



2017/0063(COD)

10.7.2017

DRAFT OPINION

of the Committee on the Internal Market and Consumer Protection

for the Committee on Economic and Monetary Affairs

on the proposal for a directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market (COM(2017)0142 – C8-0119/2017 – (2017)0063(COD))

Rapporteur: Eva Maydell

SHORT JUSTIFICATION

National Competition Authorities play a decisive role in the enforcement of EU competition law (Articles 101 and 102 TFEU) alongside the European Commission and by this significantly contribute to a properly functioning, competitive, and consumer-oriented internal market. The rapporteur recognises that in order for those functions of NCAs to be maintained and strengthened, the enforcement powers created with Regulation 1/2003 need to be backed by the necessary instruments, means and procedures for all NCAs. Similar toolbox and guiding principles for all NCAs will ensure a more uniform, effective and consistent enforcement of competition rules throughout the EU. The rapporteur, therefore, recognises that the Commission proposal could bring practical benefits for countering the distortion of competition and is an important step towards developing the full potential of the EU's internal market.

The rapporteur would like to stress, that due to the lack of sufficient financial resources in some NCAs, the prioritising of proceedings and therefore the enforcement capabilities of the NCAs in question could be adversely affected. While it is not feasible to determine what is considered to be sufficient resources for all member states of the NCAs, the proposal could be strengthened by providing NCAs with greater budgetary autonomy in the implementation of their allocated budgets. Such a provision will allow NCAs to prioritise their case work, allow them to carry out multiple inspections simultaneously, and will increase their degree of independence. Therefore, the amendments proposed by the rapporteur suggest more budgetary autonomy for NCAs while observing all national budgetary rules.

The rapporteur believes that the impartiality of NCAs and their protection against political and business influence should be a key element, even more in the context of empowering them with additional instruments, means and, in some cases, new responsibilities. Therefore, guarantees against conflicts of interests, and transparent selection and dismissal commitments by the NCAs and their management could strengthen the current proposal. Such provisions can be beneficial for raising awareness and increasing public trust in NCAs.

With regards to the level of fines applied by NCAs, the rapporteur recognises that, currently, undertakings can face very different fines for similar infringements in different Member States. This situation presents a danger to the uniform enforcement of competition law. The rapporteur welcomes the efforts in the proposal to address those challenges and believes that a common maximum limit of the fine can provide the right incentives for improvement.

The rapporteur furthermore is of the opinion that the evidence collecting powers of the NCAs could be improved by minimising some administrative procedures and by making their investigative powers better adapted to the digital realities of undertakings today. Therefore, the rapporteur suggests additions to the proposal in this context.

AMENDMENTS

The Committee on the Internal Market and Consumer Protection calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) are a matter of public policy and should be applied effectively throughout the Union to ensure that competition in the internal market is not distorted. Effective enforcement of Articles 101 and 102 TFEU is necessary to ensure more open competitive markets in Europe, **where companies compete more on their merits and** without **company erected** barriers to market entry, enabling **them** to generate wealth and create jobs. It protects consumers from business practices that keep the prices of goods and services artificially high and enhances their choice of innovative goods and services.

Amendment

(1) Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU) are a matter of public policy and should be applied effectively throughout the Union to ensure that competition in the internal market is not distorted. Effective enforcement of Articles 101 and 102 TFEU is necessary to ensure more open **and** competitive markets in Europe, without barriers to market entry, enabling **companies to compete on their merits and** to generate wealth and create jobs. It protects consumers from business practices that keep the prices of goods and services artificially high and enhances their choice of innovative goods and services.

Or. en

Justification

The rapporteur's intention is to make the text clearer and more concise.

