzo Fontana and with Vincenzo Spadafora, Undersecretary of State for Youth and Equal Opportunities. (*For more information: Nathalie Vandystadt – Tel.: +32 229 67083; Joseph Waldstein – Tel.: +32 229 56184*)

### **Commissioner Andriukaitis in Bucharest**

Commissioner Vytenis **Andriukaitis** in charge of Health and Food Safety will visit Bucharest on 26-27 March. The Commissioner will begin his visit to Romania by participating in the Global Forum on Human Rights and a Tobacco-free World, during which he will deliver a speech on Tobacco control, sustainable development and the right to health and take part in a moderated discussion panel followed by a questions and answers session. He will also meet with Mr Klaus Iohannis, the President of Romania. After the event, the Commissioner will meet with Mr Petre Daea, the Minister of Agriculture and Rural Development of Romania and following this, with Ms Sorina Pintea, the Minister of Health of Romania. He will finish his day by meeting Her Royal Highness Princess Dina Mired of the Hashemite Kingdom of Jordan. The next day on Wednesday 27 March, the Commissioner will close his visit by participating in the Opening Plenary session of the 4th Annual Conference on Tobacco Control of the European Network for Smoking and Tobacco Prevention (ENSP) in partnership with the Romanian Society of Pneumology (SRP). Ahead of his visit, Commissioner **Andriukaitis** said: *"I see my visit to Romania and participation in upcoming conferences as one of many important steps in moving toward a Tobacco free world. It is vital we continue to collaborate globally and discuss together the issue of tobacco control, so we can better protect our environment, our children and most importantly, reduce the largest avoidable health risk and the most significant cause of premature death in the European Union. A multilateral and holistic approach with action on both regional and national-level is required to achieve this, and I look forward to meeting colleagues and experts during my visit so progress can be made"*. (*For more information: Anca Paduraru – Tel.: +32 229 91269; Aikaterini Apostola – Tel.: +32 229 87624*)

[Upcoming events](#) of the European Commission (ex-Top News)

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## **[Car rentals: EU action leads to clearer and more transparent pricing](#)**

Until now, the companies concerned had not fully implemented some of their [commitments](#) in order for the European Commission and EU consumer authorities to consider them fully compliant with EU consumer law. The assessment



published today notes that Enterprise and Sixt have now made all the required changes. Avis has committed to make remaining changes by May 2019. Europcar, which now includes Goldcar, will implement the remaining changes by June 2019. Hertz have committed to make all the necessary changes at the latest by the first quarter of 2020.

Věra Jurová, Commissioner for Justice, Consumers and Gender Equality, said: *“Thanks to our pressure there will be no more unpleasant surprises at the check-out desk when you’re renting your car. It’s really frustrating to start your holidays by having to pay unplanned extra costs and read complicated contracts. I want European consumers to enjoy their holidays to the maximum, without having to worry about nasty surprises with final bills.”*

The companies have committed to:

- **Include all charges in the total booking price:** consumers will now be offered a headline price on the website that matches the final price they will have to pay. This fee must include all additional costs such as specific fuel service charges, airport fees, ‘young driver surcharges’, or the ‘one way fee’ if the return location differs from the pick-up location;
- **Clearly describe the key rental services in the terms and conditions in all national languages:** consumers will not have to deal with unclear or misleading information about the main characteristics of the rental such as mileage included, fuel policy, cancellation policy and deposit requirements, etc.
- **Make clear, in the price offer, the price and details of optional extras, in particular for insurance waivers that reduce the amount due in case of damage.** What is covered in the basic rental price regarding damages and notably what the driver may still have to pay should be clearly indicated. If additional insurance or damage waiver is purchased, what is or is not included should also be clearly indicated before the consumer signs up.

## Next steps

The European Commission and national consumer authorities in the European Consumer Cooperation network will follow the implementation of the remaining changes closely. Although the companies involved in this action cover two out of three of all private car rentals in the EU, other traders, such as intermediaries and smaller companies play an important role in this market. The authorities and the European Commission will continue monitoring all players to ensure they fully respect EU consumer rules.

If the companies don’t fulfil their commitments, consumer authorities could decide to resort to enforcement measures.

## Background

The [EU Consumer Protection Cooperation \(CPC\) Regulation](#) brings together national consumer authorities in a pan-European enforcement network, through which a national authority in one EU country can call on its counterparts in

other EU country to coordinate the response to [widespread consumer issues](#). The European Commission facilitates this work.

