

**Case C-280/06 Autorità Garante della Concorrenza e del Mercato v Ente tabacchi italiani
– ETI SpA and others, judgment of 11 December 2007**

Facts: The autonomous body administering State monopolies in Italy ('AAMS') was responsible for regulating manufacturing and sales in the tobacco sector in Italy. Following the body's privatisation, the Italian Competition Authority discovered that the Philip Morris group of corporations had maintained a cartel with both the public and subsequently privatised regulatory bodies, distorting competition by fixing sales prices of cigarettes. The Italian Competition Authority then fined the Philip Morris group as well as the regulatory body, which was fined for both the activities supervised in its private form and under its prior public personality.

The decision was challenged, and a question was referred to the Court on how blame should be attributed given that the legal personality of the supervising body had changed from public to private and the cartel had spanned both personalities.

Held: Following Joined Cases C 297/88 and C 197/89 *Dzodzi* [1990] ECR I 3763, the Court reasoned firstly that where, in regulating purely internal situations, domestic legislation provided for the same solutions as those adopted in Community law, it was clearly in the Community interest that, in order to avoid future differences of interpretation, provisions or concepts taken from Community law should be interpreted uniformly, irrespective of the circumstances in which they are to apply.

Under the principle of personal responsibility, moreover, when an entity infringes competition rules, it falls to that entity to answer for the infringement. This would encompass an entity not responsible for the infringement if it could be regarded as the economic successor of the entity which committed the infringement, provided that the latter entity had in the meantime ceased to exist, either in law or economically. Any other result would allow undertakings to evade their legal duties by simply changing legal personality.

As both the public and private entities were owned by the same public entity (the Ministry of the Economy and Finance), the doctrine of personal responsibility could not work to help the undertakings evade their legal duties.