

Act
amending the Competition Act No. 44/2005

Article 1

A new Article, becoming Article 17(a), is inserted after Article 17 of the Act, as follows:

In the event that any undertaking or association of undertakings has violated the provisions of this Act or any decisions of the Competition Authority grounded in this Act, the Competition Authority is authorised, with the consent of the parties involved, to conclude the matter by a settlement. The same applies in the case of mergers that obstruct effective competition, cf. Article 17. A settlement is binding for the party involved once it has been accepted and its substance confirmed by the party's signature.

The Competition Authority shall lay down further rules on the implementation of the Article.

Article 2

Article 37 of the Act shall read as follows:

The Competition Authority will impose administrative fines on undertakings or groups of undertakings that violate:

- a. A prohibition pursuant to Articles 10 or 12;
- b. A prohibition pursuant to Article 11;
- c. Instructions from the competition authorities based on Article 14;
- d. Conditions established by the competition authorities for the granting of an exemption pursuant to Article 15;
- e. Measures, actions or provisional decisions pursuant to Article 16;
- f. An intervention, instruction or conditions of the competition authorities pursuant to paragraphs 1, 5 and 6 of Article 17.
- g. Their obligation to notify pursuant to paragraph 3 of Article 17;
- h. A settlement between the Competition Authority and a party pursuant to Article 17(a);
- i. The obligation to provide information or surrender documents pursuant to Article 19;

- j. A prohibition pursuant to Articles 53 or 54 of the EEA Agreement.

Fines may amount to up to 10% of the total turnover of the preceding business year of any undertaking or association of undertakings involved in a violation. If the violation of an association of undertakings relates to the activities of its members the fine shall not exceed 10% of the total turnover of active members in the market affected by the violation of the association. In deciding the amount of fines, account shall be taken of the nature, and extent of the violations, duration and whether repeated violations are involved. The fines shall accrue to the Treasury, net of collecting costs. If an administrative fine is not paid within one month from the decision of the Competition Authorities, penalty interest shall be paid on the amount of the fine. The determination and calculation of penalty interest is subject to statutory law on interest and price-level indexation.

Fines may be reduced if an undertaking has taken the initiative in providing information or documents to the Competition Authority concerning violations of Articles 10 or 12, which, in the opinion of the Authority, constitute an important addition to the evidence already in its possession, subject to further conditions established by the Competition Authority in its Rules.

A decision to impose a fine may be waived if a violation is regarded as insignificant, or for other reasons if no need is seen for such fines for the purpose of promoting and strengthening effective competition. Furthermore, the imposition of a fine may be waived if an undertaking took the initiative in providing the Competition Authority with information or documents relating to violations of Articles 10 and 12 which, in the opinion of the Authority, could lead to investigation or proof of a violation and subject to further conditions laid down by the Competition Authority in its Rules. A decision of the Competition Authority to impose fines may be appealed to the Competition Appeals Committee.

Article 3

A new Article, becoming Article 37(a), is inserted after Article 37 of the Act, as follows:

The authorisation of the Competition Authority to impose administrative fines pursuant to this Act shall lapse when seven years have passed since the behaviour in question was discontinued.

The limitation period pursuant to Paragraph 1 is interrupted if the Competition Authority notifies a party of the launch of an investigation of an alleged violation or when a search is conducted at the place of business of an undertaking or association of undertakings pursuant to Article 20. The interruption of the limitation period has legal effect for all parties involved in a violation.

Article 4

Two new articles are inserted following Article 41 of the Act, as follows:

- a. (Article 41(a))

Any employee or director of an undertaking or association of undertakings who carries out, incites to or gives instructions on collusion which violates Articles 10 and/or 12 and relates to the issues specified in paragraphs 2 and 3 shall be subject to fines or imprisonment up to six years.

The provisions of paragraph 1 apply to the following violations of Articles 10 or 12 by undertakings or associations of undertakings operating at the same sales stage:

- a. collusion on prices, discounts, margins or other trading conditions;
- b. collusion on restriction or control of supply, production, markets or sales;
- c. Collusion on sharing out sources of supply or markets, e.g. by region or customer;
- d. Collusion on the preparation of tenders;
- e. Collusion on avoiding business with specific undertakings or consumers;
- f. Provision of information on the matters in subsections (a) to (e).

