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The 2012 Amendments to Austrian Competition Law 345

On December 20, 2012, the Austrian Federal Council adopted amendments to the Austrian Cartel Act 20051 and the Competition Act2 ("2012 Amendments"), which came into force on March 1, 2013. This article analyses the most significant changes regarding Austrian competition law. The main purpose of the changes is the harmonisation of Austrian competition law with European and German provisions. The most significant ones concern the expansion of the Austrian Competition Authority's power during dawn raids and the introduction of a specific provision for private damage actions.

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The aim of this paper is to identify those practices of information exchange between competitors which should be considered as restrictions by object and those which should fall under clearly defined safe harbours. For this purpose, the approach of the European Commission's Horizontal Guidelines on the assessment of information exchange is critically analysed and proposals are made for further consideration.

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The Hungarian legislator introduced a broad exemption for domestic agricultural cartels covering also price fixing and market allocation. If the minister finds that the cartel would raise the standard of living of farmers, the competition authority must terminate the procedure. Furthermore, the competition authority will not be able to impose fines even in ongoing procedures involving hardcore agricultural cartels. The article gives an overview of competition law enforcement in the agribusiness in the United States, the European Union and Hungary, before concluding that the new rules will lead to the fall of agricultural cartels in Hungary.

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