

## Notice regarding

### Immunity from a fine or reduction in a fine in administrative procedures to establish infringement of competition rules<sup>1</sup>

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<sup>1</sup> This translation is a non-binding text. It is provided by the Portuguese Competition Authority for information purposes only. While every effort has been made to ensure its accuracy, the only legally binding text is the original Portuguese document, the Notice regarding Regulation 1/2013, of 3 of January. The Portuguese Competition Authority reserves the right to revise any part of this translation as it deems appropriate in the light of comments and suggestions that are made.

## Introduction

1. The purpose of this notice is to set out how the Portuguese Competition Authority (PCA) applies the leniency programme in administrative proceedings relating to infringement of competition laws, as stipulated in the Competition Act (Law no. 19/2012, of 8 May), and its procedural provisions, as set out in Regulation no. 1/2013, published in the Portuguese Official Journal - *Diário da República* - Series II No. 2, 3 January 2013. This notice should be read along with these documents and does not replace them.
2. This notice does not therefore create any rights or obligations for those applying for immunity from a fine or reduction of a fine, who should refer to the provisions of Law no. 19/2012, of 8 May, and Regulation no. 1/2013.
3. This notice, which replaces the notice entitled “The regime governing immunity from a fine or reduction of a fine under the provisions of Law no. 39/2006, of 25 August, and Regulation no. 214/2006, of the Competition Authority, published in the Portuguese Official Journal - *Diário da República* no. 225, Series II, of 22 November”, follows the entry into force of Law no. 19/2012, of 8 May, and Regulation no. 1/2013.

## I. General considerations

### 1. Purpose

4. The regime covering immunity from a fine or reduction of a fine applies to infringements referred to in article 75 of the Competition Law, namely agreements or concerted practices between two or more competitors, prohibited under article 9 of Law no. 19/2012, of 8 May and, if applicable, under article 101 of the Treaty on the Functioning of the European Union (TFEU), aimed at coordinating their competitive behaviour in the market, or influencing relevant parameters of competition, specifically 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 in public procurement, restrictions on imports or exports or anti-competitive actions against other competitors (specifically, hereinafter, under the terms of this notice, through a cartel or infringement).
5. The fine for cartels is up to 10% of the turnover of the undertaking in the year immediately preceding the final decision issued by the Competition Authority. Sanctions may also be applied against members of the governing bodies of undertakings, as well as those responsible for the management or oversight of areas of activity covered by the cartel. This is applicable when such persons act in the name and in the interest of the undertaking or when they know of or are responsible for knowing of the practice that led to the infringement and they did not take adequate measures to stop the infringement immediately.
6. The regime covering immunity from a fine or reduction of a fine, as set down in Law no. 19/2012, of 8 May, provides the Competition Authority with a very effective instrument in discovering and sanctioning cartels. It also provides optimal conditions for collaboration by undertakings or members of governing bodies involved in such practices.

## 2. Beneficiaries

7. All natural or legal persons, who could be sanctioned for participating in a cartel, may apply for immunity from a fine or reduction of a fine under the provisions of Law no. 19/2012, of 8 May.
8. In cases where the application for immunity from a fine or reduction of a fine is submitted by an undertaking, those individuals on the governing bodies of the undertaking, and those responsible for management or oversight of the activity where the cartel has been operating, will benefit from the immunity or reduction of the fine issued to the undertaking itself.
9. In addition, members of the governing bodies of legal persons, or their equivalent, and those responsible for management or oversight of the activity where the cartel has been operating, can apply for immunity from a fine or reduction of a fine as an individual, whereby the rules set down in the Competition Law and Regulation no. 1/2013 will apply, with all necessary adaptations. In this case, immunity from a fine or reduction of a fine is conferred only on the individual concerned.

