From: [REDACTED] (COMP)
Sent: 14 August 2018 11:02
To: [REDACTED]
Cc: COMP E2 MAIL; COMP GREFFE ANTITRUST
Subject: RE: HT - [REDACTED] - Competition and Monopoly in EU

Dear [REDACTED],

If you wish to file a formal complaint, I refer you to the Commission Notice on the handling of complaints by the Commission under Articles 81 and 82 of the EC Treaty (OJ C 101, 27.04.2004, p. 65), which you can find here. Please note the requirements listed in Form C, in the annex to the Notice.

What we would require from you in particular is detailed information about the product involved, especially explaining how it is different from any other kind of [REDACTED] and why no other materials are suitable, and how widely it is sold (nationally, EU wide or worldwide); about your supplier, its market share and that of potential other suppliers; why you consider your supplier to be dominant; what you consider to be abusive about your supplier’s conduct and why; what impact this has on consumers.

I must emphasise that under EU competition rules (in particular Article 102 TFEU) it is not illegal for an undertaking to have a monopoly (or dominant position). What is illegal is the abuse of such a monopoly (or dominant position), by imposing unreasonable obligations on customers, by impeding potential competitors, by discriminating, etc. Determining whether a price is excessive is a complicated matter which involves taking into account the cost structure of the supplier. To be absolutely clear: just because prices are high, even to the point of being prohibitively high for your business, this does not mean that they constitute an abuse of a dominant position.

Please note that under current case law, the Commission is not obliged to initiate an investigation into the allegations in your complaint and may reject the complaint on the basis of priority reasons. You are not entitled to a substantive assessment of your claims. I refer you to the Commission notice on best practices for the conduct of proceedings concerning Articles 101 and 102 TFEU (here) for more information.

Kind regards,
[REDACTED]

---

European Commission
DG COMPETITION
Unit E2

Competition websites: [http://ec.europa.eu/competition](http://ec.europa.eu/competition)

DISCLAIMER
"The views expressed are purely those of the writer and may not in any circumstances be regarded as stating an official position of the European Commission."
From: [Redacted]
Sent: Friday, August 10, 2018 8:56 PM
To: [Redacted]; COMP E2 MAIL
Subject: RE: HT [-] - Competition and Monopoly in EU

Dear [Redacted],

I hope you had a great summer vacation and now you are ready to spend some time over all gathered cases over that period.

As requested earlier this year, would you please would like to file a formal complain that should be treated as a case of monopoly?

Best Regards,

[Redacted]

---

From: [Redacted]
Sent: donderdag 22 maart 2018 7:08
To: [Redacted]
Cc: COMP-E2-MAIL@ec.europa.eu
Subject: RE: HT [-] - Competition and Monopoly in EU

Dear [Redacted],

Thank you for your long and accurate reply. I do understand your point of view, however, seems that I have misled you in a sense of the topic here.

Below you are refereeing and only stating for price related issues. After going thru the notion of dominance and abuse I couldn’t find anything regarding product monopoly. We have a case of monopoly in the EU and not a case of price control, which could be actually related. The outcome of this case would be similar to the merge of Thyssenkrupp AG and Tata Steel Ltd where as you might be aware it causes a creation of monopoly in the EU market. In my case the figures are way lower, however, we are facing monopoly on the EU market, and as far as I am concern this is clear case for the EU competition law to the manufacturing sector.

You also referred that, on the basis of the information that I have provided in my email, you cannot conclude whether or not your supplier is dominant or may be engaging in abusive pricing. Therefore, I would like to support and provide all needed information to move forward and file formal case.
I would like to file a formal complain that should be treated as a case of monopoly. Please advise further steps we would need to follow.

Regards,

From: 
Sent: dinsdag 20 maart 2018 11:23
To: 
Cc: COMP-E2-MAIL@ec.europa.eu
Subject: HT - Competition and Monopoly in EU

Dear ,

Thank you for your message to Commissioner Vestager. This has been passed to me for reply since I work in the unit that deals with the application of EU competition law to the manufacturing sector. We understand that you are concerned about the supplier of for your products and its pricing.

I would begin by saying that the Directorate-General for Competition of the European Commission (DG Competition) does not give advice as to the legality of the actions of other companies. DG Competition deals with alleged infringements of EU competition law, which is based on two main rules. Article 101 of the Treaty on the Functioning of the European Union (TFEU) prohibits anti-competitive agreements between firms, while Article 102 TFEU prohibits firms that are dominant on a given market from abusing their position.

If an undertaking is dominant within the meaning of Article 102 TFEU, the prices it imposes for its products may breach this prohibition if they are excessively high. However, determining whether prices are excessive requires a complex fact-based analysis to establish whether the price has no reasonable relation to the economic value of the product supplied. It is therefore not possible to say a priori whether a certain price level would be excessive, or where the threshold would lie.

As to dominance, I would add that this does not relate to imbalances of bargaining power between contractual partners, but rather to a situation where a firm has the ability to behave independently of its competitors, customers, suppliers and, ultimately, the final consumer. You may find more information on the notion of dominance and abuse here.

On the basis of the information that you have provided in your email, we cannot conclude whether or not your supplier is dominant or may be engaging in abusive pricing. I hope however that this has shed some light on the legal position.
For the avoidance of doubt, please note that we have treated your email as market information, and not as a formal complaint, which would have to comply with certain legal requirements set out in Article 5 of Commission Regulation 773/2004.

Kind regards,

[Email address]

Competition websites: http://ec.europa.eu/competition

DISCLAIMER
"The views expressed are purely those of the writer and may not in any circumstances be regarded as stating an official position of the European Commission."

From: [Email address]
Sent: Monday, March 05, 2018 3:22 PM
To: CAB VESTAGER CONTACT
Subject: Competition and Monopoly in EU

Dear Margrethe,

I am reaching out to you to find out the appropriate channel to bring up an issue I’m facing with Monopolist Company in the [sector] industry. It is a [company name] company which provides a certain [product name] that is not available from any other [supplier name].

I personally have invested quite some time (almost 2 years) of research to find an alternative solution. Unfortunately, I couldn’t find a solution as of the supply monopoly, and last year I have signed an agreement with this company. Now I am facing the challenge of accepting their prices since there is no alternative.

Would you please provide some guidance and directions of how to pursue further?

Best Regards,

[Email address]