



ECN+

EU Directive to empower national competition authorities to be more effective enforcers

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NCAs - key co-enforcers of EU antitrust rules

- Since 2004, national competition authorities (NCAs) are **empowered by Reg. 1/2003 to apply EU antitrust rules** alongside COM
- COM and NCAs cooperate closely within the **European Competition Network**
- Action by NCAs has **significantly boosted enforcement**: accounts for **85% of decisions**
- **Not simply enough to give NCAs power to enforce**; also need **means and instruments**



ECN+ Directive

- **Commission proposal for a Directive** adopted on 22 March 2017
- **Ordinary procedure:** EP and Council = co-legislators

Independence and resources

- Problem: not all authorities have guarantees they can **enforce impartially free from outside influences**
 - Solution : Ensure national competition authorities **act independently** when they apply EU competition rules
- Problem: some authorities **do not have the resources** they need to do their work
 - Solution: **basic guarantee of human, financial, technical & technological resources** they need

Effective tools to detect infringements

- Problem: Not all authorities have the **tools they need to detect and stop infringements**.
- Solution:
 - Core **minimum effective powers to investigate** and to **take decisions**
 - Tools **backed up by effective sanctions** for non-compliance
 - **Key procedural safeguards** are in place

Ability to impose deterrent fines

- Problem: Not all authorities can **impose deterrent fines or enforce their payment**
- Solution:
 - **Remove obstacles** which prevent authorities from imposing **deterrent and proportionate fines**:
 - » For criminal systems ensure additional **alternative route**
 - » Ensure **fines are calculated on basis of common core parameters**
 - **Ensure companies cannot escape payment through corporate restructuring**



Leniency - I

- Problem: **Leniency programmes key tool to discover** illegal cartels, but they **work differently across Europe**
- Solution: ensuring that **companies benefit from leniency in the same way across the EU** by:
 - harmonising the **thresholds** and **conditions** for immunity and reduction of fines applicants
 - enabling applicants to submit **leniency statements** not only **in writing** but also **orally or by other means** that permit them **not to take possession** of those statements
 - enabling immunity applicants to initially request a place in the leniency queue (**marker**)

Leniency - II

- Problem: Other aspects that can be linked to the **incentives** of companies to come forward and report cartels
- Solution:
 - an effective **summary applications system**
 - protecting directors, managers and other members of staff of **immunity applicants** from **individual** (administrative or criminal) **sanctions** if they cooperate with the relevant public authorities
 - to enable NCAs to accept **leniency statements** and **requests for marker** in an **EU language bilaterally agreed** with the applicant

Mutual assistance

- Problem: not possible to **notify procedural acts** or **enforce fines** cross-border
- Solution: **new mutual assistance mechanism** for the **notification of procedural acts** and the **enforcement of fines cross-border**, so companies cannot escape enforcement

Next steps

- **Final adoption** by end of 2018
- **Transposition**