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QUICK LINKS

European General Court dismisses Red Bull's claim for reimbursement of lawyer's fees following dawn raids

Introduction

On 22 April 2026, the European General Court (GC) dismissed an action brought by Red Bull GmbH and two of its subsidiaries challenging an earlier decision of the European Commission refusing the reimbursement of fees incurred by it for two law firms engaged during an antitrust inspection conducted at the Commission's premises in Brussels (Case T-682/24, *Red Bull GmbH and Others v European Commission*). The judgment provides useful clarification on the scope of recoverable "additional costs" and reaffirms the applicable principles governing cost reimbursement in such inspections.

Background

In March 2023, the Commission carried out unannounced inspections at the premises of Red Bull GmbH and its subsidiaries Red Bull France SASU and Red Bull Nederland BV (together, "**Red Bull**") as part of an investigation into a potential infringement of EU competition law. The inspection continued at the Commission's premises in Brussels between 14 and 20 June 2023 and between 29 August and 29 September 2023 to examine a large volume of documents copied during the initial on-site phase.

During the Brussels phase of the inspection, Red Bull was assisted by its usual Austrian law firm and a second law firm based in Brussels, which was appointed specifically for that purpose. Red Bull requested reimbursement from the Commission for the expenses it had incurred during the Brussels inspection phase, including travel and accommodation costs for its employees, as well as the fees and travel expenses of both law firms, on the basis that these constituted reimbursable "additional costs".

As noted in the GC's judgment, the Commission rejected Red Bull's reimbursement request relating to the fees of the two law firms in October, on the basis that lawyers' fees would have been incurred in any event had the inspection continued at Red Bull's premises and therefore could not be regarded as "additional". The Commission nonetheless agreed to reimburse the other costs claimed, including travel and accommodation.

Red Bull's Challenge

Red Bull challenged the Commission's decision before the GC on 30 December 2024. Red Bull raised four pleas in its claim:

- *First plea*: That the Commission's refusal was unlawful because the continued inspection at the Commission's premises was disproportionately lengthy and far-reaching.
- *Second plea*: The Commission failed to state sufficient reasons for the decision.

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- *Third plea*: The Commission committed an error of law in interpreting the concept of "additional costs" and an error of assessment.

- *Fourth plea*: And, an infringement of its rights of defence, as the Commission allegedly (i) unlawfully restricted their freedom to choose its means of defence by refusing to reimburse lawyers' fees necessitated by the Brussels inspection, (ii) improperly relied on "EU budgetary law" to assess whether the defence costs it claimed reimbursement for were reasonable, and (iii) imposed disproportionate evidential requirements for the determination of "additional costs" by demanding sworn statements from Red Bull employees.

The GC dismissed Red Bull's action in its entirety.

Each of Red Bull's challenges were rebuffed by the GC.

- *First plea*: The GC held that Red Bull's proportionality challenge was ineffective, as it challenged the proportionality of the decision to continue the inspection at the Commission's premises, but not the proportionality of the contested reimbursement decision itself in the present proceedings.

- *Second plea:* The GC reiterated settled case-law under Article 296 TFEU and found that the Commission had sufficiently reasoned its decision on Red Bull's reimbursement request.

- *Fourth plea*: The GC found that: (i) the applicants were not prevented from freely organising their defence when the inspection continued at the Commission's premises, since they chose which lawyers and employees to involve and were not required to instruct a second law firm; (ii) the complaint alleging reliance on "EU budgetary law" was inadmissible, as it in fact concerned costs other than lawyers' fees, which the Commission had already agreed to reimburse; and (iii) the complaint concerning allegedly disproportionate evidential requirements was inadmissible since it related only to costs that had already been reimbursed and, in any event, unfounded, since the sworn statements were proportionate and had been proposed by Red Bull itself.

The central issue was the third plea on what constitutes "additional costs". Drawing on the European Court of Justice's (CJ) judgment of 16 July 2020 in **Nexans France and Nexans v Commission** (C-606/18 P, EU:C:2020:571), the GC identified two cumulative criteria that must be satisfied for costs to qualify as "additional costs":

- Costs must be "additional", that is, they must exceed the costs that the undertaking would have incurred had the inspection continued at its own premises; and

- There must be an exclusive causal link between the costs claimed and the fact that the inspection was continued at the Commission's premises. Only costs arising "solely as a result of" the change of location qualify, and costs that would have been incurred regardless of where the inspection took place are excluded.