## 3. Immunity from a fine

10. Immunity from a fine will only be conferred if all of the conditions set out in the Competition Law and in Regulation no. 1/2013 are fulfilled.
11. It therefore follows that, in accordance with article 77 of Law no. 19/2012, of 8 May, immunity will only be conferred to the first undertaking to provide information and evidence which, in the Competition Authority's view, will enable it to:
  - a) Provide a substantive reason for a request for a warrant to carry out search and seizure pursuant to article 18, paragraph 1, subparagraph *c*), and articles 19 and 20 of Law no. 19/2012, at a time when the Competition Authority does not have enough information to substantiate the request; (constituting a type 1A applicant, as per article 77, paragraph 1, subparagraph *a*)) or
  - b) Detect an infringement as set out in article 75, provided that, at this point in time, the Competition Authority does not have enough evidence about the infringement (constituting a type 1B applicant, as per article 77, paragraph 1, subparagraph *b*)).
12. The granting of immunity from a fine also depends on verification of the following conditions:
  - a) Full and continuous cooperation with the Competition Authority from the time of the submission of the application. The duty of cooperation includes namely:
    - i. Promptly providing all the information and the evidence that is or comes into the possession or control of the applicant;
    - ii. Responding expeditiously to any request for information that may contribute to determining the facts;
    - iii. Refraining from any act that may hinder the progress of the investigation, specifically by destroying, falsifying or concealing information or evidence relating to the infringement; and

- iv. Refraining from disclosing the existence or the contents of the application, or the intention to submit such an application, except with express written authorisation from the Competition Authority.
  - b) The applicant must also cease to be a party to the cartel, as and from the point where applicant has provided the Competition Authority with the information and the evidence, except in as far as is reasonably necessary, in the opinion of the Competition Authority, to maintain the effectiveness of the investigation; and
  - c) Has not coerced any other undertakings to participate in the infringement.
13. Within the scope of the duty to cooperate, the applicant for immunity from a fine may be asked, if such is warranted, to make current (and to the extent possible, former) employees and directors available for interviews with the Competition Authority. .

#### 4. Reduction of the fine

14. Those undertakings that do not qualify for immunity from a fine may be granted a reduction if they provide information and evidence on the cartel of significant added value with respect to the information already in the possession of the Competition Authority (constituting type 2 applicants).
15. The level of reduction of the fine is as follows, for the:
- first undertaking providing information and evidence of significant added value – between 30 and 50%;
  - second undertaking providing information and evidence of significant added value – between 20 and 30%;
  - subsequent undertakings providing information and evidence of significant added value – up to 20%.
16. The amount of reduction of the fine is determined according to the extent to which the information and evidence submitted by the undertaking represents added value for the investigation and conclusive evidence establishing that there was an infringement.
17. The significant added value of the evidence is determined according to the information and evidence already in the possession of the Competition Authority when the applicant provides information and evidence. Its probative value is also taken into account in determining the significant added value of the evidence, especially the extent to which the form, nature and level of detail of the evidence or information contributes to reinforce the capacity of the Competition Authority to prove the existence of the alleged cartel.
18. In general terms, and subject to the assessment of the case, the Competition Authority may consider that:
- written evidence dating from the period of time to which the facts pertain has greater value than evidence from a subsequent period;
  - direct evidence of the facts in question will have greater value than indirect evidence.
19. Similarly, the degree of corroboration from other sources, necessary to uphold the evidence presented against other undertakings involved in the case will have a bearing on the value of the evidence concerned. Greater value will be attributed to decisive evidence than to evidence that will need to be corroborated if contested.

20. Granting a reduction of a fine also depends on the following conditions, as set down in article 78 of Law no. 19/2012, of 8 May:
- i. Cooperating fully and continuously with the Competition Authority from the point when the application is submitted. The duty of cooperation means, specifically, the following: supplying all the information and evidence that is in possession or available to, or under the control of the applicant;
  - ii. Responding expeditiously to any request for information that may contribute to determining the facts;
  - iii. Refraining from carrying out any acts that may hinder the investigation, specifically by destroying, falsifying or concealing information or evidence relating to the infringement; and
  - iv. Refraining from disclosing the existence or the contents of the application, or the intention behind the application, except with express written authorisation from the Competition Authority.
- a) The applicant must also terminate its participation in the infringement, from the point where the applicant has provided the Competition Authority with the information and evidence, except to the extent that is reasonably necessary, in the view of the Competition Authority, to maintain the effectiveness of the investigation.
21. Within the scope of cooperation, the applicant for immunity from a fine may be asked, if warranted, to make available current, and to the extent possible, former employees and directors for interviews with the Competition Authority.