Under the coordination of the UK Competition and Markets Authority, the Consumer Protection Cooperation (CPC) Network has launched contacts with the big five car rental companies following an increase in complaints received by the European Consumer Centres across the EU. This action has been facilitated by the European Commission.

These car rental companies, Avis Budget Group, Enterprise Rent-A-Car, Hertz Europe Limited, Sixt SE and Europcar Mobility Group, improved their commercial practices, contract terms and internal policies during the course of this dialogue, which concluded [in 2017](#). However, the Commission and consumer authorities were not satisfied by the level of implementation of some commitments and therefore asked these companies for additional improvements.

### **For More Information**

[Press release and report from UK Competition and Markets Authority \(CMA\)](#)

[Coordinated consumer actions](#)

[Leaseurope Guidelines](#)

[European Consumer Centres network](#)

The following corrections apply to at least one of the company's brands websites					
	AVIS	ENTERPRISE	EUROPCAR	HERTZ	SIXT
<b>No hidden surprises - headline prices now include:</b>					
Young driver surcharge (YDS)	Committed to be corrected by May 2019		✓		✓
One way fee			✓		
Fuel surcharge			Committed to be corrected by June 2019		
Premium location fee			Committed to be corrected by 26 March 2019		
Out of office hours fee			✓		✓
<b>Information now clearly stated and provided in national language</b>					
Deposit/pre- authorisation amounts	Committed to be corrected by April 2019	✓	✓	Committed to be corrected by Q1 2020	✓
Excess amounts	✓	✓	Committed to be corrected by June 2019	Committed to be corrected by Q1 2020	
Collision damage waiver (CDW) exclusions		✓		Committed to be corrected by Q1 2020	
<b>Clearer information on:</b>					
Optional extras (e.g. child seats, GPS)	✓		✓	✓	
Legal requirements for child seats/snow chains	✓		✓	✓	✓
"Best offer" and "cheapest choice"			✓		
<ul style="list-style-type: none"> <li>All companies will ensure that consumers searching from within the EU are routed primarily to websites, which comply with EU law, and it is these websites that are promoted and marketed within the EU.</li> <li>Where applicable, all companies committed to address their franchisees and licensees where they also needed to make changes.</li> </ul>					

### Key

	Was already correct
✓	Corrected thanks to the EU action
	Companies have committed to complete the action required

[Answers to \(EU\) No 2015-2450 templates for the submission of information to the supervisory authorities](#)

Answers to (EU) No 2015-2450 templates for the submission of information to the supervisory authorities□

25/03/2019 12:00□

[□Answers to \(EU\) No 2015-2450 templates for the submission of information to the supervisory authorities](#)

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## [Antitrust: Commission fines Nike €12.5 million for restricting cross-border sales of merchandising products](#)

Commissioner Margrethe **Vestager**, in charge of competition policy, said: *“Football fans often cherish branded products from their favourite teams, such as jerseys or scarves. Nike prevented many of its licensees from selling these branded products in a different country leading to less choice and higher prices for consumers. This is illegal under EU antitrust rules. Today’s decision makes sure that retailers and consumers can take full advantage of one of the main benefits of the Single Market: the ability to shop around Europe for a larger variety of products and for the best deals.”*

Licensed merchandising products are extremely varied (e.g. mugs, bags, bedsheets, stationery, toys) but all carry one or more logos or images protected by intellectual property rights (IPRs), such as trademarks or copyright. Through a licensing agreement, one party (a licensor) allows another party (a licensee) to use one or more of its IPRs in a certain product. Licensors typically grant non-exclusive licenses to increase the number of merchandising products in the market and their territorial coverage.

Nike’s core business is the design and sale of athletic footwear and apparel, including for football clubs and federations, which generally feature Nike’s registered trademarks, such as its name or “Swoosh” logo. Other products, so-called “licensed merchandise”, only feature the brands of a football club or

a federation, not Nike's trademarks. For these products, Nike acts as a licensor of IPRs that grants licences to third parties, who become entitled to manufacture and distribute those products. It is in the context of Nike's role as a licensor for the manufacture and distribution of these licensed merchandise products that the Commission is imposing a fine.

In [June 2017](#), the Commission opened an antitrust investigation into certain licensing and distribution practices of Nike to assess whether it illegally restricted traders from selling licensed merchandise cross-border and online within the EU Single Market.

