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Last updated in December 2025.

## **PRESIDENTIAL DECREE 217 OF 30 APRIL 1998**

### **Regulation containing provisions on investigation procedures within the remit of the Italian Competition Authority**

#### **THE PRESIDENT OF THE REPUBLIC**

Having regard to Article 87(5) of the Constitution;

Having regard to Law 287 of 10 October 1990, the Italian Competition Act, and in particular Article 10(5);

Having regard to Article 17(1) of Law 400 of 23 August 1988;

Having heard the opinion of the *Consiglio di Stato* (the Supreme Administrative Court), as expressed in the meeting of the advisory division on legislation on 15 December 1997;

Having regard to resolution of the Council of Ministries, adopted in its meeting of 9 April 1998;

Following a proposal by the President of the Council of Ministries and the Minister for Industry, Trade and Crafts, in agreement with the Minister of Treasury, Budget and Economic Planning;

#### **HEREBY ISSUES**

the following regulation:

#### **Article 1 Definitions**

1. For the purposes hereof, the term:

a) Competition Act means Law 287 of 10 October 1990;

- b) Authority means the Italian Competition Authority, as defined in Article 10 of the Competition Act;
- c) Board means the Chairman and the Commissioners of the Authority;
- d) Directorates means the organisational units established pursuant to Article 10(6) of the Competition Act;
- e) Bulletin means the publication under Article 26 of the Competition Act.

## **Article 2**

### **Scope**

- 1. This Regulation shall apply to proceedings regarding restrictive agreements, abuses of a dominant position and concentrations, as well as market investigations pursuant to the Competition Act.

**1-bis.** Articles 6 to 14, as well as Articles 18 and 19 shall apply to proceedings under Article 9(3-bis) of Law 192 of 18 June 1998.

## **Article 3**

### **Voluntary notification of restrictive agreements**

- 1. Voluntary notifications of restrictive agreements, as defined in Article 2 of the Competition Act, are made pursuant to Article 13. They may be submitted either by each undertaking individually or jointly by all undertakings party to the restrictive agreement. They may also be submitted by consortia and associations of undertakings, on the basis of resolutions they have adopted; each notification must include the information and supporting documents necessary for the assessment of the agreement.
- 2. Notifications must be submitted using the standard form drawn up by the Authority and published in the Bulletin. This form sets out the essential information and supporting documents necessary for the assessment of the restrictive agreement.
- 3. If a notification is incomplete or inaccurate, the Authority shall inform the undertakings. In this case, the time limit under Article 13 of the Competition Act runs from the date on which the supplementary information is received.

4. The Authority shall be notified immediately of any change to the essential elements of a notification by whichever party first becomes aware of such change. For the purposes of the time limit under Article 13 of the Competition Act, a notification of changes is treated as a new notification.
5. The provisions under Article 19(2) and (3) shall apply to the signing and submission of notifications.

## Article 4

### **Exemption request for restrictive agreements under Article 2 of the Competition Act**

1. Exemption requests for restrictive agreements under Article 4(3) of the Competition Act, by way of derogation from the prohibition set out in Article 2 of the Competition Act, may be filed either by each undertaking individually or jointly by all undertakings party to the restrictive agreement. They may also be filed by consortia and associations of undertakings, on the basis of resolutions they have adopted; each request must include the information and supporting documents necessary for its assessment.
2. Requests must be submitted using the standard form drawn up by the Authority and published in the Bulletin. This form sets out the essential information and supporting documents necessary for the assessment of the request.
3. The Authority may require undertakings to provide additional information and elements necessary to assess the request. In this case, the time limit under Article 4(3) of the Competition Act runs from the date on which the requested information is received.
4. The Authority shall be notified immediately of any change to the essential elements of a request by whichever party first becomes aware of such change. For the purposes of the time limit under Article 4(3) of the Competition Act, a notification of changes is treated as a new exemption request.
5. The provisions under Article 19(2) and (3) shall apply to the signing and submission of exemption requests.
6. The exemption request is made public in the Bulletin through a short announcement describing the restrictive agreement under review and inviting interested third parties to submit observations within thirty days of publication.

