



International
Competition
Network

ANTI-CARTEL ENFORCEMENT TEMPLATE

CARTELS WORKING GROUP
Subgroup 2: Enforcement Techniques

Cyprus

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ICN ANTI-CARTEL ENFORCEMENT TEMPLATE

IMPORTANT NOTES:

This template is intended to provide information for the ICN member competition agencies about each other's legislation concerning (hardcore) cartels. At the same time the template supplies information for businesses participating in cartel activities about the rules applicable to them; moreover, it enables businesses which suffer from cartel activity to get information about the possibilities of lodging a complaint in one or more jurisdictions.

Reading the template is not a substitute for consulting the referenced statutes and regulations. This template should be a starting point only.

1. Information on the law relating to cartels

A. Law(s) covering cartels: [availability (homepage address) and indication of the languages in which these materials are available]	The Protection of Competition Laws of 2008 and 2014 (Law no. 13(I)/2008 as amended by Law no. 41(I)/2014). Homepage address: www.competition.gov.cy Languages: Greek: http://www.competition.gov.cy/competition/Competition.nsf/page15gr/page15_gr?OpenDocument English: http://www.competition.gov.cy/competition/Competition.nsf/All/21234C251CB3FE9AC2257EC3003DF8DA?OpenDocument
B. Implementing regulation(s) (if any): [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]	None.
C. Interpretative guideline(s) (if	None.

any): [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]	
D. Other relevant materials (if any): [availability (homepage address) and indication of the languages in which these materials are available]	None.

2. Scope and nature of prohibition on cartels

<p>A. Does your law or case law define the term “cartel”? [Please quote.]</p> <p>If not, please indicate the term you use instead. [Please quote.]</p>	<p>In the national legislation there is no definition of the term cartel, but this form of anti-competitive behaviour may fall under the section of the Law that prohibits all forms of collusion which have as their object or effect the prevention, restriction, or distortion of competition. The term "collusion" includes an agreement between undertakings, a decision of an association of undertakings or a concerted practice (Reference Section 3 of Laws 2008 and 2014).</p>
<p>B. Does your legislation or case law distinguish between very serious cartel behaviour (“hardcore cartels” – e.g.: price fixing, market sharing, bid rigging or production or sales quotas¹) and other types of “cartels”? [Please describe how this differentiation is made and identify the most egregious types of conduct.]</p>	<p>Although the legislation does not make such distinction, based on the case law as evolved through the years, such distinction may be made by the Commission, especially in the case of cartels which directly or indirectly fix purchase or selling prices or any other trading conditions, limit or control production, markets, technical development or investments, share markets, geographically or otherwise, or sources of supply.</p>
<p>C. Scope of the prohibition of hardcore cartels: [including any exceptions, exclusions and defences e.g. for particular industries or sectors. Please also describe any other limitations to the ban on hardcore cartels.]</p>	<p>The law does not make such distinction. Please find here below the provision of the Laws.</p> <p>Any form of collusion (see 2/A above) between undertakings which has as its object or effect the prevention, restriction, or distortion of competition, is prohibited, in particular a collusion which (as per Section 3 of Laws 2008 and 2014):</p> <p>(a) directly or indirectly fixes purchase or selling prices or any other trading conditions;</p> <p>(b) limits or controls production, markets, technical</p>

¹ In some jurisdictions these types of cartels – and possibly some others – are regarded as particularly serious violations. These types of cartels are generally referred to as “hardcore cartels”. Hereinafter this terminology is used.