## **5. Final Decision**

22. The final decision on immunity from a fine or reduction of a fine is taken by the Competition Authority at the point when it has issued a final decision, in accordance with article 29, paragraph 3, subparagraph *a*), of Law no. 19/2012, of 8 May, and such immunity or reduction of a fine depends on all the stipulated requirements being fulfilled, depending on the case, as per articles 77 or 78 of Law no. 19/2012, of 8 May, namely the requirement to cooperate fully and continuously with the Competition Authority.
23. The cooperation of an applicant requesting immunity from a fine or reduction of a fine where the requirements are not fully met is taken into account by the Competition Authority when calculating the fine, as per the provisions of subparagraph *i*) of paragraph 1 of article 69 of Law no. 19/2012, of 8 May.

## **II. Prior contacts with the Competition Authority**

24. Any person may contact the Competition Authority, directly or through an authorised representative, in the context of an eventual application for immunity from a fine or reduction of a fine.
25. During these contacts, general considerations regarding the legal framework on immunity from a fine or reduction of a fine may be discussed, or issues relating to the infringement in question, albeit on a hypothetical basis.,

### **III. Submission of applications for immunity from a fine or reduction of a fine and subsequent procedures**

#### **1. Submission of an application for immunity from a fine or reduction of a fine**

26. The rules on the submission of an application for immunity from a fine or reduction of a fine are set down in Regulation no. 1/2013.
27. The application for immunity from a fine or reduction of a fine may be made to the Competition Authority orally or in writing.
28. Given the duties inherent to the application for immunity from a fine or reduction of a fine, the applicant should consider what preparatory work should be done within the undertaking so as to ensure that evidence is safeguarded, and to reduce the risk of alerting other parties to the infringement to the fact that such an application is being made.

#### **a) Written application**

29. When the application for immunity from a fine or reduction of a fine is submitted to the Competition Authority in writing, it must contain all the prerequisites set out in Regulation no. 13.
30. When preparing the application, the applicant must indicate clearly whether it is applying for immunity from a fine or, also for reduction of a fine should immunity no longer be available.
31. The application must also include the identification of the applicant, as well as state whether it is being submitted on behalf of the undertaking (under the provisions of subparagraph *a*) of article 76 of Law no. 19/2012, of 8 May) or by a member of the governing body, or of those responsible for the management or oversight of areas where the cartel has operated, (under the provisions of subparagraph *b*) of article 76 of Law no. 19/2012, of 8 May).
32. If the applicant is a legal person, the application must provide the identity of the members of the current governing body, as well as those who were in office during the period when the infringement took place, with their business addresses and, if necessary, their home.
33. The application must also contain:
  - Accurate and detailed information about the cartel, including its aims, activities and functioning, the product or service concerned, the geographical scope and the duration, as well as the dates, places, content and participants in any contacts relating to the cartel and all relevant explanations regarding the evidence submitted in support of the application;
  - The names of the undertakings involved in the cartel, including the identity of current members of the governing body, as well as those in office during the period when the infringement took place and, if necessary, their home; and
  - The names of other jurisdictions, specifically European Union national competition authorities, where an application for immunity from a fine or reduction of a fine regarding the same cartel has or is in the process of being filed.
  - Any other information relevant to the application.

34. The information regarding the cartel must be accurate and detailed, and must be related to the notion of cartel under article 9 of Law no. 19/2012, of 8 May, and, if applicable, in article 101 of the TFEU.
35. The applicant, on presenting the request, must also hand over any evidence of the cartel that is in its possession or control, and namely what relates to the period of the infringement. A list of this material must also be appended.
36. As for the elements submitted as evidence, they must contain explicit proof of the infringement in question, and must be presented along with a clear identification of the fact(s) they aim to prove. For this, it may be necessary for the applicant to attach an explanation or interpretation for each one.
37. Evidence may be, namely, documents providing a description of the infringement, independently of their form and/or their means of transmission, such as the text of any agreements, minutes or notes of meetings, memos or correspondence exchanged between the undertakings involved in the infringement. The names of the individuals or legal persons whose statements could be relevant for the ascertaining of the facts should also be included.
38. Once completed, the application must be submitted to the Competition Authority by any means, namely:
  - a) Sent by fax to +351 217902093;
  - b) Sent by post to the premises of the Competition Authority;
  - c) Sent by e-mail to [clemencia@concorrencia.pt](mailto:clemencia@concorrencia.pt) with advanced electronic signature and date validation; or
  - d) Submitted personally, for example, at a meeting with the service in charge of the proceedings, at the premises of the Competition Authority.

