

Bundesverband der Wertpapierfirmen e.V.
Schillerstraße 20, D-60313 Frankfurt/Main

European Commission

Directorate General for Competition
Antitrust Registry
B-1049 Bruxelles/Brussel
Belgique/Belgie

Via e-mail : *COMP-GREFFE-ANTITRUST@ec.europa.eu*

your reference

your message of

city_date

Frankfurt/Main, 14.06.2011

Non confidential

Case COMP/39.592 – EFAMA vs. S&P

Comments in response to Notice published pursuant to Article 27 (4)
of Council Regulation (EC) No 1/2003 (OJ C144/29)

Dear Sirs,

Thank you very much for the opportunity to comment on the above mentioned Notice. The *Bundesverband der Wertpapierfirmen e.V. (bwf)*¹ is a trade association representing securities trading firms and brokers at the securities exchanges throughout Germany.

bwf members are usually small and medium sized enterprises. However, despite their size they are usually completely “wholesale” firms, representing a significant part of the securities trading in Germany and the vast majority of market specialists, responsible for price determination at the German securities exchanges. Their clients and market counterparts are German and international banks, UCITS companies, insurance companies and other investment firms alike. While some of the members are still focused solely on their function as an exchange market specialist, others offer the full range of trading, order routing and order execution services on German and European trading venues across a wide range of instruments. Some member firms are also active in the IPO and corporate finance business.

According to the EU legal framework, bwf members are categorized as investment firms, some of them also have the status of credit institutions. However, in the light of the partly deviating German classification for financial institutions,

¹ The Bundesverband der Wertpapierfirmen e.V. is registered in the list of interest representatives with the European Commission under Registration No. 1880407752-10

Bundesverband der Wertpapierfirmen e.V.

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numerous bwf members are credit institutions under German law in their capacity as “securities trading banks” (“Wertpapierhandelsbanken”). Our association currently represents 50 members among which there are 22 securities trading firms, 3 single members (natural persons) and 25 supporting members (among which are five natural persons).²

Against this background, it becomes immediately clear that bwf member firms will be directly affected by the outcome of an EU decision on case COMP/39.592. We therefore are monitoring the debate on the use of ISO standards with concern. We strongly believe that data standards like the ISO standard 6166 (ISIN code) should be regarded as a “public good” which can be used free of charge by all market participants and which should be made available free of charge or at cost level.

In any case, standards should not be subject to licensing fees, intellectual property and copyrights. Furthermore, its usage should be free from any form of contractual obligation for all users and throughout the entire securities market value chain.

The above mentioned principles of license-free usage without any further mandatory contractual obligations should be applicable to anybody using all ISINs and ISIN records (independent of the origin of the data and without any reference to the CUSIP identification code) in all systems and databases and in relationship with any internal or external party, including but not limited to affiliates, operators of market infrastructure, clients, market counterparties, service providers or regulators and for all activities no matter whether they are conducted within or outside the EEA. – To our knowledge, these general views are shared among the majority of national and international associations and industry representatives (from the “sell-“ as well as from the “buy-side”) across Europe.

Furthermore, in our view, these principles can be regarded as generic requirements arising from the very nature of generally accepted (data) standards which – once accepted and implemented – are in inelastic demand by all market participants, intermediaries, service providers and end users. Therefore, an effective legal framework is needed in order to avoid the exploitation of standards by monopolistic rent seeking and the deterioration of competition by the establishment of barriers of entry.

Yours faithfully,

Michael H. Sterzenbach
Secretary General

² A complete list of bwf members can be found on our website under www.bwf-verband.de (→der bwf →Mitglieder).