	<p>development or investments;</p> <p>(c) share markets, geographically or otherwise, or sources of supply;</p> <p>(d) applies dissimilar conditions to equivalent transactions, thereby placing certain undertakings at a competitive disadvantage.</p> <p>(e) makes the conclusion of contracts subject to acceptance by the other parties of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.</p> <p>The law provides for an exemption to this prohibition if it is proven that such co-operation (Section 4 of Laws 2008 and 2014):</p> <p>(1) contributes to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit;</p> <p>(2) does not impose on the undertakings concerned, restrictions which are not indispensable to the attainment of these objectives (as mentioned in point (1)); and</p> <p>(3) does not afford such undertakings, to which the agreement relates, the possibility to eliminate competition from a substantial part of the market of the product concerned.</p> <p>Also in case an agreement belongs to a category of agreements regulated by a Ministerial Council Order (Block Exemption Regulation), then it can be excluded from the application of the Law (Section 5 of Laws 2008 and 2014).</p> <p>Agreements, decisions and concerted practices caught by section 3 of the Laws which do not satisfy the conditions of section 4 and 5 shall be prohibited and void ab initio, no prior decision to that effect being required.</p>
<p>D. Is participation in a hardcore cartel illegal <i>per se</i>²? [If the situation differs for civil, administrative and criminal liability, please clarify this.]</p>	<p>Yes.</p>
<p>E. Is participation in a hardcore cartel a civil or administrative or criminal offence, or a combination of these?</p>	<p>Infringement of section 3 of the Laws constitutes an administrative offence. However, anyone who continues to infringe section 3 of the Law, following a relevant decision of the CPC is guilty of a criminal offence (two years imprisonment or up to 340.000 euros) (section 36 of Law 2008 and 2014).</p>

3. Investigating institution(s)

<p>A. Name of the agency, which</p>	<p>The Service of the Commission for the Protection of</p>
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² For the purposes of this template the notion of 'per se' covers both 'per se' and 'by object', as these terms are synonyms used in different jurisdictions.

investigates cartels: [if there is more than one agency, please describe the allocation of responsibilities]	Competition (CPC)
B. Contact details of the agency: [address, telephone and fax including the country code, email, website address and languages available on the website]	Commission for the Protection of Competition Address: 53 Strovolos Avenue, Victory Building, 1683 Nicosia, Cyprus Tel: 00357 22 606600 Fax:00357 22 304944 Email:chairman@competition.gov.cy Web: www.competition.gov.cy (EL, EN)
C. Information point for potential complainants:	see 3/B above
D. Contact point where complaints can be lodged:	see 3/B above
E. Are there other authorities which may assist the investigating agency? If yes, please name the authorities and the type of assistance they provide.	No.

4. Decision-making institution(s)³ [to be filled in only if this is different from the investigating agency]

A. Name of the agency making decisions in cartel cases: [if there is more than one agency, please describe the allocation of responsibilities.]	The Commission for the Protection of Competition (CPC)
B. Contact details of the agency: [address, telephone and fax including the country code, email, website address and languages available on the website]	see 3/B above
C. Contact point for questions and consultations:	see 3/B above
D. Describe the role of the investigating agency in the	The Service of the CPC is responsible for the investigation of a case (collection and examination of the necessary information).

³ Meaning: institution taking a decision on the merits of the case (e.g. prohibition decision, imposition of fine, etc.)

<p>process leading to the sanctioning of the cartel conduct.</p>	<p>During the investigation the Service may use the investigative powers indicated in PART 9 below.</p> <p>With the conclusion of the investigation the Service prepares a report with its findings and recommendations which it submits to the Commission together with the file of the case.</p> <p>The Commission after evaluating the investigative report and all the evidence before it, decides, prima facie, on the merits of the case.</p> <p>Where there is a prima facie infringement, the Commission serves the involved parties with a Statement of Objections.</p>
<p>E. What is the role of the investigating agency if cartel cases belong under criminal proceedings?</p>	<p>Not applicable.</p>