Amendment 2

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) National law prevents many NCAs from having the necessary guarantees of independence and enforcement and fining powers to be able to **enforce these rules effectively. This undermines their ability to** effectively apply Articles 101 and 102 TFEU and national competition law provisions in parallel **to Articles 101 and 102 TFEU as appropriate**. For example, under national law many NCAs do not

Amendment

(5) National law prevents many NCAs from having the necessary guarantees of independence and enforcement and fining powers to be able to effectively apply Articles 101 and 102 TFEU and national competition law provisions in parallel. For example, under national law many NCAs do not have effective tools to find evidence of infringements of Articles 101 and 102 TFEU, to fine companies which break the

have effective tools to find evidence of infringements of Articles 101 and 102 TFEU, to fine companies which break the law or do not have the resources they need to effectively apply Articles 101 and 102 TFEU. This can prevent them from taking action at all or results in them limiting their enforcement action. The lack of operational tools and guarantees of many NCAs to effectively apply Articles 101 and 102 TFEU means that undertakings engaging in anti-competitive practices can face very different outcomes of proceedings depending on the Member States in which they are active: they may be subject to no enforcement at all under Articles 101 or 102 TFEU or to ineffective enforcement. For example, in some Member States, undertakings can escape liability for fines simply by restructuring. Uneven enforcement of Articles 101 and 102 TFEU and national competition law provisions applied in parallel to Articles 101 and 102 TFEU results in missed opportunities to remove barriers to market entry and to create more open competitive markets throughout the European Union where undertakings compete on their merits. Undertakings and consumers particularly suffer in those Member States where NCAs are less-equipped to be effective enforcers. Undertakings cannot compete on their merits where there are safe havens for anti-competitive practices, for example, because evidence of anti-competitive practices cannot be collected or because undertakings can escape liability for fines. They therefore have a disincentive to enter such markets and to exercise their rights of establishment and to provide goods and services there. Consumers based in Member States where there is less enforcement miss out on the benefits of effective competition enforcement. Uneven enforcement of Articles 101 and 102 TFEU and national competition law provisions applied in parallel to Articles 101 and 102 TFEU throughout Europe thus distorts

law or do not have the resources they need to effectively apply Articles 101 and 102 TFEU. This can prevent them from taking action at all or results in them limiting their enforcement action. The lack of operational tools and guarantees of many NCAs to effectively apply Articles 101 and 102 TFEU means that undertakings engaging in anti-competitive practices can face very different outcomes of proceedings depending on the Member States in which they are active *or established*: they may be subject to no enforcement at all under Articles 101 or 102 TFEU or to ineffective enforcement. For example, in some Member States, undertakings can escape liability for fines simply by restructuring. Uneven enforcement of Articles 101 and 102 TFEU and national competition law provisions applied in parallel to Articles 101 and 102 TFEU results in missed opportunities to remove barriers to market entry and to create more open competitive markets throughout the European Union where undertakings compete on their merits. Undertakings and consumers particularly suffer in those Member States where NCAs are less-equipped to be effective enforcers. Undertakings cannot compete on their merits where there are safe havens for anti-competitive practices, for example, because evidence of anti-competitive practices cannot be collected or because undertakings can escape liability for fines. They therefore have a disincentive to enter such markets and to exercise their rights of establishment and to provide goods and services there. Consumers based in Member States where there is less enforcement miss out on the benefits of effective competition enforcement. Uneven enforcement of Articles 101 and 102 TFEU and national competition law provisions applied in parallel to Articles 101 and 102 TFEU throughout Europe thus distorts competition in the internal market and undermines its proper functioning.

competition in the internal market and undermines its proper functioning.

Or. en

Justification

The rapporteur's intention is to make the text clearer and more concise. Undertakings can be active in more than one EU Member State, however the different outcome of proceedings can depend also on their place of establishment, i.e. the relevant NCA which handles the case.

Amendment 3

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) Gaps and limitations in NCAs' tools and guarantees undermine the system of parallel powers for the enforcement of Articles 101 and 102 TFEU which is designed to work as a cohesive whole based on close cooperation within the European Competition Network. This system depends on authorities being able to rely on each other to carry out fact-finding measures *on* each other's *behalf*. However it does not work well when there are still NCAs that do not have adequate fact-finding tools. In other key respects, NCAs are not able to provide each other with mutual assistance. For example, in the majority of Member States, undertakings operating cross-border are able to evade paying fines simply by not having a legal presence in some of the territories of Member States in which they are active. This reduces incentives to comply with Articles 101 and 102 TFEU. The resulting ineffective enforcement distorts competition for law-abiding undertakings and undermines consumer confidence in the internal market, particularly in the digital environment.

