

Competitive law for antenna installation

Law



The paper "Competitive Law for Antenna Installation" is a wonderful example of a case study on the law. Traditionally, it has been difficult for a government entity to obey or get entrapped into a competitive law breach. As seen in the Fenin v SNS case, it is not easy establishing the role of a state body as engaging in economic activity. However, the Spanish Association of Telecom Operators (REDTEL) may have a case against several Spanish municipalities. A study conducted by a consultancy group shows that the modus operandi of the states are aimed at generating revenues. The statistics show that local governments were receiving less income from urban development. The slump in urban development has led to the municipalities practicing unfair exercise of the power to force a business to incur unnecessary expenses. Abuse of economic dependence and unnecessary public-competitive restrictions can be seen in the pricing of leases and the accompanying legislative obligations imposed. One case of abuse of economic dependence is seen in how the local governments determine the price at which it will lease out municipal land to the telecommunication firms. Unlike normal land valuation processes that account for the location of the site and the prices of the neighboring properties, Spanish municipalities depend on the 'Market Price'. The market price is the highest rental fee that another local government had managed to negotiate in their contract. Most of the land near cities and areas with large populations are owned by these local governments making REDTEL almost wholly dependent on them for land. The land councils in these regions are responsible for setting the standards for companies to acquire land and approve their applications. REDTEL argues that the councils are economically incentivized to have the telecoms lease as much land as possible for their

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antennas. The case of public-competitive restriction is seen in the pricing strategy implemented by the municipal's land board to areas allocated for antennas. The average rental annual increase is 3%, however, for telecommunication companies in Spain, the increase can be as large as 15 – 20%. The municipal government in question is pushing for the companies to make unnecessary relocations of their antennas onto new land that is owned by them. The move in itself does not only compromise the end-user experience for the providers but is also a huge financial burden on these companies. The regulations force the companies to pay rent at a markup of more than 350%. REDTEL argues that it takes 12 to 18 months to find a suitable location for the antennas that will ensure maximum overlap and best quality. The average cost ranges from \$250, 000 to \$310, 000 making relocation very detrimental to the firms' bottom lines. Growth for these telecoms is, therefore, adversely affected by the discriminatory practices of the municipal councils. The legal team has to prove that the municipal councils do these actions for economic reasons only. The availability of private land that meets the criteria set by the government should also be investigated. Abuse of economic dependence is common in even the most established economies but is detrimental to long-term growth. The case of REDTEL versus the municipalities shows the extent to which the actions of government influence enterprise. The government should be considered as a corporation if its aim is to generate revenue and thus be subject to competition law. An analysis of how the municipalities use legislation to force telecoms to lease new land for antennas and overprice the new land could reveal this abuse at play.