5. Handling complaints and initiation of proceedings

<p>A. Basis for initiating investigations in cartel cases: [complaint, ex officio, leniency application, notification, etc.]</p>	<p>Investigations in cartel cases commence on the basis of complaints or ex officio.</p>
<p>B. Are complaints required to be made in a specific form (e.g. by phone, in writing, on a form, etc.)? [If there is a requirement to complete a specific form, please, indicate its location (website address).]</p>	<p>Complaints must be submitted to the Commission for the Protection of Competition of the Republic of Cyprus.</p> <p>The complaint must be written and signed either by the complainant or lawyer or authorised representative of the complainant and must contain all the information included in the Annex of the Law.</p> <p>In case the complaint does not include all the information requested in the Annex, the Commission has the discretionary power to decide to go on with the investigation if it considers that the information communicated is adequate for the examination of the complaint. (section 35 of Laws 2008 and 2014)</p> <p>Form for the submission of complaints in the homepage: Greek: http://www.competition.gov.cy/competition/Competition.nsf/page23_gr/page23_gr?OpenDocument</p> <p>English: http://www.competition.gov.cy/competition/Competition.nsf/page23_en/page23_en?OpenDocument</p>
<p>C. Legal requirements for lodging a complaint against a cartel: [e.g. is legitimate interest required, or is standing to make a complaint limited to certain categories of complainant?]</p>	<p>Any natural or legal person having a legitimate interest may lodge a complaint regarding an alleged infringement of the provisions of the Laws. The complaint must contain the information stated in 5/B</p>

<p>D. Is the investigating agency obliged to take action on each complaint that it receives or does it have discretion in this respect? [Please elaborate.]</p>	<p>Upon receiving a complaint that was filed in the correct form, the Commission is obliged to investigate the infringement or act in accordance with the Law and exercise the powers conferred upon it by the Law.</p> <p>The Commission may, where a complaint concerns an act, omission or behaviour which does not fall within the Commission's competence, inform the person who submitted the complaint accordingly (Section 35(3) of the Laws).</p>
<p>E. If the agency intends not to pursue a complaint, is it required to adopt a decision addressed to the complainant explaining its reasons?</p>	<p>The complainant must be informed of the decision of the Commission not to open up an investigation due to the fact that the minimum requirements set by the Laws were not fulfilled or if the complaint is considered to fall outside the Commission's competence.</p>
<p>F. Is there a time limit counted from the date of receipt of a complaint by the competition agency for taking the decision on whether to investigate or reject it?</p>	<p>No.</p>

6. Leniency policy⁴

<p>A. What is the official name of your leniency policy (if any)? [Please indicate its public availability.]</p>	<p>The official name of the Cypriot leniency Programme is: In Greek: «Οι περί Απαλλαγής και Μείωσης του Διοικητικού Προστίμου σε Περίπτωση Συμπράξεων κατά Παράβαση του Άρθρου 3 του Νόμου ή/και του Άρθρου 101 της ΣΛΕΕ (Σχέδιο Επιείκειας) Κανονισμοί του 2011» (available at http://www.competition.gov.cy/competition/competition.nsf/page18_gr/page18_gr?OpenDocument)</p> <p>In English: "The Immunity and Reduction of Administrative Fines in cases of concerted practices that infringe Section 3 of the Law and/or Article 101 TFEU (Leniency Programme) Regulations of 2011". (available at http://www.competition.gov.cy/competition/competition.nsf/page18_en/page18_en?OpenDocument)</p>
<p>B. Does your jurisdiction offer full leniency as well as partial leniency (i.e. reduction in the sanction / fine), depending on the case?</p>	<p>The Cypriot Leniency Programme offers both full leniency (immunity from fines) and partial leniency (reduction of fines up to 50%).</p>
<p>C. Who is eligible for full leniency [only for the first one to come forward or for more</p>	<p>Full leniency may only be granted to the undertaking which is the first to submit a leniency application and which fulfils the conditions stated in the Regulation (please see 6F).</p>

⁴ For the purposes of this template the notion of 'leniency' covers both full leniency and a reduction in the sanction or fines. Moreover, for the purposes of this template terms like 'leniency' 'amnesty' and 'immunity' are considered as synonyms.

