

NOTE REGARDING PROCEDURES FOR APPLYING ARTICLE 14 TER OF LAW NO. 287 OF 10TH OCTOBER 1990 - UPDATED TEXT

Annex to measure no. 22089

Background¹

Section 14(1) of Decree Law no. 223 of 4 July 2006 converted with amendments into Law no. 248 of 4 August 2006 which states “*Conversion into law, with amendments, of decree-law no. 223 of 4 July 2006, specifying urgent measures for economic and social revival, for the containment and rationalization of public spending, as well as measures dealing with taxation and the combating of tax evasion*”² brought into force Section 14-ter of Law no. 287 of 10 October 1990.

According to that Section “Within three months from notification of the launch of an investigation into the possible violation of Sections 2 or 3 of this law or Articles 81 or 82 of the EC Treaty, companies may offer commitments that would correct the anti-competitive conduct which is the subject of the investigation. The Authority may, after having assessed the suitability of such commitments and within the limits of EU law, make them binding on those companies and terminate the proceeding without ascertaining the contravention”. By way of this present notice, the Authority wishes to furnish interested parties with a number of initial instructions as to the procedures to be adopted in applying Section 14-ter of the Law.

Preliminary Presentation of the Commitments

The parties involved in an investigation into the possible violation of Sections 2 or 3 of the Law or Sections 81 or 82 of the EC Treaty who intend to present commitments so that the Authority may assess their suitability in correcting the anti-competitive conduct being investigated, may present a non-definitive advance version of them with an appropriate lead-time relative to the three-month deadline stipulated in the regulation mentioned.

Following such preliminary presentation, the interested parties may meet with the appropriate Directorate for the sole purpose of any necessary clarification as to the substance of the proposed commitments.

In any case, within three months from notification of the launch of an investigation, as foreseen in Section 14-ter of the Law, the parties involved must forward the definitive version of the proposed commitments to the Authority.

The preliminary and definitive presentation of the commitments by the companies involved will be by way of the compilation of a form provided by the Authority .

Procedures for Assessing the Commitments

Unless proposed commitments be found to be insufficiently manifested, the Antitrust Authority shall publish a resolution on the Authority website and in the Bulletin as per art. 26 of law no. 287 of 1990.

Interested third parties may submit their own observations about proposed commitments, but they must do so in writing within thirty days of the date of commitment publication on the Authority website. Should the Antitrust Authority require additional information, the competent Directorate shall request assistance from subjects who can make useful contributions to commitment assessment.

The Authority is empowered to justifiably determine commitments up until the results of the investigatory proceeding are communicated to the businesses.

¹ Unless otherwise specified, the following abbreviations will be used in the text:

«**law**»: Law no. 287 of 10 October 1990 (called Regulations for the Protection of Competition and the Market) published in the *Official Gazette* no. 240 of 13 October 1990;

«**Authority**»: The Italian Competition Authority as specified in Article 10 of the Law.

² Published in the Ordinary Supplement to the *Official Gazette* no.186 of 11 August 2006.