

Newsletter, 30 October 2025

Public Signaling and the Use of AI by the EU Commission to Detect Infringements

The *Michelin* decision of EU General Court highlights the antitrust concerns related to public communications by companies and sheds some light on the Commission's use of market surveillance tools to detect potentially anti-competitive price signaling

On 9 July, 2025, the General Court of the European Union ("Court") delivered its decision in the case *Compagnie Générale des Établissements Michelin v European Commission* (T-188/24).¹ The case concerned the legality of the Commission's 2024 inspection decision against Michelin in the ongoing tyres sector cartel investigation (Case AT.40863), which examines whether leading tyre manufacturers have coordinated sales prices of new replacement tyres for cars and trucks through so called "earnings calls" which may result in illegal price signaling.

Background

The Court upheld the Commission's decision to conduct an inspection (dawn raid) at Michelin's premises for suspected price coordination. In the court's view, the Commission was entitled to the reasonable suspicion that public signaling of information relating to future intentions and pricing strategies had occurred. It only partially annulled the decision with respect to the temporal scope of the suspected infringement, namely the earlier time period.

The Commission's suspicion was based on analyzing hundreds of thousands of earnings calls via Artificial Intelligence ("AI"). Earnings calls are periodically organized between the management of a company and analysts, investors and the media in order to discuss the company's financial results. The transcript of their content is generally accessible to the public as companies publish them on their websites or on pay-to-view databases. The analysis was carried out by applying key search terms made up of two consecutive words ("bigrams") to the transcripts in order to identify statements relating to strategic commercial decisions or to how competitors behaved or would behave in the future. In quantitative terms, the Commission found that the frequency of use of the bigrams was notewor-

thy. The suspicion was confirmed by a qualitative ("manual") analysis, which examined the specific context of the bigrams.²

Before the Court, Michelin moved for the annulment of the Commission's decision to inspect its premises that was carried out on 30 January, 2024. It argued that the inspection decision's statement of reasons was insufficient as it was excessively succinct, generic, vague and ambiguous. This line of arguments was rejected as the Court found that the decision indicated the subject and objective of the inspection. As inspections take place during an early investigative stage, no specific legal assessment is required.³

Furthermore, Michelin argued that the decision infringed on its right to respect for its home and communications as the decision was arbitrary because there were no reasonable grounds for the suspected infringement. In its view, this was evidenced by the imprecise description of the alleged infringement and an undue emphasis placed on communication via generally accessible public channels. Michelin regarded the Commission's qualitative analysis as unsound as the bigrams could be explained by factors such as the implementation of an innovation-based industrial strategy, external inflationary tensions or the need to reply to analysts' questions. Also, for a French-based company such as Michelin, earnings calls meet the legal requirement of transparency.⁴

The Court held that the reasons put forward by the Commission constituted sufficient grounds for ordering an inspection, at least for the main time period. The outcome of the Commission's quantitative and qualitative analysis of the earnings calls constituted sufficient indicia to substantiate the suspicion of price coordination. It was also corroborated by the Commission's findings that the price announcements of the main tyre manufacturers during the relevant time period

¹ General Court, judgment of 9 July, 2025, [T-188/24](#).

² Ibid, para. 92 et seq.

³ Ibid, para. 27 et seq.

⁴ Ibid, para. 49 et seq., 100 et seq.

were often made close to one another and corresponded to the changes in prices of raw materials and energy.⁵

Price signaling via public communications under investigation

Price signaling refers to the intentional use of public communication channels by companies to provide information to each other on their future intentions and pricing strategies with the aim to influence their respective pricing strategies. In the instant *Michelin* decision, the Court emphasizes that the companies retain the right to hold organized earnings calls. However, the fact that such earnings calls are carried out to comply with transparency regulations or that the relevant information was communicated in response to questions by investors or analysts does not in itself preclude a collusive practice such as price signaling via earning calls.

According to the Commission's legal interpretation, public statements in earnings calls can be interpreted as unilateral invitations to collude.⁶ This should equally apply to public announcements of pricing strategies at other occasions in the public domain, e.g. in the printed or online press or on websites. In the Commission's view some constellations might even amount to a restriction of competition "by object", if other competitors make contemporary statements or if their behavior indicates that they took this invitation into account when determining their own future behavior on the market.

Even though the Court's ruling in the *Michelin* case is strictly limited to the legality of the Commission's dawn raid and whether there were sufficient grounds to suspect an infringement (and not more), the underlying investigation underscores that the Commission is not shy to investigate such public communications if it has certain other indicia supporting the suspicion of signaling.

Use of AI-assisted investigation tools

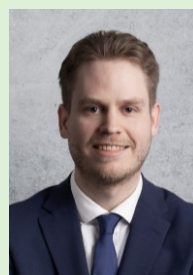
The Commission's investigation into the tyre manufacturers was the result of proactively screening publicly available data with a digital tool to analyze hundreds of thousands of earnings calls across various sectors. The use of such tools has now been implicitly validated by the Court in the *Michelin* case.

This may constitute an effective new source of information for the Commission as the main traditional source of information, namely leniency

applications by cartel members, have faced a sharp decline in recent years in view of the impact of subsequent follow-on damages claims in national courts. This development has led to a falling number of cartel investigations and the overall amount of fines imposed by the Commission. The Commission is currently left with receiving information from reports through its whistleblower tool or from customer complaints. It will therefore be eager to turn this trend around by making use of new technologies to step up its investigation activities.

Key Takeaways

- The possible classification of public signaling as a restriction of competition "by object" constitutes a considerable risk for companies as this would relieve the competition authorities from the need to establish actual effects of the price signaling on competition.
- The ongoing tyres sector investigation is a healthy reminder that companies should be aware of the risk associated with publicly communicating strategic information such as future pricing intentions or their intended reaction to market developments, e.g. raw material price increases.
- Companies must expect the Commission to increasingly use digital, AI-assisted tools for screening publicly available information.



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⁵ Ibid, para. 116 et seq., 138.

⁶ [Horizontal Guidelines](#), para. 432, ex. 4; cited in General Court, judgment of 9 July 2025, [T-188/24](#), para. 62.