Amendment

(6) Gaps and limitations in NCAs' tools and guarantees undermine the system of parallel powers for the enforcement of Articles 101 and 102 TFEU which is designed to work as a cohesive whole based on close cooperation within the European Competition Network. This system depends on authorities being able to rely on each other to carry out fact-finding measures *at* each other's *request*. However it does not work well when there are still NCAs that do not have adequate fact-finding tools. In other key respects, NCAs are not able to provide each other with mutual assistance. For example, in the majority of Member States, undertakings operating cross-border are able to evade paying fines simply by not having a legal presence in some of the territories of Member States in which they are active. This reduces incentives to comply with Articles 101 and 102 TFEU. The resulting ineffective enforcement distorts competition for law-abiding undertakings and undermines consumer confidence in the internal market, particularly in the digital environment.

Or. en

Justification

The rapporteur's intention is to keep the text consistent with the definitions: "applicant authority" and "requested authority". An NCA of one Member State can carry out fact-finding at the request of an NCA from another Member State.

Amendment 4

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) Conversely, detailed rules are necessary in the area of conditions for granting leniency for *secret* cartels. Companies will only come clean about *secret* cartels in which they have participated if they have sufficient legal certainty about whether they will benefit from immunity from fines. The marked differences between the leniency programmes applicable in the Member States lead to legal uncertainty for potential leniency applicants, which may weaken their incentives to apply for leniency. If Member States could implement or apply either less or more restrictive rules for leniency in the area covered by this Directive, this would not only go counter to the objective of maintaining incentives for applicants in order to render competition enforcement in the Union as effective as possible, but would also risk jeopardising the level playing field for undertakings operating in the internal market. This does not prevent Member States from applying leniency programmes that do not only cover *secret* cartels, but also other infringements of Articles 101 and 102 TFEU and equivalent national provisions.

Amendment

(10) Conversely, detailed rules are necessary in the area of conditions for granting leniency for *disclosing* cartels. Companies will only come clean about cartels in which they have participated if they have sufficient legal certainty about whether they will benefit from immunity from fines. The marked differences between the leniency programmes applicable in the Member States lead to legal uncertainty for potential leniency applicants, which may weaken their incentives to apply for leniency. If Member States could implement or apply either less or more restrictive rules for leniency in the area covered by this Directive, this would not only go counter to the objective of maintaining incentives for applicants in order to render competition enforcement in the Union as effective as possible, but would also risk jeopardising the level playing field for undertakings operating in the internal market. This does not prevent Member States from applying leniency programmes that do not only cover cartels, but also other infringements of Articles 101 and 102 TFEU and equivalent national provisions.

Or. en

Justification

Leniency is in practice granted to the first participant in the cartel who discloses information

about the cartel, rather than the whole cartel. Cartels are secret by their nature, and therefore “secret cartel” is a redundancy throughout the text. Deleting “secret” will bring the text in line with the terminology used in Directive 2014/104. See further AM 10.

Amendment 5

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) The independence of NCAs should be strengthened in order to ensure the effective and uniform application of Articles 101 and 102 TFEU. To this end, express provision should be made in national law to ensure that when applying Articles 101 and 102 TFEU NCAs are protected against external intervention or political pressure liable to jeopardise their independent assessment of matters coming before them. For that purpose, rules should be laid down in advance regarding the grounds for the dismissal of the members of the decision-making body of the NCAs in order to remove any reasonable doubt as to the impartiality of that body and its imperviousness to external factors.

Amendment

(14) The independence of NCAs should be strengthened in order to ensure the effective and uniform application of Articles 101 and 102 TFEU. To this end, express provision should be made in national law to ensure that when applying Articles 101 and 102 TFEU NCAs are protected against external intervention or political pressure liable to jeopardise their independent assessment of matters coming before them. For that purpose, ***clear and transparent rules and procedures for the appointment and grounds for dismissal of the members of the decision-making body of the NCAs should be laid down in advance*** in order to remove any reasonable doubt as to the impartiality of that body and its imperviousness to external factors.

Or. en

Justification

The rapporteur’s reasoning is that as the proposal will increase powers and competences for some NCAs, this should be paralleled by increasing their independence and expertise when it comes to the staff of the NCAs. Merit-based and transparent appointments and objective dismissals are likely to promote decision-making independence and to raise public trust in NCAs.