The provision in paragraph 1 also applies to collusion between undertakings which has the purpose of avoiding the commencement of competition between undertakings.

Collusion in this Article refers to agreements, resolutions, decisions or concerted practices of undertakings or associations of undertakings.

Suspension of licence pursuant to Article 68 of the Penal Code, and confiscation of assets pursuant to Article 69 of the Code, may be adjudged in proceedings that have their origins in violations of Articles 10, 12 and 41(b) of this Act.

An attempt to commit or participation in violations pursuant to this Article is subject to sanctions as prescribed in the Penal Code.

b. (Article 41(b))

Any person who, in connection with the collection of information pursuant to Articles 19 and 20, and rules established pursuant thereto, destroys, falsifies, suppresses or otherwise renders unusable any documents which are significant for an investigation by the Competition Authorities shall be subject to fines or imprisonment up to three years, unless more severe sanctions are provided for under other legislation.

Any person who, in the course of providing information pursuant to Article 19, supplies to the Competition Authority false, misleading or inadequate information shall be subject to fines or imprisonment up to two years. Any person who in other respects provides the Competition Authority with false, misleading or inadequate information shall be subject to the same sanctions.

A legal person may be subjected to fines pursuant to the provisions of Chapter II of the Penal Code for violations of paragraphs 1 and 2 of this Article.

Article 5

Article 42 of the Act shall read as follows:

Violations of this Act are subject to criminal investigation only following a complaint submitted by the Competition Authority to the police.

If an alleged violation of this Act is subject to both administrative fines and criminal sanctions, the Competition Authority shall, with reference to the seriousness of the violation and viewpoints relating to the protection of legal rights, assess whether the part of the case which is subject to the criminal liability of a natural person should be reported to the police. Conformity shall be observed in the resolution of similar cases.

The Competition Authority may decide not to report a natural person if the natural person, or the undertaking where he or she is employed or serves as a director, has taken the initiative in supplying the Competition Authority with information or documents relating to violations of Articles 10 or 12 which could lead to an investigation or proof of a violation and which constitute an important addition, in the opinion of the Competition Authority, to the evidence already in its possession, subject to compliance with further conditions established by the Competition Authority in its Rules.

The report of the Competition Authorities should be accompanied by copies of the documents forming the basis of their suspicion of a violation. The provisions of Chapters IV – VII of the Administrative Procedures Act do not apply to decisions of the Competition Authority to report a case to the police.

The Competition Authority is permitted to supply to the police and prosecuting authority any information and documents obtained by the Authority and relating to the violations falling within the scope of paragraph 2. The Competition Authority is permitted to participate in police actions relating to the investigation of violations falling within the scope of paragraph 2.

The police and prosecuting authorities are permitted to supply to the Competition Authority information and documents obtained by them and relating to the violations falling within the scope of paragraph 2. The police are permitted to participate in the actions of the Competition Authority relating to the investigation of violations falling within the scope of paragraph 2.

The prosecuting party may send cases relating to violations of the Competition Act and related documents to the Competition Authority for processing and decision.

Article 6

A new Article, becoming Article 42(a), is inserted after Article 42 of the Act, as follows:

The Competition Authority is permitted to restrict access by the parties to a case to documents relating to the investigation of alleged criminal violations of this Act if there is a risk that such access will obstruct a criminal investigation. However, this

restriction shall always be removed in a timely fashion before the Competition Authority makes a final decision in the case.

It is not permitted to use information supplied by the representative of an undertaking to the Competition Authority as evidence in criminal proceedings initiated against him/her on the grounds of the violations specified in Article 41(a).

Article 7

This Act shall enter into force immediately.

Transitional Provisions

The Competition Authority shall impose administrative fines on undertakings or associations of undertakings violating instructions or conditions laid down on the basis of Act No. 8/1993, as amended.

Approved by the Althing on 17 March 2007.