7. The exemption under Article 4 of the Competition Act shall not take effect prior to the date of the request.

## **Article 5**

### **Prior notification of a concentration**

1. Prior notifications of a concentration under Article 16(1) of the Competition Act must include all information, supporting documents and essential elements required for a thorough assessment of the transaction.

2. Notifications must be submitted using the form drawn up by the Authority and published in the Bulletin. This form sets out the information, supporting documents and elements referred to in paragraph 1.

3. If a notification is seriously incorrect, incomplete or false, the Authority shall inform the undertakings. In this case, the thirty-day term under Article 16(4) of the Competition Act runs from the date on which the supplementary information is received.

4. The provisions under Article 19(2) and (3) shall apply to the signing and submission of notifications.

## **Article 6**

### **Opening of proceedings**

1. In cases of alleged infringements of Article 2(2) and Article 3 of the Competition Act or Articles 101 and 102 of the Treaty on the Functioning of the European Union (TFEU), the Board, after reviewing the proposals of its Directorates, shall adopt a decision to open investigation proceedings under Article 14 of the Competition Act.

2. Proceedings concerning exemption requests under Article 4(3) of the Competition Act shall begin once a complete request with essential information and supporting documents has been submitted. If an exemption request is filed while an investigation under Article 14 of the Competition Act is already ongoing, the Authority may assess it within that same investigation and, where necessary, extend the time limit for its conclusion.

3. The decision to open proceedings shall set out the essential elements of the alleged infringements, the time limit for completing the investigation, the case handler, the office where

the case file can be viewed, and the time limit within which the undertakings and entities concerned may exercise their right to be heard pursuant to Article 14(1) of the Competition Act.

4. The decision to open an investigation shall be notified, in accordance with the procedures set out in Article 19(01), to the undertakings and entities concerned, as well as to any third party who – having a direct, immediate and present interest in the matter – has filed a complaint or motion instrumental to the opening of the investigation, pursuant to Article 12(1) of the Competition Act. If the investigation involves undertakings active in the insurance sector, immediate notice shall be given to the *Istituto per la Vigilanza sulle Assicurazioni* – IVASS (the Institute for the Supervision of Insurance).

**5. [Repealed by Presidential Decree 214 of 18 November 2024].**

6. If the large number of recipients makes personal notification impossible or overly burdensome, notification shall take place by publication in at least two nationwide newspapers or by other suitable forms of publicity.

7. The opening of the investigation proceedings is made public in the Bulletin through the publication of the relevant decision.

## **Article 7**

### **Participation in the investigation proceedings**

1. The following may participate in the proceedings:

a) parties notified of the decision to open the investigation under Article 6(4);  
b) parties with public or private interests, as well as associations or committees representing collective interests, who may suffer direct, immediate and present harm from the infringements under investigation or from the decisions adopted as a result of the investigation. These parties must submit a reasoned request to intervene within thirty days of publication in the Bulletin of the decision to open proceedings. The request for participation must provide duly documented and adequate grounds establishing the specific interest in intervening.

2. Parties participating in the proceedings have the right to:

a) submit written briefs, documents, arguments and opinions;

b) access the case file, pursuant to Article 13.

3. Parties notified of the decision to open the investigation under Article 6(4) have the right to be heard in accordance with Article 14(1) of the Competition Act.

4. The parties referred to in paragraph 1 may participate in the proceedings either through their legal representative or through a duly authorised special attorney. They may also be assisted by consultants of their choice.

## **Article 8**

### **Powers of investigation**

1. The powers of investigation referred to in Article 14(2) to (2-*quinquies*) of the Competition Act take effect once the decision to open proceedings is notified to the undertakings and entities concerned and, where applicable, they may be exercised in conjunction with such notification. If the opening of the proceedings is notified to more than one party, these powers may be exercised vis-à-vis each party from the date that party receives its notification.