Applying those criteria to lawyers' fees specifically, the GC held that where an undertaking has chosen to instruct lawyers, the services to be provided by those lawyers are, "in principle, the same, regardless of where the inspection takes place." Since Red Bull had been continuously assisted by lawyers during the on-site inspection at its premises in March 2023, there was no exclusive causal link between the inspection being continued in Brussels and the lawyers' fees incurred during that continuation.

Importantly, the GC noted that the Commission does not categorically rule out the possibility that certain lawyers' fees could constitute "additional costs" but requires the undertaking to demonstrate that the specific legal services covered by those fees would not have been provided had the inspection continued at its own premises. With respect to Red Bull's fees related to the Brussels-based law firm, the GC rejected reimbursement

in this case noting that Red Bull had never provided the detailed breakdown of its lawyers' fees that the Commission had expressly requested, instead maintaining throughout that it was entitled to reimbursement in full.

Practical takeaways

The judgment provides clarity on the scope of "additional costs" and the *Nexans* cost-reimbursement principle in the context of inspections. Generally, lawyer fees will not qualify as reimbursable "additional costs" as those costs would be incurred irrespective of the inspection location, although travel and accommodations remain a clear example of reimbursable costs. However, the GC acknowledged that certain fees could, in principle, constitute "additional costs", but the undertaking bears the burden of identifying and substantiating specific, incremental fee elements genuinely attributable to the change of location.

OTHER DEVELOPMENTS

ANTITRUST

China's Rules on Pricing Conduct of Internet Platforms come into force

On 10 April 2026, the Rules on Pricing Conduct of Internet Platforms (Rules) came into force in the PRC. The Rules were jointly issued by the National Development and Reform Commission, the State Administration for Market Regulation (SAMR), and the Cyberspace Administration of China on 9 December 2025. The Rules regulate a wide spectrum of platform-related pricing conduct by both platforms and businesses, including price setting and adjustments, price labelling, fees, subsidies and promotion activities. The Rules are a significant development in China's regulatory framework for platform pricing practices.

There are two particularly noteworthy changes. First, the Rules introduce an express prohibition on forced price parity and "auto-matching" price arrangements. Platform operators are prohibited from:

- Requiring businesses to offer prices that are no higher than those on other sales channels (i.e. wide price parity or "lowest price across the internet" requirements); or
- Forcing the adoption of auto-matching pricing, auto-price reduction or similar mechanisms. In the platform context, "forcing" is defined broadly to include the use of platform governance measures, such as raising platform fees, restricting traffic, lowering search rankings or algorithmic weights, blocking shops, or removing businesses from the platform.

Chinese authorities have previously flagged concerns over the use of wide price parity clauses. In particular, the non-binding Anti-Monopoly Compliance Guidelines for Internet Platforms indicate that "lowest price across the internet" requirements may, depending on the circumstances, amount to an abuse of dominance or fall to be assessed under the monopoly agreement framework. Against this backdrop, the Rules mark the first time forced price parity arrangements are prohibited under a binding regulation, without there being a finding of market dominance, a monopoly agreement, or evidence of anticompetitive effects.

On the same day the Rules came into force, the Internet Society of China issued a Self-Disciplinary Initiative on Platform Pricing Conduct, calling on platform operators to respect the businesses' independent pricing rights in line with the Rules. In early 2026, SAMR initiated an investigation into a leading online travel platform for suspected abuse of market power. While SAMR has not disclosed detailed grounds, publicly available information suggests that the investigation relates to the platform's automated price monitoring and adjustment tools, which were subsequently announced to be discontinued.

Second, the Rules introduce an express ban on algorithmic price discrimination. Platform operators and the businesses on platforms are prohibited from using data, algorithms or platform rules, without consumers' knowledge, to charge different prices or apply different charging standards for the same goods or services under

the same transaction conditions, based on factors such as willingness to pay, payment capability, or consumption preferences and habits.

