

MANDAT

19.08.2019

GLEISS LUTZ ACHIEVES MINISTERIAL AUTHORISATION FOR PLAIN BEARING JOINT VENTURE OF MIBA/ZOLLERN

[Peter Altmaier, the German Minister for Economic Affairs](#), has today granted [ministerial authorisation](#) for the envisaged joint venture in the area of plain bearings involving the undertakings Miba AG and Zollern GmbH & Co KG. The ministerial authorisation is justified by public interest considerations in protecting know-how and the innovation potential for the energy transition and sustainability. Such public interest considerations are secured in this specific case by ancillary provisions, in particular an investment requirement.

Since being introduced in the 1973 Act Against Restraints of Competition, ministerial authorisation proceedings have been extremely rare. These were only the 23rd proceedings of this kind and a ministerial authorisation is granted only in exceptional cases. The authorisation for Miba/Zollern is thus only the tenth that has ever been granted. Miba/Zollern is furthermore the first case in which medium-sized companies received such ministerial authorisation, so this is a new development and will make legal history in antitrust law.

The successful grant of ministerial authorisation was preceded by lengthy and intensive proceedings. For example, in April the German Monopolies Commission had advised against granting the authorisation, whereas the affected German federal states of Lower Saxony and Baden-Württemberg had given it their vigorous support.

Long-lasting proceedings before the Federal Cartel Office furthermore preceded the ministerial authorisation process. In January 2019 the Federal Cartel Office had prohibited the transaction, whereupon the two companies applied for ministerial authorisation. The Federal Cartel Office had raised competitive concerns as regards a small part of the product portfolio of Miba and Zollern, that was actually complementary. Some fundamental issues of market definition were in particular controversial.

Gleiss Lutz represented both companies in the proceedings by a team headed by Dr. Matthias Karl (partner, lead) and Dr. Philipp Pichler (counsel). The following lawyers also assisted in these proceedings: Alexandra Bruch, Rhued Gaiser, Patrick Grüner (counsel), Dr. Johannes Hertfelder and Dr. Sebastian Köhler (all competition/antitrust, Stuttgart).

Gleiss Lutz was also involved in several ministerial authorisation proceedings for applicants or intervening parties (including Daimler-Benz/MBB, Baywa/WLZ, MAN/Sulzer, E.On/Ruhrgas, EDEKA/Tengelmann).

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