#### **b) Oral application**

39. The application for immunity from a fine or reduction of a fine can be made orally during a meeting with the unit handling the case in the case, at the premises of the Competition Authority.
40. The contents of an application for immunity from a fine or reduction of a fine made orally must fulfil the same information requirements as a written application as described above.
41. Similarly to written applications, oral statements must contain accurate and detailed information on the infringement, and must be related to the notion of cartel under article 9 of Law no. 19/2012, of 8 May and, where applicable, in article 101 of the TFEU.
42. When making an oral statement, the applicant must submit the relevant evidence, notwithstanding the right to additional time, under the provisions of article 4 of Regulation no. 1/2013.
43. Oral statements will be recorded at the premises of the Competition Authority, with a reference to the date and time, and the record will be mentioned in the file.
44. Within a deadline set by the Competition Authority, the applicant must verify the technical accuracy of the recording that will be available at the premises of the Competition Authority. The applicant has the opportunity to make amendments to the oral statement, using the procedure set down in paragraph 6 of article 2 of the Regulation, with all due

adaptations. If the applicant chooses not to make any changes within that period of time, the recording is deemed to be approved.

45. The Competition Authority can request the cooperation of the applicant at a technical level, especially regarding the recording and transcription of the oral statements, and the lack of such cooperation on behalf of the applicant may be deemed to be a violation of the applicant's duty to cooperate.
46. The transcription of the oral statements will be signed by the applicant, as a document of the Competition Authority.

#### **c) Summary application**

47. The Competition Authority may accept summary application for immunity from a fine or reduction of a fine where the infringement affects competition in more than three European Union member states. In these circumstances, the European Commission is particularly well placed to investigate the infringement, under the provisions of paragraph 14 of the Commission Notice on cooperation within the Network of competition authorities<sup>2</sup>, if the applicant has submitted or may submit an application for immunity from a fine to the European Commission.
48. The summary application may be filed for immunity from a fine or for reduction of a fine, and the applicant is under no obligation to submit evidence of an infringement with its application.
49. The summary application must be submitted, with all the items completed, in the form that can be found as an appendix to Regulation no. 1/2013, and it can be submitted in Portuguese or English.
50. A written submission of a summary application may replace an oral application, and must fulfil the same requirements as the written application as described in the form.
51. In case of an oral summary application, the oral statements are recorded at the premises of the Competition Authority, and the record will be mentioned in the file.
52. With a deadline set by the Competition Authority, the applicant must verify the technical accuracy of the recording that will be available at the premises of the Competition Authority. The applicant has the opportunity to make amendments to the oral statement. If the applicant chooses not to make any changes within that period of time, the recording is deemed to be accurate. At this stage, no transcription of the oral statements is done.

#### **d) The moment when the request is made**

53. To determine the granting of immunity from a fine or reduction of a fine, it is fundamental to establish the point which marks the start of collaboration with the Competition Authority in the investigation of an agreement or concerted practice. The start of collaboration with the Competition Authority is deemed to be the point when the application for immunity from a fine or reduction of a fine has been submitted.

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<sup>2</sup> OJ C 101 of 27.4.2004, p. 43. This Notice should be read together with Regulation (CE) 1/2003, of 16 December 2002, on the implementation of the rules on competition laid down in articles 81 and 82 of the Treaty, OJ L 1 of 4.1.2003, pp. 1 - 25.



54. In those cases where the written application is submitted in person during a meeting with the unit handling the case, at premises of the Competition Authority or by oral application, the start of collaboration is deemed to be as and from the date and time of the meeting. The Competition Authority will provide a document certifying the reception of the application that includes the date and time of the meeting. This must also be signed by the applicant.
55. Where the application for immunity from a fine or reduction of a fine is sent through the post or by fax, the date and time are deemed to be when the document is received at the premises of the Competition Authority. The Competition Authority will provide a document certifying the date and time that the application is received.
56. It is the responsibility of the applicants to choose how they submit their application to the Competition Authority, and they must pay special attention to the impact of their choice on determining the date and time that they are submitting their application.
57. For the purposes of analysing an application for immunity from a fine or reduction of a fine submitted to the Competition Authority at the same time as a search is being carried out, the Competition Authority will consider all the evidence seized during the search as pre-existing at the point where the application for immunity from a fine or reduction of a fine is submitted.