2. **[Repealed by Presidential Decree 214 of 18 November 2024].**

3. The Board is always informed of the findings made during investigation proceedings.

4. Pursuant to Article 14(2-*septies*) of the Competition Act, the Authority may request the assistance of the *Guardia di Finanza* (the Italian Financial Police), as well as other State bodies.

## **Article 9**

### **Requests for information and documents, convening of hearings**

1. The Directorates may issue written requests for information and documents to undertakings, associations of undertakings, or natural and legal persons that hold information relevant to the investigation. These requests are notified in accordance with the procedures set out in Article 19(1).

2. The requests under paragraph 1 must be proportionate and briefly indicate:

a) the facts and circumstances requiring clarification;

b) the purpose of the request, with reference to the subject matter of the investigation;

- c) the time limit for responding or submitting the documents – which must be reasonable in view of the urgency of the case, as well as the nature, quantity and quality of the information requested. It should also allow sufficient time for preparation;
- d) how the information must be provided and the person(s) to whom the requested documents or information should be addressed;
- e) the fines or periodic penalty payments applicable pursuant to Article 14(5) to (8) of the Competition Act in cases of unjustified refusal, omission or delay in providing the requested information or documents available to the recipients of the request, or where the information and documents provided are false, incomplete or misleading.

**3. [Repealed by Presidential Decree 214 of 18 November 2024].**

**4.** Requests under paragraph 1 may also be made orally by the Directorates during hearings or inspections. In this case, the requests shall be made known to the recipient and entered into the official record with the same requirements laid down in paragraph 2. If the information or documents are not immediately available, a time limit shall be set for their submission.

**4-bis.** Before the expiry of the time limit referred to in paragraph 2(c), and in paragraph 4, a reasoned request for an extension may be submitted in writing. If granted, the Directorates shall set a new time limit for submission.

**4-ter.** At any point during the investigation, the Directorates may interview representatives of undertakings, associations of undertakings or legal persons, and any natural person who may have information relevant to the investigation. The notice convening the hearing, communicated in accordance with Article 19(1), shall indicate the fines and periodic penalty payments provided for in Article 14(5) to (8) of the Competition Act.

**5.** The Directorates shall draw up an official record detailing the hearing, as well as the submission of documents and information, in accordance with the procedures set out in Article 18. If the individuals summoned under paragraph 4-ter fail to appear, this shall be recorded in a statement of non-appearance.

**5-bis.** The fines and periodic penalty payments under Article 14(5) to (8) of the Competition Act are imposed by decision of the Authority.

**6. [Repealed by Presidential Decree 214 of 18 November 2024].**

**Article 10**  
**Inspections**

**1.** Following a proposal by the Directorates, the Board shall authorise inspections pursuant to Article 14(2-*quater*) and (2-*quinquies*) of the Competition Act. In the case of public administrations, the submission of documents is requested in advance.

**2.** The Authority's officials shall exercise their powers following the notification of the inspection order. This order shall indicate the scope of the investigation, the applicable fines set out in Article 14(5)(a), (b) and (c), and Article 14(7)(a) of the Competition Act, as well as the periodic penalty payments under Article 14(6)(c) and Article 14(8)(c) of the Competition Act. These apply in cases of refusal or delay in undergoing the inspection, as well as unjustified refusal, omission or delay in providing the information and documents requested during the inspection. They also apply in cases where false information or documents are submitted.

**2-bis.** For inspections conducted under Article 14(2-*quinquies*) of the Competition Act, the designated officials shall also notify the reasoned decree issued by the Public Prosecutor of the jurisdiction where the inspection takes place.