Although regulators have long expressed concerns over algorithmic price discrimination, existing laws in the PRC did not provide a clear prohibition that could readily be enforced by SAMR. The Anti-Monopoly Law generally requires evidence of market dominance or a monopoly agreement, while the Price Law's general prohibition on price discrimination, dating back to 1997, is not well-suited to address the dynamic practices of the platform economy. Against this background, the Rules represent a clear shift towards *ex ante*, conduct-based regulation of platform pricing practices, materially strengthening the SAMR's ability to intervene more quickly in such cases.

GENERAL COMPETITION

European Commission adopts updated competition rules for technology licensing agreements

On 16 April 2026, the European Commission adopted the revised Technology Transfer Block Exemption Regulation (TTBER) together with updated Guidelines on the application of Article 101 of the Treaty to technology transfer agreements (Guidelines). These measures replace a framework that has applied since 2014, and will enter into force on 1 May 2026.

While continuing to exempt technology transfer agreements that meet certain conditions from the application of Article 101 TFEU, the revised TTBER and Guidelines have been updated to address key features of the digital economy – namely, the strategic importance of data and the increased use of standard-essential technologies to enable interoperability between products. The key changes are:

- *Data licensing agreements* - The new Guidelines clarify that the TTBER can apply to data licensing agreements in certain circumstances – for example, where the licensed data qualifies as one of the existing technology rights in the TTBER or where it closely resembles such technology rights. The Guidelines also clarify that information exchange in the context of database licensing will often not restrict competition by object, and that data-sharing agreements mandated under Chapter II of the Data act will generally comply with Article 101 (except where used to disguise an object infringement such as price fixing or customer sharing).
- *Technology pools* - The guidance on technology pools has been updated to clarify the conditions of the soft safe harbour for such arrangements – specifically, in relation to the condition that only essential technology rights are pooled, and as regards licensing conditions.
- *Licensing negotiation groups* – The Guidelines contain a new section on licensing negotiation groups, where implementers of a technology agree to negotiate jointly with technology holders. The Guidelines set out the possible pro- and anti-competitive effects of such groups, the distinction between licensing negotiation groups and buyer cartels, relevant factors for assessing whether a licensing negotiation group will restrict competition, as well as safeguards that may mitigate competition risk.
- *Market share thresholds* - The revised TTBER clarifies the methodology for calculating market shares in technology markets. In particular, it clarifies that technologies which have not yet been commercialised will be treated as having a market share of zero. Furthermore, where an agreement initially falls within a safe harbour, but later exceeds the relevant market share thresholds, the TTBER now provides for a three-year grace period during which the exemption will continue to apply (as opposed to the two-year grace period under the previous regime).

CONSUMER PROTECTION

CMA issues first consumer protection fine under the DMCCA

On 15 April 2026, the CMA imposed the first fine under its new consumer protection enforcement powers conferred by the Digital Markets, Competition and Consumers Act 2024 (DMCCA).

Following a five-month investigation, the CMA fined Automobile Association Developments (AA) £4.2 million for engaging in drip pricing (a practice where unavoidable fees are revealed to consumers late in the purchase process), and ordered AA to refund customers over £760,000 (equating to around £9 per customer). The CMA found that between April and December 2025, AA failed to display a mandatory £3 booking fee for customers booking driving lessons – the fee was only revealed at the checkout stage of the purchase process. The CMA concluded that the booking fee was an unavoidable charge and that, under UK consumer protection law, such charges must be displayed clearly from the outset.

As a result of AA admitting the infringement and agreeing to settle the case, the CMA reduced the fine by 40%, from £7 million to £4.2 million.

This decision demonstrates the CMA's willingness to use its enhanced consumer enforcement powers. Although the outcomes of the other investigations opened since April 2025 remain to be seen, the AA decision provides a clear indication of the direction of travel. Businesses should expect particular scrutiny and enforcement activity in relation to consumer protection, and should review their procedures to ensure compliance in light of the CMA's expanded powers. We have also covered this development in a recent blog post here.

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