participants in the cartel]?	
<p>D. Is eligibility for leniency dependent on the enforcing agency having either no knowledge of the cartel or insufficient knowledge of the cartel to initiate an investigation?</p> <p>In this context, is the date (the moment) at which participants in the cartel come forward with information (before or after the opening of an investigation) of any relevance for the outcome of leniency applications?</p>	<p>The Commission grants immunity from administrative fines that would otherwise be imposed on an undertaking which reveals its involvement in an alleged concerted practice if:</p> <p>(a) the undertaking is the first to submit evidence which is sufficient to initiate an investigation according to sections 31 and/or 32 of the Law, concerning an infringement of section 3 of the Law or/and Article 101 of the TFEU, or</p> <p>(b) the undertaking is the first to submit evidence which allows the Commission to find an infringement of section 3 of the Law or/and Article 101 of the TFEU.</p> <p>Immunity from the imposition of an administrative fine, according to paragraph (a)(1), is not granted if, at the time of the submission of the application, the Commission already had at its disposal sufficient evidence to carry out an investigation pursuant to sections 31 (dawn raid on business premises) or/and 32 (dawn raid on private premises) of the Law for alleged infringements of section 3 or/and Article 101 of the TFEU, or had already carried out such an inspection.</p> <p>Immunity pursuant to paragraph (b)(1) is only granted if, at the time of the submission of the application, the Commission did not have sufficient evidence to find an infringement of section 3 of the Law or/and Article 101 of the TFEU regarding the alleged concerted practice and under the condition that no undertaking had been granted conditional immunity from administrative fines under paragraph (a)(1) regarding the alleged concerted practice.</p>
<p>E. Who can be a beneficiary of the leniency program (individual / businesses)?</p>	<p>Only undertakings or associations of undertakings may be the beneficiaries of the Cypriot leniency programme, since pursuant to the Law no sanctions may be imposed upon natural persons (not falling within the meaning of undertaking).</p>
<p>F. What are the conditions of availability of full leniency: [e.g. provide decisive evidence, maintain cooperation throughout, not to be the ringleader, cease the infringement, restitution, etc.]</p>	<p>Subject to the provisions of Regulation 4, and in order for an undertaking to qualify for immunity from an administrative fine, it must, in any case, meet the following requirements (Regulation 5):</p> <p>(a) to cooperate actively, fully and on a continuous basis with the Commission, from the day of submission of the application up until the completion of the procedure and in particular –</p> <p>(i) to provide the Commission willingly and promptly with all relevant information and evidence it possesses, or might come to its possession or is available in relation to the alleged concerted practice;</p> <p>(ii) to remain at the Commission's disposal to answer willingly and promptly to any request that may contribute to the establishment of the relevant facts;</p> <p>(iii) to make current (and, if possible, former) employees and directors available for interviews with the Commission or any member of the Service;</p> <p>(iv) not to destroy, falsify or conceal relevant information or evidence relating to the alleged concerted practice and</p> <p>(v) not to disclose the fact or any of the contents of its application before the Commission has issued a statement of objections in the case, unless otherwise agreed;</p> <p>It is provided that the applicant undertaking may disclose the</p>

