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Last updated in December 2025.

## **NOTICE ON THE NON-IMPOSITION AND REDUCTION OF FINES PURSUANT TO ARTICLE 15-BIS(1) OF LAW 287 OF 10 OCTOBER 1990**

### ***I. Introduction***

1. The principles and general framework of the Italian Competition Authority's leniency programme ("leniency programme") are set out in Articles 15-bis to 15-septies and in Articles 31-ter and 31-quater of Law 287/1990 (the "Competition Act"), as amended by Legislative Decree 185 of 8 November 2021, entitled "*Transposition of Directive (EU) 2019/1 of the European Parliament and of the Council of 11 December 2018 to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market*".
2. This Notice is adopted pursuant to Article 15-bis(1) of the Competition Act. Its purpose is to set out the features of the national leniency programme and the procedures governing the submission and assessment of leniency applications.

### ***II. Scope***

3. This Notice applies to secret cartels, as defined in Article 15-bis(2) of the Competition Act.
4. A conduct may be regarded as secret even where some of its features are known to the public or to customers and/or suppliers. What matters is that key elements – particularly those that reveal the full scope of the conduct and/or that it constitutes a cartel – remain concealed.
5. The inclusion of vertical elements in an agreement or concerted practice between competitors does not preclude it from being considered a secret cartel for the purposes of this Notice.

### ***III. Non-imposition of fines***

6. In accordance with Article 15-bis(3)(c) of the Competition Act, the Authority shall not impose the fines provided for in Article 15(1-bis) of the same Act for infringements of Article 2 of the Competition Act and/or Article 101 of the Treaty on the Functioning of the European Union ("TFEU") on the undertaking that is the first to disclose its participation in a secret cartel and to provide the Authority with evidence that:

- 1) enables the Authority – upon receiving the application – to carry out a targeted inspection in connection with the secret cartel, provided that the Authority did not yet have in its possession sufficient evidence to carry out such an inspection or had not already carried out such an inspection; or
- 2) in the Authority's view, is sufficient for it to find an infringement covered by the leniency programme, provided that the Authority did not yet have in its possession sufficient evidence to find such an infringement and that no other undertaking previously qualified for immunity under point 1) in relation to that secret cartel.

7. Given the public interest in uncovering secret cartels – and therefore in encouraging undertakings to come forward before the Authority becomes aware of a cartel – the Authority shall deem the condition under point 2) to be met only where the evidence submitted by the applicant is decisive in establishing the infringement. An undertaking that does not provide decisive evidence may nonetheless, upon request, be granted a reduction of fines if it meets the requirements and all conditions set out in Article 15-*ter* of the Competition Act.

8. Pursuant to Article 15-*bis*(4) of the Competition Act, immunity cannot be granted to an undertaking that has taken steps to coerce other undertakings. However, undertaking(s) that engaged in coercion may still qualify for a reduction of fines if they meet the requirements and all conditions set out in Article 15-*ter* of the Competition Act.

#### ***IV. Reduction of fines***

9. Undertakings that disclose their participation in a secret cartel and provide the Authority with supporting evidence may, under Article 15-*ter* of the Competition Act, benefit from a reduction of the fines applicable to infringements of Article 2 of the Competition Act and/or Article 101 TFEU.

10. To qualify, the evidence must represent significant added value in establishing an infringement covered by this Notice, relative to the evidence already in the Authority's possession at the time of the application. The Authority shall regard the added value provided by the applicant's evidence as significant where, by reason of its nature or level of detail, it strengthens the Authority's existing body of evidence and considerably enhances its ability to establish the infringement.

11. The reduction may not exceed 50% of the fine that would otherwise have been imposed on the undertaking in the absence of leniency. The amount shall be determined based on the order in which applications are received, in line with the following ranges:

- between 30% and 50% for the first undertaking to come forward;
- between 20% and 30% for the second undertaking;
- up to 20% for any subsequent undertakings.

**12.** As a general rule, in carrying out this assessment the Authority places greater value on documents dating back to the period of the alleged conduct, as well as on evidence that relates directly to the facts covered by the leniency application.

**13.** In determining the appropriate level of the reduction, the Authority shall consider:

- a) the timeliness of the undertaking's cooperation, based on the stage of the proceedings and the level of cooperation provided by other undertakings;
- b) the probative value of the material.

**14.** As provided in Article 15-ter(2) of the Competition Act, compelling evidence submitted by the applicant and used by the Authority to establish additional facts leading to increased fines for other cartel participants shall not be taken into account when setting the fine to be imposed on the undertaking which provided this evidence (partial immunity).

#### ***V. General conditions for leniency***

**15.** To benefit from the non-imposition or reduction of a fine, an undertaking must also meet all the conditions set out in Article 15-quater of the Competition Act.