**2. Proceedings relating to the application for immunity from a fine or reduction of a fine**

**a) Acceptance of the application for immunity from a fine or reduction of a fine and the granting of a marker**

58. After receiving the application, the Competition Authority will start the process of deciding on the request. It can then, on its own initiative or on request, grant a marker, granting an additional period of not less than 15 days, for submitting further information and evidence relating to the (alleged) cartel to the file.
59. The Competition Authority may grant a period different from that referred to in the previous paragraph whenever there are reasons stemming from cooperation with other European competition authorities, under the provisions of Regulation (CE) no. 1/2003 of 16 December 2002.
60. In order to be granted the marker, the applicant must indicate on the request:
  - Their name and address;
  - Information relating to those who are party to the alleged cartel;
  - Information relating to the product(s) and/or service(s) and the territory or territories covered;
  - An estimate of the duration of the alleged cartel and how it functioned;
  - Any applications for immunity from a fine or reduction of a fine that have already been submitted or may be submitted to other competition authorities relating to the alleged cartel;

- Justification of the request for a marker.
- 61. If the applicant does not submit the information and the evidence of the cartel within the period granted, the application will be rejected on the grounds that it is incomplete.
- 62. This situation does not impede the applicant from submitting another application for immunity from a fine or reduction of a fine relating to the same cartel, which will be deemed to have been submitted on the date and time when the new application is received.
- 63. Any documentation submitted as part of an application that is rejected because it is incomplete will be returned to the applicant, or will be taken into account as collaboration with the Competition Authority, and may be considered to be mitigating circumstances for the purposes of calculating the fine, under the provisions of subparagraph *i)* of paragraph 1 of article 69 of Law no. 19/2012, of 8 May, if the applicant so requests within a period of 10 working days from the notification made by the Competition Authority.

**b) Analysis of the application for immunity from a fine**

- 64. After analysing the application for immunity from a fine, the Competition Authority will inform the applicant if the submission complies with the requirements set out in paragraph 1 of article 77 of Law no. 19/2012, of 8 May, and will confirm in writing that conditional immunity from a fine has been granted.
- 65. The Competition Authority will not take into account other applications for immunity from a fine before deciding on any existing application relating to the same alleged infringement.
- 66. If the Competition Authority finds, after analysing the application, that immunity is no longer available according to the provisions of paragraph 1 of article 77 of Law no. 19/2012, of 8 May, the applicant will be informed in writing to this effect.
- 67. Upon the Competition Authority informing the applicant that the requirements for immunity are not met, the applicant who sought only immunity from a fine may, within a period of 10 days, may withdraw its application or request that the Competition Authority consider the application for the purposes of reduction of the fine.
- 68. The Competition Authority will not consider an application for reduction of a fine unless it is expressly requested in writing by the applicant. In this case, the application for a reduction of a fine is deemed to have been submitted on the date and time when the request for immunity from fine was filed.
- 69. The possibility of withdrawing an application is only available for applicants who submit a request exclusively for immunity from a fine, and when this immunity is no longer available. If the applicant submits an application for immunity from a fine or reduction of a fine, and immunity is not available, the application will subsequently be analysed for the purposes of granting the reduction of a fine.

**c) Analysis of the application for a reduction in the fine**

- 70. In cases involving applications for reduction of a fine, and if the Competition Authority concludes unreservedly that the evidence submitted as part of an application for a reduction of a fine have significant added value under the terms of article 78 of Law no.

19/2012, of 8 May, it will inform the applicant of its intention to grant a reduction of the fine, with an indication of the range specified under the provisions of that article.

71. If the Competition Authority concludes that the elements submitted with the request for reduction of a fine do not have significant added value under the terms of article 78 of Law no. 19/2012, of 8 May, it will immediately inform the applicant in writing of its intention not to grant a reduction of the fine. Any documents that have been submitted in the meantime will be returned to the applicant. The applicant may, however, request, within 10 days of the notification sent by the Competition Authority, that these documents are available to be considered as cooperation with the Competition Authority, under the terms and for the purposes of subparagraph *i*), article 69 of Law no. 19/2012, of 8 May.
72. The Competition Authority will not take a decision on a reduction of a fine before deciding on any other applications for immunity from a fine relating to the same infringement.