	<p>submission of its application to the Commission to other National Competition Authorities, which may be affected by the alleged infringement or/and to the European Commission.</p> <p>(b) The undertaking terminates its involvement in the alleged infringement the latest at the time it submits the evidence mentioned in paragraphs (a) or (b) of Regulation 6, except for what would, in the Commission's view, be reasonably necessary to act otherwise to preserve the integrity of the inspection carried out, pursuant to sections 31 and/or 32 of the Laws.</p> <p>(c) The undertaking must not have incited other undertakings to participate in the infringement. In such a case, the undertaking may apply for a reduction from the imposition of administrative fines if it fulfils the relevant requirements and meets all the conditions of the Regulations.</p>
<p>G. What are the conditions of availability of partial leniency (such as reduction of sanction / fine / imprisonment): [e.g.: valuable, potential, decisive evidence by witnesses or on basis of written documents, etc.? Must the information be sufficient to lead to an initiation of investigations?]</p>	<p>In order for an undertaking to meet the relevant conditions for the reduction of an administrative fine that would otherwise have been imposed, it must provide the Commission with evidence for the alleged infringement which represents significant added value in relation to the evidence already in the Commission's possession and must meet cumulatively the requirements set out in Regulation 5 (Regulation 16).</p> <p>For the purposes of the applicable Regulation, the concept of "significant added value" refers to the extent to which the evidence provided strengthens, by its very nature or/and its level of detail, the Commission's ability to prove the alleged restrictive collusion, written evidence originating from the period of time to which the facts pertain has greater value than evidence subsequently established, evidence directly relevant to the facts in question will generally be considered to have a greater value than that with only indirect relevance; similarly, the degree of corroboration from other sources, required for the evidence submitted to be relied upon against other undertakings involved in the case, will have an impact on the value of that evidence, so that compelling evidence will be attributed a greater value than evidence such as statements, which require corroboration if contested.</p> <p>According to Regulation 22, the Commission takes its final decision on the applications for granting a reduction of an administrative fine in its decision in relation to the alleged infringement in which it specifies the following:</p> <p>(a) whether the evidence submitted by the applicant undertaking had significant added value in relation to the evidence that the Commission had in its possession at the time</p> <p>(b) whether the requirements set out in Regulation 5 are met</p> <p>(c) the level of reduction of the administrative fine that an undertaking may benefit from, particularly the level of the reduction in the amount of the fine will be as follows:</p> <p>(i) for the first undertaking which complies with Regulation 16: a reduction of 30-50%,</p> <p>(ii) for the second undertaking which complies with Regulation 16: a reduction of 20-30%,</p> <p>(iii) For subsequent undertakings which comply with Regulation 16: a reduction of up to 20%.</p>

	<p>In order to determine the level of reduction of the administrative fine within each of the above, the Commission will take into account the time at which the evidence fulfilling the condition of Regulation 16 was submitted and the extent to which these represent added value. The Commission may also take into account the extent and the consistency of cooperation of the undertaking after submitting the evidence.</p> <p>If an undertaking is the first to submit evidence, which has added value, and is used by the Commission in order to prove additional facts that increase the gravity or the duration of the infringement, the Commission does not take into account this additional evidence in the determination of the administrative fine, which it imposes to the undertaking that submitted this evidence.</p> <p>If the Commission, when taking its final decision on the reduction of a fine, finds that an undertaking does not meet the conditions of Regulation 5, it does not grant the undertaking any reduction.</p>
<p>H. Obligations for the beneficiary after the leniency application has been accepted: [e.g. ongoing, full cooperation with the investigating agency during the proceedings, etc.]</p>	<p>See 6F above.</p>
<p>I. Are there formal requirements to make a leniency application? [e.g. must applications take a particular form or include particular information/data, must they be in writing or can they be made orally, etc.]</p>	<p>The undertaking which applies for immunity from an administrative fine must provide the Commission with the following information and evidence, pursuant to Annex I, to the extent that this, in the Commission's opinion, would not jeopardize the effectiveness of the investigation, as follows:</p> <p>(a) A signed declaration by the undertaking that includes, in so far as it is known to the applicant at the time of the submission:</p> <p>(i) A detailed description of the alleged concerted practice, and in particular its aims, activities and functioning; the product or service affected, the geographic scope, the duration of and the extend of the affected market, the specific dates, locations, content of and participants in alleged concerted practice, and all relevant explanations in connection with the evidence provided in support of the application</p> <p>(ii) The name and address of the legal entity submitting the immunity from the administrative fine application, as well as the names and addresses of all the other undertakings participating (or which have participated) in the alleged concerted practice.</p> <p>(iii) The name, position, office location and, where necessary, home address of all individuals who, to the applicant's knowledge, are or have been involved in the alleged infringement, including those individuals who have been involved on behalf of the applicants.</p> <p>(iv) Reference to the other National Competition Authorities, of the EU or any other authority, which have been approached or are intended to be approached to which the applicant has submitted a similar application or intends to do so in relation to the alleged concerted practice; and</p> <p>Any other evidence relating to the alleged concerted practice that the applicant has in its possession, or is available to it at</p>

