



# Discriminatory Practices in Pricing and Reimbursement

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# Clawback Definition / Origin



good  
example



# Pharma Sector

AIM

- prevent budget overshooting
- Increases predictability of expenditures



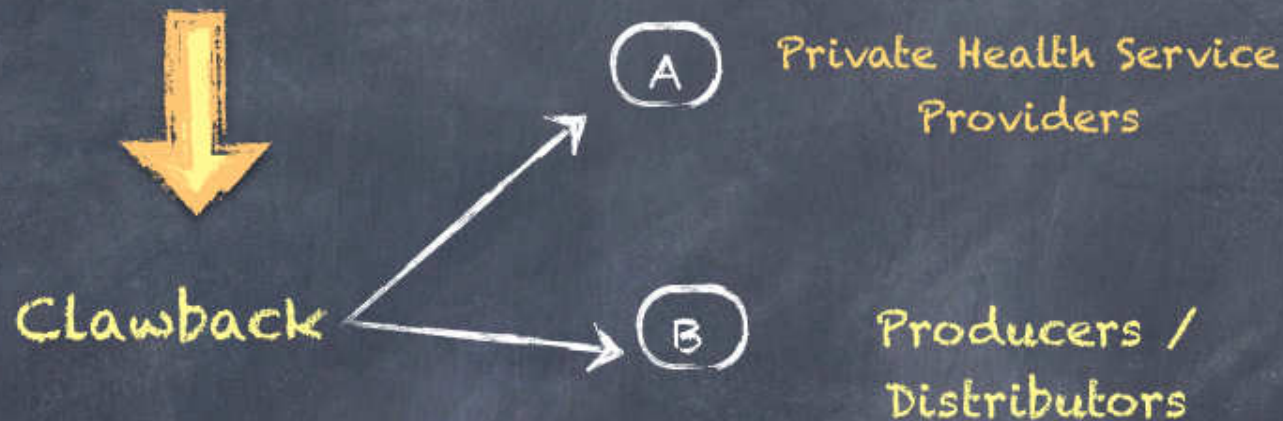


# Clawback / Rebates in Greece

Clawback

L.4172/2013

○ when budget is exceeded



○

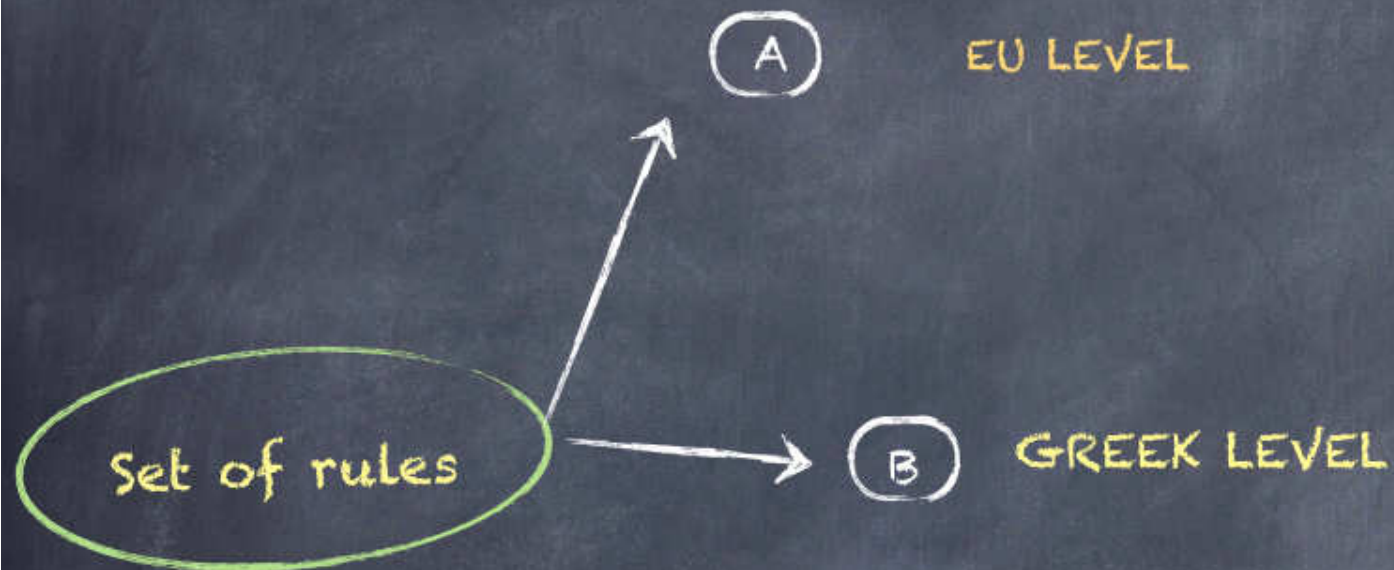
Turnover



Rebates (Obligatory set by the Buyer)



# COMPETITION Practical Approach



Same Rules / Different  
Geographical Approach

except  
→ State Aid



# GREECE

Clawback &  
Rebates

through

LAW

which one  
prevails?