The Commission investigation has found that Nike's non-exclusive licensing and distribution agreements breached EU competition rules:

- Nike imposed a number of **direct measures restricting out-of-territory sales by licensees**, such as clauses explicitly prohibiting these sales, obligations to refer orders for out-of-territory sales to Nike and clauses imposing double royalties for out-of-territory sales.
- Nike enforced **indirect measures** to implement the out-of-territory restrictions, for instance threatening licensees with ending their contract if they sold out-of-territory, refusing to supply "official product" holograms if it feared that sales could be going towards other territories in the European Economic Area (EEA), and carrying out audits to ensure compliance with the restrictions.
- In some cases, Nike used master licensees in each territory to grant sub-licences for the use of the different IPRs to third parties. To secure the practice through the whole distribution chain, Nike imposed **direct and indirect measures on master licensees**. Through these measures, Nike compelled master licensees to stay within their territories and to enforce restrictions vis-à-vis their sub-licensees.
- Nike included clauses that explicitly prohibited licensees from supplying merchandising products to customers, often retailers, who could be selling outside the allocated territories. In addition to **obliging licensees to pass on these prohibitions** in their contracts, Nike would intervene to ensure that retailers (e.g. fashion shops, supermarkets, etc.) stopped purchasing products from licensees in other EEA territories.

The Commission has concluded that Nike's illegal practices, which were in force for approximately 13 years (from 1 July 2004 until 27 October 2017), partitioned the Single Market and prevented licensees in Europe from selling products cross-border, to the ultimate detriment of European consumers. Nike's illegal practices affected to varying degrees the licensed merchandise products bearing the brands of clubs like FC Barcelona, Manchester United, Juventus, Inter Milan and AS Roma, as well as national federations like the French Football Federation.

### **Nike's cooperation**

Nike cooperated with the Commission beyond its legal obligation to do so, in particular by providing the Commission with information that allowed it to extend the scope of the case. As a result, the investigation included

ancillary sport merchandise of a number of additional clubs. The company also provided evidence with significant added value and expressly acknowledged the facts and the infringements of EU competition rules.

Therefore, the Commission granted Nike a 40% fine reduction in return for this cooperation. Further information on this type of cooperation can be found on the [Competition](#) website.

## Fines

The fine was set on the basis of the [Commission's 2006 Guidelines on fines](#) (see [press](#) release and [MEMO](#)). Regarding the level of the fine, the Commission took into account, in particular, the value of sales relating to the infringement, the gravity of the infringement and its duration, as well as the fact that Nike cooperated with the Commission during the investigation.

The fine imposed by the Commission on Nike amounts to €12 555 000.

Fines imposed on companies found in breach of EU antitrust rules are paid into the general EU budget. This money is not earmarked for particular expenses, but Member States' contributions to the EU budget for the following year are reduced accordingly. The fines therefore help to finance the EU and reduce the burden for taxpayers.



## Background to the investigation

In [June 2017](#), the Commission opened three separate antitrust investigations to ascertain whether certain licensing and distribution practices of Nike, Sanrio and Universal Studios illegally restricted traders from selling licensed merchandise cross-border and online within the EU Single Market. The investigations against Sanrio and Universal Studios are on-going.

Nike's manufacturing and distribution agreements for merchandising products infringed [Article 101](#) of the Treaty on the Functioning of the European Union (TFEU), which prohibits agreements between companies that prevent, restrict



or distort competition within the EU's Single Market.

More information on the investigation will be available on the Commission's [competition](#) website, in the public [case register](#) under the case number AT.40436.

### **Action for damages**

Any person or company affected by anti-competitive behaviour as described in this case may bring the matter before the courts of the Member States and seek damages. The case law of the Court and Council Regulation 1/2003 both confirm that in cases before national courts, a Commission decision constitutes binding proof that the behaviour took place and was illegal. Even though the Commission has fined the companies concerned, damages may be awarded without being reduced on account of the Commission fine.

The [Antitrust Damages Directive](#), which Member States had to transpose into their legal systems by 27 December 2016, makes it [easier for victims of anti-competitive practices to obtain damages](#). More information on antitrust damages actions, including a practical guide on how to quantify antitrust harm, is available [here](#).

### **Whistleblower tool**

The Commission has set up a tool to make it easier for individuals to alert it about anti-competitive behaviour while maintaining their anonymity. The tool protects whistleblowers' anonymity through a specifically-designed encrypted messaging system that allows two way communications. The tool is accessible via this [link](#).