	<p>the time of the submission of the application, in particular any evidence which concerns the period of the infringement.</p>
<p>J. Are there distinct procedural steps within the leniency program? [e.g.: provisional guarantee of leniency ("PGL") and further steps leading to a final leniency agreement / decision)?]</p>	<p>Yes, there are different procedural steps for leniency applications (as stipulated by regulations 7-14 and Annex I & II), applications for the reduction of fines (as stipulated by regulations 17-22 and Annex IV) and summary applications (as stipulated by regulation 15 and Annex III).</p>
<p>K. At which time during the application process is the applicant given certainty with respect to its eligibility for leniency, and how is this done?</p>	<p>Following the submission of the application by the undertaking (accompanied by all the relevant supporting evidence), the Service of the Commission shall have seven days to examine whether it complies with the prerequisites of Regulations 4 and 6 so as to present the Commission with its report. If the Commission is satisfied, it issues its decision to grant an exemption from the administrative fine under certain conditions (conditional approval).</p> <p>Regarding immunity, the Commission shall communicate its conditional decision the latest on the day where the statement of objections is notified. The conditional approval for the reduction of a fine is communicated to the applicant within a reasonable time.</p>
<p>L. What is the legal basis for the power to agree to grant leniency? Is leniency granted on the basis of an agreement or is it laid down in a (formal) decision? Who within the agency decides about leniency applications?</p>	<p>The legal basis for the power to agree to grant leniency is the Immunity and Reduction of Administrative Fines in cases of concerted practices that infringe Section 3 of the Law and / or Article 101 TFEU (Model Leniency Programme) Regulations of 2011 which have been issued pursuant to Section 24(a) and Section 46(2)(c) of the Protection of Competition Law.</p> <p>Leniency is granted on the basis of a decision taken by the Commission having completed its investigation and having being satisfied that the undertaking complies with the conditions of Regulations 4, 5, 6 and 10.</p> <p>The Commission decides about leniency applications following a report of the Service which has already examined that the relevant information and list presented by the undertaking comply with the conditions of Regulation 4 and 6.</p>
<p>M. Do you have a marker system? If yes, please describe it.</p>	<p>Yes. According to Regulation 8 the undertaking which wishes to apply for leniency either applies to the Commission for an exemption from the administrative fine providing the Commission with all the information required by Regulation 6, or, requires a marker from the Commission until all the necessary and relevant information is gathered by the undertaking.</p> <p>In the latter case, the applicant undertaking must submit to the Commission all the information required by Annex III as stipulated below:</p> <ol style="list-style-type: none"> 1. Relevant product / service 2. Covered area (relevant geographic market) 3. Time frame 4. The parties involved 5. Type and nature of the alleged infringement 6. Organization and structure of the cartel and/or concerted practice and /or agreement