COMPETITION

CLAWBACK / REBATES





# COMPETITION LAW in Greece

In theory



EU  
TREATY



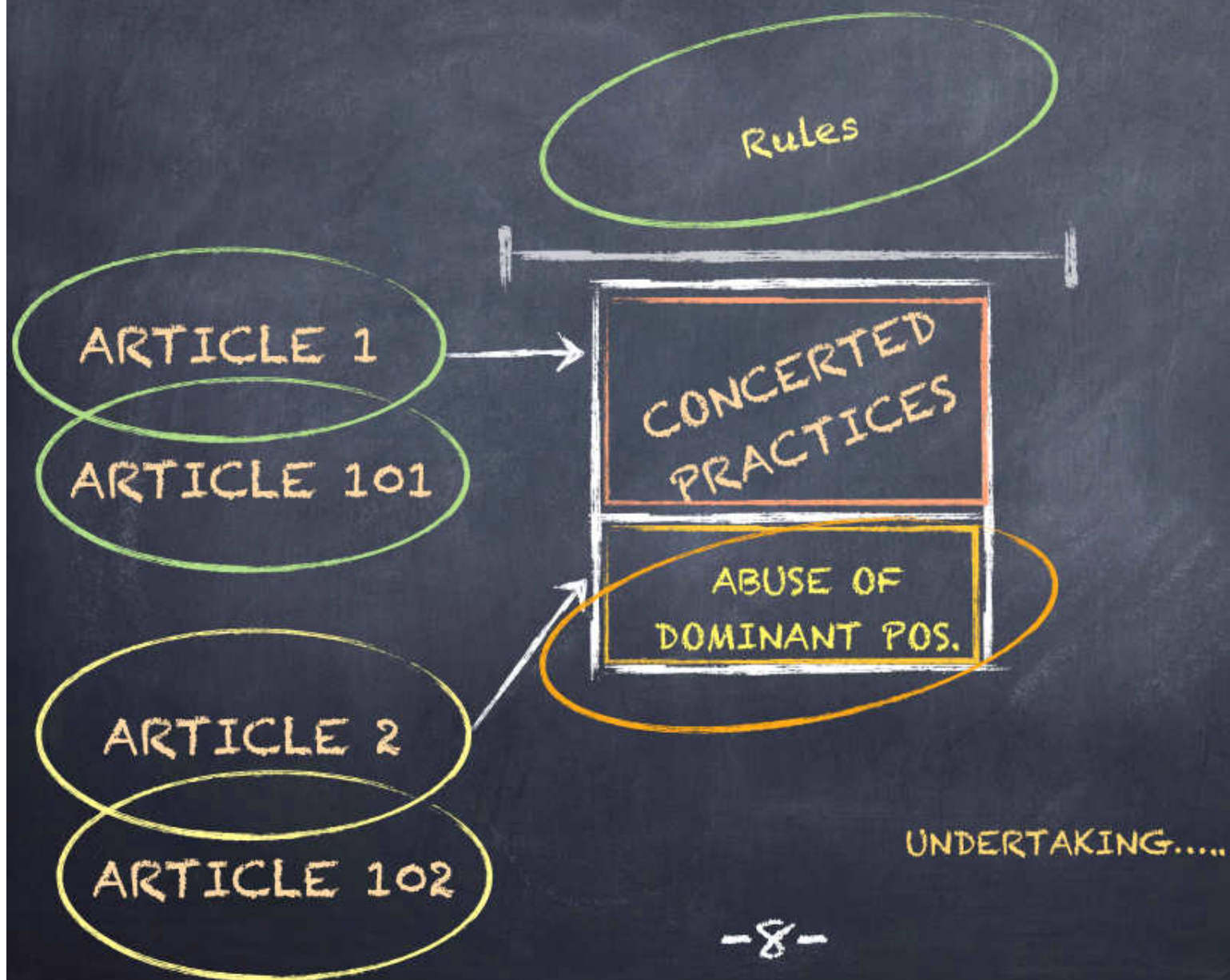
NO OBLIGATION



internal



# COMPETITION LAW





# IS EOPPY AN UNDERTAKING?

Public Healthcare  