**16.** In particular, the applicant must meet the following requirements:

*“a) it ended its involvement in the alleged secret cartel at the latest immediately following its leniency application, except for what would, in the Authority’s view, be reasonably necessary to preserve the integrity of its investigation;*

*“b) it cooperates genuinely, fully, on a continuous basis and expeditiously with the Authority from the time of its application until the Authority has closed its proceedings against all parties under investigation by adopting a decision or has otherwise terminated its investigation proceedings”.*

For the applicant, such cooperation includes:

*“1) providing the Authority promptly with all relevant information and evidence relating to the alleged secret cartel that comes into the applicant’s possession or is accessible to it, in particular:*

*1.1 the name and address of the applicant;*

*1.2 the names of all other undertakings that participate or participated in the alleged secret cartel;*

*1.3 a detailed description of the alleged secret cartel, including the affected products, the affected territories, the duration and the nature of the alleged secret cartel conduct;*

*1.4 information on any past or possible future leniency applications made to any other competition authorities in relation to the alleged secret cartel;*

*2) remaining at the Authority’s disposal to answer any request that may contribute to the establishment of facts;*

- 3) making managers, directors and other members of staff available for interviews with the Authority and making reasonable efforts to make former managers, directors and other members of staff available for interviews with the Authority;
- 4) not destroying, falsifying or concealing relevant information or evidence; and
- 5) not disclosing the fact of, or any of the content of, its leniency application before the Authority has notified its statement of objections in the investigation proceedings, unless otherwise agreed".

**17.** Cooperation within the meaning of Article 15-*quater*(1)(b) of the Competition Act also includes the obligation on the applicant to provide the names and positions of the individuals who, to the best of the undertaking's knowledge, play or have played a role in the cartel. This includes the names of its employees and agents. As provided in Article 15-*quater*(1)(c) of the Competition Act "*during the contemplation of making a leniency application to the Authority [the applicant] must not have: 1) destroyed, falsified or concealed evidence of the alleged secret cartel; or 2) disclosed the fact of, or any of the content of, its contemplated application, other than to any other competition authorities of the European Union or of third countries*".

**18.** Leniency benefits shall not be forfeited if the undertaking proves that it was impossible to prevent the destruction, falsification or concealment of relevant evidence.

## ***VI. Submission of leniency application***

### **a) Common rules**

**19.** An undertaking wishing to benefit from the non-imposition or reduction of a fine must submit an application to the Authority, together with relevant statements and supporting documents. At the undertaking's request, the Authority shall issue a receipt confirming the date and time of submission. Leniency applications relating to the same cartel are assessed by the Authority in the order in which they are received.

**20.** Before submitting an application, an undertaking or its legal advisor may contact the Cartels, Leniency and Whistleblowing Directorate of the Authority to seek clarification on the leniency programme. Such contact may also be made anonymously. The Directorate can be reached by phone at +39 06 85821.872 or by email at [clementa@agcm.it](mailto:clementa@agcm.it).

**21.** As provided in Article 15-*quinquies* of the Competition Act, leniency statements must be submitted in Italian. However, in duly justified cases and upon a reasoned request from the undertaking, the Authority may allow statements to be submitted in another language.

### **b) How to file a leniency application**

**22.** Leniency applications for the non-imposition or reduction of a fine may be made in writing or in oral form. Written applications and supporting documents may be delivered by hand to the Authority's headquarters or sent by post or email ([clementa@agcm.it](mailto:clementa@agcm.it)). The Authority may establish additional methods for submission that allow applicants not to take

possession, custody or control of the statements provided. Any such methods shall be announced on the Authority's website.

**23.** Where multiple leniency applications are submitted, the order of receipt shall be determined as follows:

- in-person delivery: based on the date and time on the receipt issued at the time of delivery;
- postal delivery: based on the date and time of receipt by the Authority;
- oral applications: based on the date and time of the oral statement, as entered into the official record drawn up by the officials receiving the application.

**24.** Undertakings wishing to submit an oral application must first contact the Cartels, Leniency and Whistleblowing Directorate by calling the dedicated line (+39 06 85821.872) to schedule an appointment at the Authority's offices. Where multiple requests are received, appointments shall be scheduled in the order of receipt. For each request, an official record is drawn up indicating the date and time of receipt.

**25.** For oral applications, the statements made by the undertaking's representatives shall be recorded on an appropriate medium and transcribed at the Authority's offices. An oral statement does not relieve the applicant of the obligation to submit the documentary evidence in its possession concerning the cartel.

### **c) Assessment of applications for the non-imposition of fines**

**26.** If the Authority finds that the requirements for the non-imposition of fines under Article 15-*bis*(3) of the Competition Act are not met, it shall reject the application and inform the undertaking. In these cases, the undertaking may request that its application be considered for a reduction of fines under Article 15-*ter* of the Competition Act, or it may withdraw the evidence submitted for the purposes of its application.

**27.** Where the Authority verifies that the requirements for the non-imposition of fines under Article 15-*bis*(3) of the Competition Act are met, it shall adopt a decision granting conditional immunity from fines, subject to compliance with the relevant requirements. The undertaking shall be informed of the decision in writing by the competent Directorate, unless it has expressly waived its right to receive such communication.