Amendment 6

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) To ensure the independence of

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Amendment

(15) To ensure the independence of

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NCA, their staff **and** members of the decision-making body should act with integrity and refrain from any action which is incompatible with the performance of their duties. The need to prevent the independent assessment of staff or members of the decision-making body being jeopardised entails that during their employment and term of office and for a reasonable period thereafter, they should refrain from any incompatible occupation, whether gainful or not. Furthermore, this also entails that during their employment and their term of office, they should not have an interest in any businesses or organisations which have dealings with a NCA to the extent that this has the potential to compromise their independence. The staff **and the** members of the decision-making body should declare any interest or asset which might create a conflict of interests in the performance of their duties. They should be required to inform the decision-making body, the other members thereof or, in the case of NCAs in which the decision-making power rests with only one person, their appointing authority, if, in the performance of their duties, they are called upon to decide on a matter in which they have an interest which might impair their impartiality.

NCA, their staff, members of the decision-making body **and management** should act with integrity and refrain from any action which is incompatible with the performance of their duties. The need to prevent the independent assessment of staff or members of the decision-making body being jeopardised entails that during their employment and term of office and for a reasonable period thereafter, they should refrain from any incompatible occupation, whether gainful or not. Furthermore, this also entails that during their employment and their term of office, they should not have an interest in any businesses or organisations which have dealings with a NCA to the extent that this has the potential to compromise their independence. The staff, members of the decision-making body **and management** should declare any interest or asset which might create a conflict of interests in the performance of their duties. ***To this end the staff, members and management of the NCA shall make an annual declaration of commitment and declaration of interests, indicating direct or indirect interests that might be considered prejudicial to their independence and might influence their performance.*** They should be required to inform the decision-making body, the other members thereof or, in the case of NCAs in which the decision-making power rests with only one person, their appointing authority, if, in the performance of their duties, they are called upon to decide on a matter in which they have an interest which might impair their impartiality.

Or. en

Amendment 7

Proposal for a directive Recital 18

Text proposed by the Commission

(18) NCAs should have the necessary resources, in terms of staff, expertise, financial means and technical equipment, to ensure they can effectively perform their tasks when applying Articles 101 and 102 TFEU. In case their duties and powers under national law are extended, the resources that are necessary to perform those tasks should still be sufficient.

Amendment

(18) NCAs should have the necessary resources, in terms of staff, expertise, financial means and technical equipment, to ensure they can effectively perform their tasks when applying Articles 101 and 102 TFEU. In case their duties and powers under national law are extended, the resources that are necessary to perform those tasks should still be sufficient. ***The independence of NCAs will be enhanced if they exercise budgetary autonomy in the implementation of the budgets allocated to them. Autonomy in the implementation of allocated budgets should be implemented in the framework of national budgetary rules and procedures".*** .

Or. en

Amendment 8

Proposal for a directive Recital 21

Text proposed by the Commission

(21) The investigative powers of national administrative competition authorities need to be adequate to meet the enforcement challenges of the digital environment and should enable national competition authorities to obtain all information in digital form, including data obtained forensically, related to the undertaking or association of undertakings which is subject to the investigative measure, irrespective of the medium on which it is stored, such as on laptops, mobile phones ***and*** other mobile devices.

Amendment

(21) The investigative powers of national administrative competition authorities need to be adequate to meet the enforcement challenges of the digital environment and should enable national competition authorities to obtain all information in digital form, including data obtained forensically, related to the undertaking or association of undertakings which is subject to the investigative measure, irrespective of the medium on which it is stored, such as on laptops, mobile phones, other mobile devices ***and cloud storage.***

Or. en

Amendment 9

Proposal for a directive

Recital 34

Text proposed by the Commission

(34) The deterrent effect of fines differs widely across Europe and in some Member States the maximum amount of the fine that can be set is very low. To ensure NCAs can set deterrent fines, the maximum amount of the fine should be set at a level of ***not less than*** 10% of the total worldwide turnover of the undertaking concerned. ***This should not prevent Member States from maintaining or introducing a higher maximum amount of the fine.***

Amendment

(34) The deterrent effect of fines differs widely across Europe and in some Member States the maximum amount of the fine that can be set is very low. To ensure NCAs can set deterrent fines, the maximum amount of the fine should be set at a level of 10% of the total worldwide turnover of the undertaking concerned.