Providers

Providers of  
Public Health  
Insurance Fund

are NOT

Undertakings

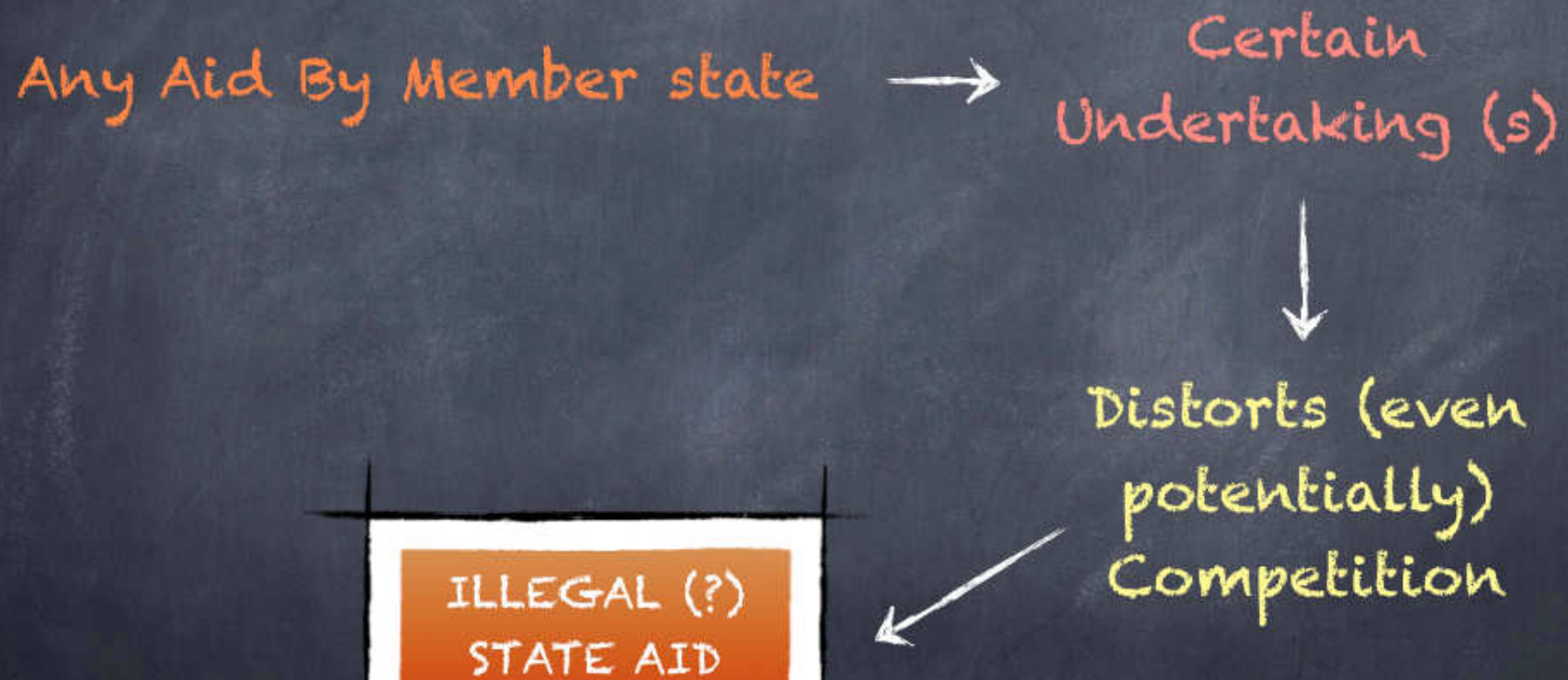
No recourse via  
Competition Law

NO ECONOMIC  
ACTIVITY

- German Public Healthcare insurance fund
- Spanish national health Service