### **3. Procedures relating to summary application**

73. If the Competition Authority opens an investigation of the cartel, it will ask the applicant to complete the submission in a period of no less than 15 days, and submit any information or evidence in its possession.
74. In case the summary application had been submitted in English, the applicant must, during that same period, provide the Portuguese translation of its summary application.
75. The Competition Authority may grant the applicant a period, not of no less than 15 days, whenever there are reasons stemming from cooperation with other European authorities responsible for competition, under the provisions of Regulation (CE) no. 1/2003, of 16 December 2002.
76. If the applicant has not completed the application within the time period set by the Competition Authority, the application is rejected on the grounds that it is incomplete. The application will also be considered incomplete if the applicant does not submit the Portuguese translation of its summary application, should it have been submitted firstly in English.
77. If a summary application has been presented only for the purpose of obtaining immunity from a fine, and immunity is not available, the Competition Authority will inform the applicant, who can withdraw its application or request it to be considered for the purpose of obtaining a reduction of a fine. The fact that immunity is no longer available may derive namely from the Competition Authority having already granted immunity to another applicant.
78. Whenever the applicant submits the request for immunity from a fine or reduction of a fine within the period stipulated, the request is deemed to have been made at the date and time when the summary application was filed.

#### **IV. Protection of information relating to the application for immunity from a fine or reduction of a fine**

##### **1. Confidential documents**

79. The Competition Authority classifies as confidential the application for immunity from a fine or reduction of a fine, along with all the documents and information submitted for the purposes of immunity from a fine or reduction of a fine.
80. Access by undertakings under investigation to the application for immunity from a fine or reduction of a fine will be granted for the purpose of exercising their rights of defence, provided that making copies is strictly prohibited, unless so authorised by the applicant.
81. Authorisation from the applicant is required for access by third parties to the documents that the applicant has submitted for the purpose of immunity from a fine or reduction of a fine.
82. If the Competition Authority accepts an oral submission for immunity from a fine or reduction of a fine, neither the parties nor the applicant, are permitted to make copies of the oral statements. Third parties have no access to the oral application.
83. Access to the oral application for immunity from a fine or reduction of a fine will only be granted to the parties under investigation for the purpose of exercising their rights of defence provided they commit not to make any record or transcription of the oral statements.
84. The Competition Authority will guarantee the legitimate right of the undertakings to protect their business secret under the provisions of Law no. 19/2012, of 8 May.

##### **2. Protective measures within the scope of the European Competition network**

85. In order to prevent the cooperation mechanisms for cooperation between authorities responsible for competition established by Regulation (CE) no. 1/2003 of 16 December 2002 discouraging applicants from voluntarily reporting cartel activities, the Commission Notice on cooperation within the Network of competition authority sets out special safeguards for the protection of information relating to immunity from a fine or reduction of a fine.<sup>3</sup> These safeguards enable authorities responsible for competition to exchange and use as evidence information without jeopardizing their leniency programs.
86. In accordance with point 39 of the above mentioned Notice, the information related with the application for immunity from a fine or reduction of a fine transmitted under the provisions of article 11 of Regulation (CE) no. 1/2003, of 16 December 2002, cannot be used by other authorities responsible for competition to start an investigation.
87. In accordance with point 41 of the above mentioned Notice, the information submitted by an applicant can only be exchanged between authorities responsible for competition in the following circumstances:
  - a) The applicant consents to the exchange; or
  - b) The applicant has requested immunity from a fine or reduction of a fine from both authorities responsible for competition; or

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<sup>3</sup> See points 39 to 42 of the Commission Notice on Cooperation within the Network of Competition Authorities, OJ C 101 of 27.4.2004, p. 43-53.

- c) The receiving authority responsible for competition provides a written commitment not to use the information transmitted or any information it may obtain after the date of the transmission to impose sanctions on the applicant, its subsidiaries or its employees. A copy of the written commitment will be given to the applicant.
88. The oral statements made by the applicant will only be transmitted under the provisions of article 12 Regulation (CE) no. 1/2003, of 16 December 2002, if the conditions set down in the Commission Notice on cooperation within the Network of competition authorities are all duly fulfilled, and as long as the protection granted by the authority receiving the statements is equivalent to that granted by the Competition Authority.