Or. en

Amendment 10

Proposal for a directive

Article 2 – paragraph 1 – point 9

Text proposed by the Commission

(9) ‘***secret*** cartel’ means an agreement ***and/or*** concerted practice between two or more competitors aimed at coordinating their competitive behaviour on the market ***and/or*** influencing the relevant parameters of competition through practices such as the fixing of purchase or selling prices or other trading conditions, the allocation of production or sales quotas, the sharing of markets including bid-rigging, restrictions of imports or exports ***and/or*** anti-competitive actions against other competitors, ***which is not, partially or fully, known except to the participants;***

Amendment

(9) ‘cartel’ means an agreement ***or*** concerted practice between two or more competitors aimed at coordinating their competitive behaviour on the market ***or*** influencing the relevant parameters of competition through practices such as, ***but not limited to,*** the fixing ***or coordination*** of purchase or selling prices or other trading conditions, ***including in relation to intellectual property rights,*** the allocation of production or sales quotas, the sharing of markets ***and customers,*** including bid-rigging, restrictions of imports or exports ***or*** anti-competitive actions against other competitors;

(If adopted, the change made to the defined term would need to be made throughout the text.)

Amendment 11

Proposal for a directive

Article 4 – paragraph 2 – point c

Text proposed by the Commission

c) The staff **and the** members of the decision-making body of national administrative competition authorities refrain from any action which is incompatible with the performance of their duties and exercise of their powers for the application of Articles 101 and 102 TFEU;

Amendment

c) The staff, members of the decision-making body **and management** of national administrative competition authorities refrain from any action which is incompatible with the performance of their duties and exercise of their powers for the application of Articles 101 and 102 TFEU; ***in particular, this entails that during their employment and their term of office, they do not have an interest in any businesses or organisations which have dealings with an NCA, to the extent that this has the potential to compromise their independence;***

Or. en

Justification

The rapporteur's intention is to strengthen the impartiality of NCA staff and members.

Amendment 12

Proposal for a directive

Article 4 – paragraph 2 – point c a (new)

Text proposed by the Commission

Amendment

ca) The staff, members of the decision-making body and management declare any interest or asset which might create a conflict of interests in the performance of their duties. To this end, the staff, members and management of the NCA shall make an annual declaration of commitment and declaration of interests, indicating direct

or indirect interests that might be considered prejudicial to their independence and might influence their performance;

Or. en

Justification

The intention of the rapporteur is to strengthen the independence of the NCAs from political or business influence. Similar provisions already exist in sector regulations, such as for regulatory bodies in the railway sector (Directive 2012/34, Article 55).

Amendment 13

Proposal for a directive

Article 4 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

ea) The members of the decision-making body of national administrative competition authorities are selected and appointed according to clear and transparent rules and procedures laid down in advance;

Or. en

Justification

The intention of the rapporteur is to strengthen the independence of the NCAs from political or business influence. Similar provisions already exist in sector regulations, such as for regulatory bodies in the railway sector (Directive 2012/34, Article 55).

Amendment 14

Proposal for a directive

Article 5 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall ensure that national competition authorities have the human, financial and technical resources that are necessary for the effective performance of their duties and exercise of their powers when applying Articles 101

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and 102 TFEU as defined in paragraph 2.

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Member States shall ensure that the NCA has separate annual budget allocations, and is granted autonomy in the implementation of the allocated budget. This budgetary autonomy shall be exercised without prejudice to national budgetary rules and procedures.

Or. en

Justification

Giving to the NCAs the right to autonomously distribute their financial resources between different cases will allow for flexibility and independence in choosing which cases deserve more attention. For some NCAs, this could be a substantial improvement in terms of independence from other institutions.

Amendment 15

Proposal for a directive

Article 6 – paragraph 1 – point b

Text proposed by the Commission

b) to examine the books and other records related to the business irrespective of the medium on which they are stored, including the right to access information which is accessible to the entity subject to the inspection;

Amendment

b) to examine the books and other records related to the business irrespective of the medium on which they are stored, ***such as on laptops, mobile devices and cloud storage***, including the right to access information which is accessible to the entity subject to the inspection;

Or. en

Justification

The intention of the rapporteur is to make the proposal fit for the digital age, and to enable NCAs to have better access to relevant media. Information about cartels is rarely documented in writing, but is rather found in electronic correspondence.