**28.** If, after granting conditional immunity, the Authority finds that the conditions for leniency under the Competition Act are not met, it shall inform the undertaking without delay. Failure to comply with the conditions for leniency under Article 15-*bis*(4) and Article 15-*quater* of the Competition Act shall result in the undertaking being excluded from all benefits provided for in the Competition Act and in this Notice in relation to the cartel in question. Any documents submitted by the undertaking up to that point shall remain in the Authority's official records.

**29.** Where the conditions under Article 15-*bis*(4) and Article 15-*quater* of the Competition Act are met, the final decision referred to in Article 14(9) of Presidential Decree 217 of 30 April 1998 shall confirm the non-imposition of fines.

**d) Assessment of applications for a reduction of fines**

30. The Authority shall inform the applicant undertaking of the outcome of its assessment. Where the Authority finds that the requirements for a reduction of fines under Article 15-*ter* of the Competition Act are not met, the undertaking may withdraw the evidence submitted for the purposes of its application.

31. Once it has verified that the conditions for a reduction of fines under Article 15-*ter* of the Competition Act are met, the Authority grants the application without specifying the level of reduction. The approval of the application is in any event subject to compliance with all the conditions for granting a reduction of fines set out in Article 15-*quater* of the Competition Act. If the Authority later finds that these conditions are not met, it shall inform the undertaking without delay. Failure to comply with the conditions for leniency under Article 15-*quater* of the Competition Act shall result in the undertaking being excluded from all benefits provided for in the Competition Act and in this Notice in relation to the cartel in question. Any documents submitted by the undertaking up to that point shall remain in the Authority's official records.

32. The level of reduction of the fine is determined in the final decision referred to in Article 14(9) of Presidential Decree 217 of 30 April 1998.

**VII. Marker request**

33. Undertakings wishing to apply for the non-imposition of a fine may submit a reasoned request asking the Authority to set a time limit for completing their leniency application. This is intended to give them time to gather the information and evidence necessary to meet the evidentiary threshold for immunity from fines, and to obtain a marker pursuant to Article 15-*sexies* of the Competition Act.

34. The applicant must in any case provide, where available, the information referred to in Article 15-*sexies*(2) of the Competition Act. The Authority has full discretion in deciding whether or not to grant the marker request. In making its assessment, it may consider the adequacy and reliability of the supporting evidence, the level of detail in the description of the unlawful conduct and of the applicant's involvement, as well as the likelihood that the applicant shall meet the evidentiary threshold for immunity within the relevant time limit.

35. If the application is completed within the time limit set by the Authority, it is deemed to have been submitted in full at the time of the initial request. If the time limit expires without the application being completed, the materials submitted by the undertaking with the marker request shall remain in the Authority's official records. At the undertaking's request – and provided the necessary conditions are met – those materials may nonetheless be assessed under Article 15-*ter* of the Competition Act, for the purposes of a reduction of fines.

**VIII. Summary applications**

**36.** Under Article 15-*septies* of the Competition Act, an undertaking that has applied to the European Commission for leniency in relation to a secret cartel falling within the scope of Article 101 TFEU, may file a summary application – either for immunity or for a reduction of fines – with the Authority in relation to the same cartel, provided that such application covers more than three Member States as affected territories. In any case, the applicant retains the right to voluntarily submit a full application with the Authority at any time.

**37.** The Authority shall inform the applicant that leniency is in principle available where it has not already received a summary or full application from other participants in the same cartel and where it considers that the requirements under Article 15-*septies*(2) of the Competition Act are met.

**38.** To ensure consistency between applications, the applicant must promptly update the Authority on any developments in its leniency application before the European Commission, as well as on any changes that may affect its scope – particularly with respect to the nature, duration, perimeter and parties involved in the cartel. The applicant must also promptly update the summary application accordingly.

**39.** Where the Authority requires the submission of a full application, it shall set a reasonable time limit for the applicant to submit such application, along with the relevant information and supporting evidence. If the applicant submits the full application within the time limit set by the Authority, the full application is deemed to have been submitted at the time of the summary application, provided that the summary application covers the same product(s), affected territory(ies) and the same duration of the alleged secret cartel as the leniency application filed with the European Commission, which may have been updated.

**40.** Following a request for the submission of a full application, points 22–32 of this Notice shall apply.

## ***IX. Access***

**41.** Access to statements submitted under the leniency programme is granted exclusively to cartel participants who are addressees of the statement of objections under Article 14 of Presidential Decree 217 of 30 April 1998, and only after such statement has been notified, for the sole purpose of exercising their rights of defence. Access does not include the right to make copies or otherwise reproduce the statements, including in digital form. During the investigation, third parties – including those who have intervened in the proceedings – are not granted access to self-incriminating statements or to the supporting documentation.

## ***X. Final and interim provisions***

**42.** This Notice shall replace the previous “*Notice on the non-imposition and reduction of fines under Article 15 of Law 287 of 10 October 1990*” (as amended by Decision 24219 of 31

January 2013, published in Bulletin 11 of 25 March 2013, and by Decision 24506 of 31 July 2013, published in Bulletin 35 of 9 September 2013).

**43.** This Notice applies to investigation proceedings opened pursuant to Article 14 of the Competition Act following its publication.