**3.** For the purposes of the fines set out in Article 14(5)(a), (b) and (c) and Article 14(7)(a) of the Competition Act, as well as the periodic penalty payments provided for in Article 14(6)(c) and Article 14(8)(c) of the Competition Act, the following may not be invoked as grounds for refusal:

a) confidentiality or competence constraints imposed by corporate regulations or internal instructions, including oral ones;

b) the need for self-protection against the risk of fiscal or administrative fines;

c) the need to protect business or industrial secrets.

**3-bis.** The fines set out in Article 14(5)(a), (b) and (c) and Article 14(7)(a) of the Competition Act, as well as the periodic penalty payments provided for in Article 14(6)(c) and Article 14(8)(c) of the Competition Act are imposed by decision of the Authority.

4. The term ‘document’ means any written, photographic, cinematographic, electromagnetic, or other form of representation of any content – including internal and informal content – prepared and used in the undertaking’s activities. This definition applies irrespective of the author’s level of responsibility or representativeness and covers any media or storage device.

**5. [Repealed by Presidential Decree 214 of 18 November 2024].**

6. During inspections, the persons concerned may be assisted by consultants of their choice, without this resulting in the suspension of the inspection.

7. An official record shall be drawn up of all activities carried out during the inspection, with particular reference to the statements taken and documents collected, in accordance with the procedures set out in Article 18.

**8. [Repealed by Presidential Decree 214 of 18 November 2024].**

**Article 11**

**Expert reports, statistical and economic analyses, and consultation of experts**

1. Whenever relevant to the investigation, the Board shall authorise expert reports, statistical and economic analyses, as well as the consultation of experts, based on proposals from the Directorates.

2. The decision ordering such expert reports and analyses, along with the final results thereof, shall be shared with the parties to the proceedings so that they may exercise their rights under Article 7(2). The decision and results shall also be shared with any third parties who – having a direct, immediate and present interest in the matter within the meaning of Article 12(1) of the Competition Act – have filed a report, complaint or motion instrumental to the opening of the investigation, or who have otherwise intervened in the proceedings pursuant to Article 7(1)(b).

**Article 12**

**Confidentiality obligation**

1. All information collected under the Competition Act and this Regulation may be used solely for the purpose for which it was requested. Pursuant to Article 14(3) of the Competition Act, such information is protected by professional secrecy, including vis-à-vis public administrations, without prejudice to the reporting obligations under Article 331 of the Code of

Criminal Procedure and the duty to cooperate with European Union institutions under Article 1(2) and Article 10(4) of the Competition Act.

## Article 13

### Access to the file and confidentiality of gathered information

1. Parties directly concerned by the proceedings under Article 7(1) have the right to access the file prepared or permanently held by the Authority in cases regarding restrictive agreements, abuse of a dominant position and concentrations. They may exercise this right throughout the investigation.
2. If the documents referred to in paragraph 1 contain confidential information of a personal, commercial, industrial and financial nature, about individuals and undertakings concerned by the proceedings, access shall be granted, in whole or in part, only to the extent necessary to ensure the right to be heard.
3. Documents containing business secrets shall be withheld from access. Where such documents contain evidence of an infringement or elements essential to an undertaking's defence, the Directorates shall grant access limited to those elements alone.
4. When granting access under paragraphs 2 and 3, and subject to the criteria set out therein, the Directorates shall – by adopting all necessary precautions – take due account of the interests of individuals and undertakings in ensuring that confidential information and business secrets are not disclosed.
5. Internal documents, proposals and any other documents prepared by the Directorates for study and drafting purposes shall be withheld from access.

**5-bis.** Documents related to exchanges between the Authority and European Union institutions, as well as between the Authority and competition authorities of other EU member states, shall be withheld from access.