Amendment 16

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

Member States shall ensure that national administrative competition authorities may **by decision** require undertakings and associations of undertakings to provide all necessary information for the application of Articles 101 and 102 TFEU within a specified time limit. This obligation shall cover information which is accessible to the undertaking and association of undertakings.

Amendment

Member States shall ensure that national administrative competition authorities may require undertakings and associations of undertakings to provide all necessary information for the application of Articles 101 and 102 TFEU within a specified time limit. This obligation shall cover information which is accessible to the undertaking and association of undertakings.

Or. en

Justification

The intention of the rapporteur is to facilitate NCAs in the request for information, provide them with more flexibility and speed up proceedings.

Amendment 17

**Proposal for a directive
Article 12 – paragraph 2 – point d**

Text proposed by the Commission

d) they supply incorrect, incomplete or misleading information in response to a request **made by a decision** referred to **by** Article 8 or do not supply information within the specified time-limit;

Amendment

d) they supply incorrect, incomplete or misleading information in response to a request referred to **in** Article 8 or do not supply information within the specified time-limit;

Or. en

Justification

The intention of the rapporteur is to facilitate NCAs in the request for information, provide them with more flexibility and speed up proceedings.

Amendment 18

**Proposal for a directive
Article 14 – paragraph 1**

Text proposed by the Commission

1. Member States shall ensure that the maximum amount of the fine a national competition authority may impose on each undertaking or association of undertakings participating in an infringement of Articles 101 or 102 TFEU **should not be** set at a level **below** 10% of its total worldwide turnover in the business year preceding the decision.

Amendment

1. Member States shall ensure that the maximum amount of the fine a national competition authority may impose on each undertaking or association of undertakings participating in an infringement of Articles 101 or 102 TFEU **is** set at a level **of** 10% of its total worldwide turnover in the business year preceding the decision.

Or. en

Justification

The intention of the rapporteur is to reduce discrepancies in the levels of fines applied in different Member States. This also makes the text more clear and avoids different interpretations.

Amendment 19

Proposal for a directive
Article 14 – paragraph 2

Text proposed by the Commission

2. Where an infringement by an association of undertakings relates to the activities of its members, the maximum amount of the fine shall **not** be set at a level **below** 10 % of the sum of the total worldwide turnover of each member active on the market affected by the infringement of the association. However, the financial liability of each undertaking in respect of the payment of the fine shall not exceed the maximum amount set in accordance with paragraph 1.

Amendment

2. Where an infringement by an association of undertakings relates to the activities of its members, the maximum amount of the fine shall be set at a level **of** 10 % of the sum of the total worldwide turnover of each member active on the market affected by the infringement of the association. However, the financial liability of each undertaking in respect of the payment of the fine shall not exceed the maximum amount set in accordance with paragraph 1.

Or. en

Justification

The intention of the rapporteur is to reduce discrepancies in the levels of fines applied in different Member States. This also makes the text more clear and avoids different interpretations.

Amendment 20

Proposal for a directive Article 19 – paragraph 1

Text proposed by the Commission

Member States shall ensure that applicants can apply for leniency in writing and that national competition authorities have a system in place that enables them to accept leniency statements either orally or by other means that do not result in the production of documents, information, or other materials in the applicant's possession, custody, or control.

Amendment

Member States shall ensure that applicants can apply for leniency in writing and that national competition authorities have a system in place that enables them to accept leniency statements either orally or by other means that do not result in the production of documents, information, or other materials in the applicant's possession, custody, or control. ***Member States shall allow NCAs to accept full leniency applications and summary applications in another EU language, in addition to the official language or languages of the Member State of the NCA.***

Or. en

Justification

The intention of the rapporteur is to give an additional incentive to undertakings to apply for leniency by reducing costs for translating leniency applications, where possible.

Amendment 21

Proposal for a directive Article 21 – paragraph 1

Text proposed by the Commission

1. Member States shall ensure that applicants that have applied for leniency, either by applying for a ***market*** or by submitting a full application, to the Commission in relation to an alleged ***secret*** cartel can file summary applications in relation to the same cartel with the national competition authorities which the applicant considers well placed to deal with the case.

Amendment

1. Member States shall ensure that applicants that have applied for leniency, either by applying for a ***marker*** or by submitting a full application, to the Commission in relation to an alleged cartel can file summary applications in relation to the same cartel with the national competition authorities which the applicant considers well placed to deal with the case.