# State Aid Theory





# Illegal State Aid Criteria

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A Measure Taken by the State

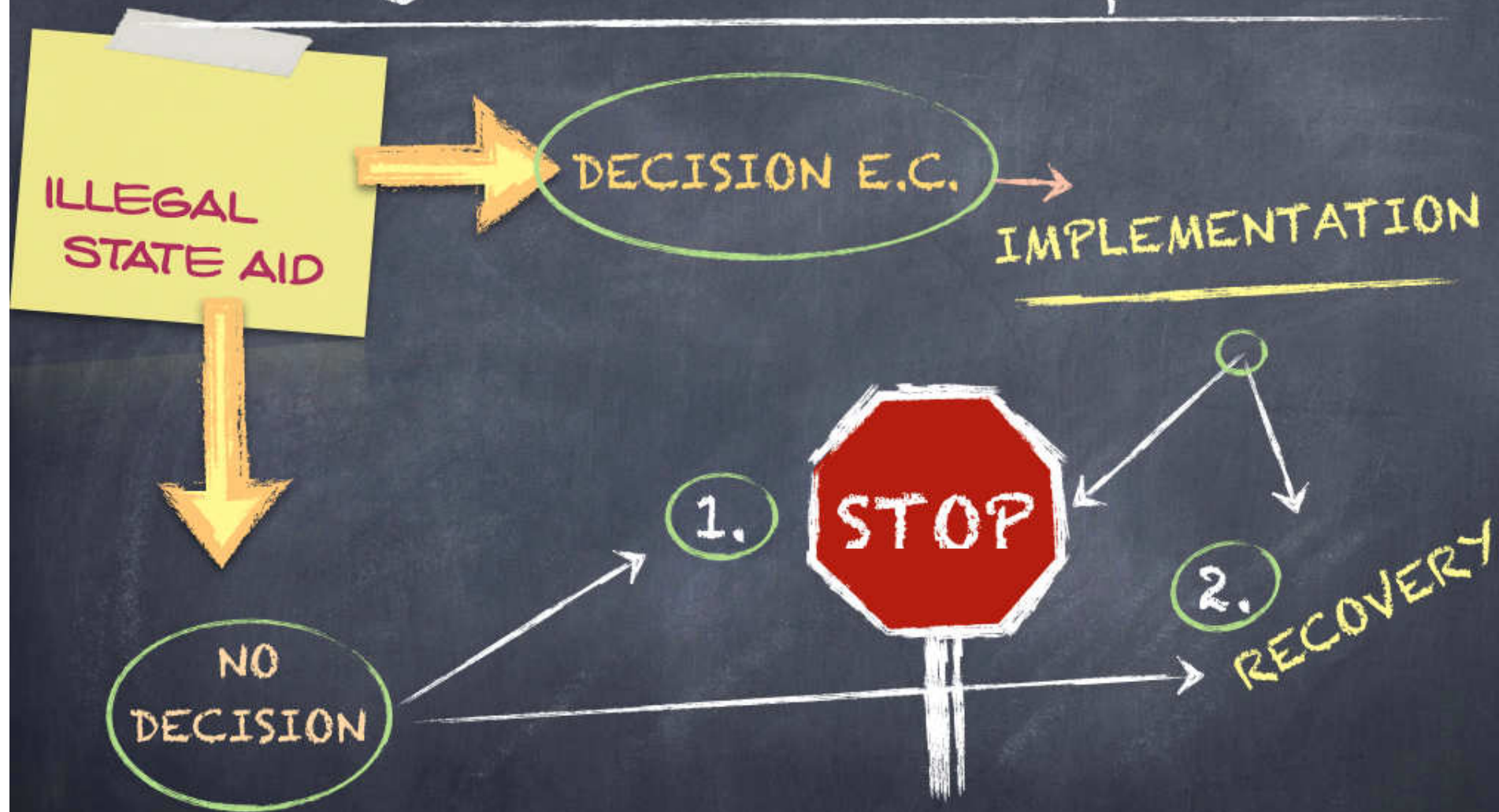
B Selective Advantage → Beneficiary Company