6. The minutes of Board meetings, as well as documents related to exchanges between the Authority and other public administrations or State bodies, may be withheld from access, in whole or in part, if their disclosure has not been authorised.
7. Parties wishing to protect the confidentiality or secrecy of the information they provide must file a specific request with the Directorates, either upon submitting the document or within the

time limit set by said Directorates. This request must indicate the documents or parts thereof to be withheld from access, stating the reasons, and provide a non-confidential version of documents for which partial restriction from access is sought. If the parties concerned do not follow these procedures, the Directorates shall presume that the documents contain no confidential information.

**8.** If the Directorate finds that the confidentiality or secrecy claims in support of a request under paragraph 7 are unfounded, it shall inform the parties concerned by reasoned decision.

**9.** Where communications, information, statements or requests are submitted individually or jointly by one or more undertakings, any information covered by business or industrial secrecy may be provided separately as an attachment. Undertakings may request similar precautions in relation to joint hearings and the records thereof.

**10.** The Directorate may, by reasoned decision, defer access to the requested documents until their relevance as evidence of infringements has been established, but in any event no later than the notification of the statement of objections under Article 14.

**11.** The right of access may be exercised by submitting a reasoned request in writing. The case handler shall decide on the request within thirty days.

**12.** The Board may, by resolution published in the Bulletin, establish the procedures for exercising the right of access and the fees for document duplication.

## **Article 14**

### **Notification of statement of objections and final hearing of undertakings**

**1.** After verifying that the proposals submitted by the Directorates are not manifestly unfounded based on the evidence collected, the Board shall authorise the transmission of the statement of objections.

**2.** The statement of objections shall indicate the time limit for concluding the investigation, the findings and the potential imposition of fines or remedies to bring the alleged infringement to an end. In accordance with Article 19(1), it shall be notified to the parties referred to in Article 6(4) and to those participating in the proceedings under Article 7(1)(b) at least forty-five days before the time limit.

3. Where the large number of recipients makes personal notification impossible or overly burdensome, the statement of objections may be notified by publication in the Bulletin or by other suitable forms of publicity, determined on a case-by-case basis. In this case, due account shall be taken of the interests of undertakings in ensuring their business secrets are not disclosed.
4. The parties referred to in paragraph 2 may submit written briefs and documents up to ten days before the time limit for concluding the investigation indicated in the statement of objections.
5. The undertakings and entities concerned have the right to be heard by the Board. To exercise this right, they must submit a specific request within ten days of being notified the statement of objections. Following the request, the Board shall schedule the hearing and inform the undertakings.
6. The Board may also hear other parties participating in the proceedings, provided they submit a reasoned request.
7. The Board may hear the undertakings and entities concerned either separately or jointly. In the latter case, it shall take due account of the interests of undertakings in ensuring their business secrets are not disclosed.
8. An official record of the hearing shall be drawn up, containing the main statements made by the parties, in accordance with the procedures set out in Article 18.
9. Once the investigation is concluded, the Board shall adopt its final decision.

## **Article 15**

### **Withdrawal of exemptions**

1. The withdrawal of exemptions referred to in Article 4(2) of the Competition Act shall follow the procedure laid down in this Regulation, subject to a prior cease and desist order notified to the parties concerned in accordance with Article 19(01). The powers of investigation, as well as the powers and rights of the parties concerned, shall take effect from the date the cease and desist order is received. In cases of particular urgency, the time limits under Article 14 may be reduced by one third.

## **Article 16**

## **Proceedings for concentrations**

1. Where the Board, having assessed the proposals of the Directorates, determines that a concentration is liable to be prohibited pursuant to Article 6 of the Competition Act, it shall decide to open the proceedings referred to in Article 16(4) of the Competition Act. The relevant decision shall be notified to the undertakings concerned as set out in Article 19(01).
2. After gathering the necessary evidence, the Directorates shall notify, in accordance with Article 19(1), the parties under investigation of the time limit for its conclusion, which shall be no less than seven days, as well as of the time limit for submitting written briefs and documents.
3. Any extension of the time limit for the conclusion of the investigation, pursuant to Article 16(8) of the Competition Act, shall be notified to the parties concerned using the same procedures as those applied for notifying the opening of the investigation under paragraph 1.
4. If the Board does not deem it necessary to open an investigation following a duly notified transaction, it shall inform the undertakings and the Minister of Enterprises and Made in Italy of its conclusions on the matter.

