

Recent Pricing Decisions

E.CA Expert Forum

Frank Montag, 12 October 2012

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Topics

- Recent court decisions
 - Post Danmark
 - Telefónica
 - Tomra
- Trend towards more detailed economic analysis?



Recent Court Decisions: Post Danmark

- Post Danmark

- Supreme Court of Denmark preliminary reference
- Advocate General Mengozzi's opinion:
24 May 2011
- Judgment of the Court of Justice: 27 March 2012
- AIC an appropriate cost measure in this case
- Objective necessity or efficiencies?



Recent Court Decisions: Telefónica

- Telefónica

- Commission decision: 4 July 2007
- Telefónica fined €151 million for a margin squeeze
- General Court judgments: 29 March 2012
- Confirmation of earlier ECJ decisions in *Deutsche Telekom* and *TeliaSonera*
- Clarification of elements that are not necessary to be shown



Recent Court Decisions: Tomra

- Tomra

- Commission decision: 29 March 2006
- General Court judgment: 9 September 2010
- Advocate General Mazak's opinion: 2 February 2012
- Judgment of the Court of Justice: 19 April 2012
- Abusive practices such as roll-back, individualised rebates
- Capable of having a negative effect on competition
- Analysis of actual effects not necessary



Trend towards more detailed economic analysis?

- Potential vs actual anticompetitive effects

- *Post Danmark vs Telefonica and Tomra*
- The Commission's 2009 Guidance Paper
- A focus on actual effects in the future?