C Liable to distort → Competition

D Liable to affect → Trade between EU Members



# Illegal State Aid Consequences





# Illegal State Aid Exception

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An exception  
Could Apply



Remedy  
Serious  
Disturbance  
in the  
economy

but



unlawful if not notified



# Illegal State Aid Good News

Some cases where Illegal State Aid has been acknowledged:

92/327/20.12.1989

Belgian preferential reimbursement and price increases

95/456/1.3.1995

Greek levy on drugs that supported Greek Pharma Sector

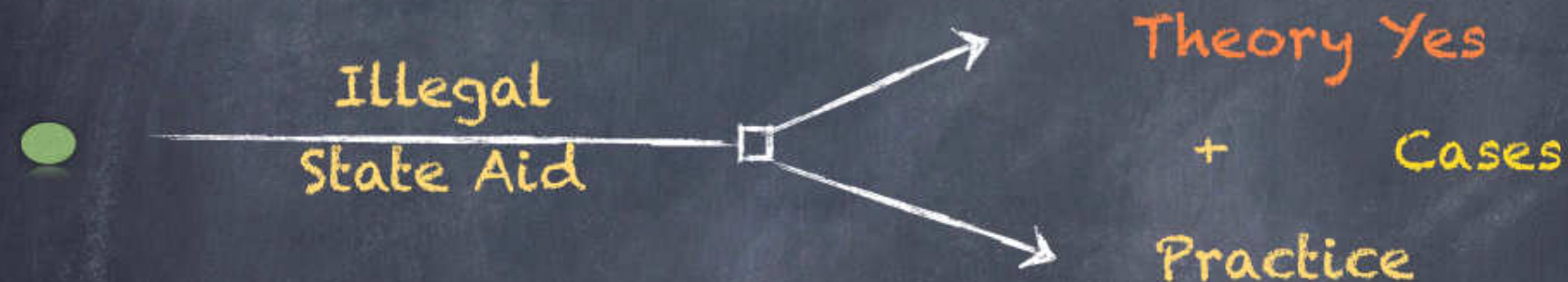
C-53/00/2001

Tax on direct sales on pharmaceutical but not wholesalers



# Competition Conclusions

- In principle EOPPY not an undertaking



- ```
graph LR; A[Only window of opportunity] --> B[State Aid]
```

Only window of opportunity

State Aid