## **Article 17**

### **General market investigations**

1. Where the Authority opens a general market investigation pursuant to Article 12(2) of the Competition Act, it shall publish the relevant decision in the Bulletin. The decision shall indicate the time limit for completing the market investigation and the case handler.
2. In the course of a general market investigation referred to in paragraph 1, the Authority may request information, the holding of hearings or the submission of documents. It may also order inspections, commission expert reports, carry out statistical and economic analyses, or consult experts, in accordance with the procedures set out in Articles 9 to 12.
3. Access to documents and the confidentiality of information obtained are governed by Article 13.
4. The findings of the market investigation are made public in the Bulletin.
5. If a market investigation under this Article provides reasonable grounds to suspect an infringement of the prohibitions under Articles 2 and 3 of the Competition Act, Articles 101

and 102 TFEU, and Article 9(3-*bis*) of Law 192 of 18 June 1998, or if the conditions under Article 4(2) of the Competition Act are met, the Board shall decide to open proceedings pursuant to Article 6.

## **Article 18**

### **Official records**

- 1.** For the purposes of this Regulation, the official record containing the main statements made by the undertakings that participated in the activities reflected therein shall be signed at the end of the hearing – also in digital form – by the recording official and by the owner or legal representative of those undertakings, or by an individual holding a special power of attorney.
- 2.** If any party refuses or is unable to sign the official record, this shall be noted therein along with the reason.
- 3.** Upon request, a copy of the official record or, where appropriate, an excerpt thereof, shall be provided to the parties that participated in the activities reflected therein.
- 4.** For the sole purpose of preparing the official record, hearings may be recorded using any suitable medium. Such recordings, made using technological devices, shall be retained for no more than thirty days if recorded in audio format and no more than forty days if recorded in video format. When processing personal data acquired from such recordings, the Authority shall ensure compliance with the principles set out in Article 5 of Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016, on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing Directive 95/46/EC, with particular regard to the principle of data minimisation.

## **Article 19**

### **Notifications and communications**

**01.** Notifications under this Regulation and pursuant to Article 15-*nonies*(2) of the Competition Act may be made by an official or other employee authorised by the Authority. They may be delivered by hand, by certified email, by registered mail with return receipt, by other postal service with proof of receipt, or in any other form provided under the law of the recipient's place of establishment.

**1.** Requests, documents and summons shall be delivered to recipients using one of the following methods:

- a) certified email or other certified electronic delivery service;
- a-bis) registered letter with return receipt or other postal service with proof of receipt;
- b) hand delivery with proof of receipt;
- c) [repealed by Presidential Decree 214 of 18 November 2024];
- d) where delivery by methods (a), (a-bis) and (b) is not possible, email or fax with a request for written confirmation of receipt by the same method;
- d-bis) any other method provided under the law of the recipient's place of establishment.

2. The same provisions apply when the parties concerned or third parties send documents and requests related to the proceedings to the Authority, unless the Authority's Directorates indicate a different method.
3. Where communications are signed by representatives of individuals, undertakings or entities, those representatives must provide proof of their power of representation.

## **Article 20** **Final provisions**

1. Presidential Decree 461 of 10 September 1991 is repealed.

This Decree, bearing the seal of the State, shall be added to the Official Compendium of Legislative Acts of the Italian Republic. It shall be observed and enforced, as the case may be.

Rome, 30 April 1998

SCALFARO

Prodi, President of the Council of Ministers

Bersani, Minister for Industry, Trade and Crafts

Ciampi, Minister of Treasury, Budget and Economic Planning

Minister of Justice: Flick recorded with the *Corte dei Conti* (Court of Auditors) 10.06.1998