	<p>7. The type of the existing evidence</p> <p>8. Other Competition Authorities, to which the applicant undertaking has applied, particularly the Competition Authority to which the full application was submitted</p> <p>A signed declaration that all the information submitted within the application is true.</p> <p>Signature of the authorized person.</p> <p>Date.</p> <p>Once the Commission grants a marker to the undertaking, it determines a specific period of time within which the applicant undertaking must complete its submission of the required information and supporting evidence which are considered as having sufficient evidential value so that the Commission may grant the exemption. If the undertaking completes its procedure within the determined period of time, the information and supporting evidence which it submits are considered to have been submitted at the date whereupon the marker was granted to it.</p>
<p>N. Does the system provide for any extra credit⁵ for disclosing additional violations? [e.g. a hardcore cartel in another market]</p>	<p>No.</p>
<p>O. Is the agency required to keep the identity of the beneficiary confidential? If yes, please elaborate.</p>	<p>Yes. According to Regulation 27(2), the Commission protects the identity of the applicant undertaking as well as the content of the application accompanied by the fact that the undertaking is cooperating with the Commission until the Statement of Objections is drafted, except in cases where the Commission is bound by another legal obligation or by the consent of the applicant undertaking.</p>
<p>P. Is there a possibility of appealing an agency's decision rejecting a leniency application?</p>	<p>The decision of the Commission for the Protection of Competition issued in connection with the suspected infringement, rejecting an application, may be appealed before the Administrative Court of Cyprus pursuant to Article 146 of the Constitution of the Republic of Cyprus.</p>
<p>Q. Contact point where a leniency application can be lodged [telephone and fax including the country code, plus out of hours contacts (if any)]:</p>	<p>53 Strovolos Ave. Victory Building, 2018 Strovolos, Nicosia, Cyprus P.O.Box 23467, 1683 Nicosia Tel: 00357-22606600 Fax: 00357-22304944 E-mail: chairman@competition.gov.cy</p>
<p>R. Does the policy address the possibility of leniency being revoked? If yes, describe the</p>	<p>According to Regulation 25, in the case of false, inaccurate or misleading statements on behalf of the applicant undertaking as well as the non-completion by the applicant undertaking of</p>

⁵ Also known as: “leniency plus”, “amnesty plus” or “immunity plus”. This category covers situations where a leniency applicant, in order to get as lenient treatment as possible in a particular case, offers to reveal information about participation in another cartel distinct from the one which is the subject of its first leniency application.

<p>circumstances where revocation would occur. Can an appeal be made against a decision to revoke leniency?</p>	<p>any term of condition referred to in the Regulations or in the decision of the Commission at whichever stage of the procedure, may have as a consequence the loss of the benefit for the exemption from the administrative fine or any other favourable treatment as provided by the Regulation as decided by the Commission.</p> <p>Any person with a legitimate interest may file to the Administrative Court of Cyprus an appeal against a decision of the CPC within a period of 75 days, starting from the date the decision was notified to it (article 146 of the Constitution). The Administrative Court examines whether the decision of the CPC was taken according to the administrative law. Grounds for recourse include a claim that the CPC acted wrongly vis-à-vis the true facts of the case or erred in applying the provisions of the law.</p>
<p>S. Does your policy allow for “affirmative leniency”, that is the possibility of the agency approaching potential leniency applicants?</p>	<p>No.</p>
<p>T. Does your authority have rules to protect leniency material from disclosure? If yes, please elaborate.</p>	<p>Yes, the rules of confidentiality as set out in Regulation 27 and section 33 of Laws 2008 and 2014.</p>

7. Settlement

<p>A. Does your competition regime allow settlement?</p> <p>If yes, please indicate its public availability (link to the relevant rules, guidelines, etc.).</p>	<p>No.</p>
<p>B. Which types of restrictive agreements are eligible for settlement [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]?</p>	<p>Not applicable.</p>
<p>C. What is the reward of the settlement for the parties?</p>	<p>Not applicable.</p>
<p>D. May a reduction for settling be cumulated with a leniency reward?</p>	<p>Not applicable.</p>
<p>E. List the criteria (if there is any) determining the cases which are suitable for settlement.</p>	<p>Not applicable.</p>

F. Describe briefly the system [who can initiate settlement – your authority or the parties, whether your authority is obliged to settle if the parties initiate, in which stage of the investigation settlement may be initiated, etc.].	Not applicable.
F. Describe the procedural efficiencies of your settlement system [e.g. shorter decision, etc.].	Not applicable.
G. Does a settlement necessitate that the parties acknowledge their liability for the violation?	Not applicable.
H. Is there a possibility for settled parties to appeal a settlement decision at court?	Not applicable.

8. Commitment

A. Does your competition regime allow the possibility of commitment? If yes, please indicate its public availability [link to the relevant rules, guidelines, etc.].	Yes. Section 25 of Laws 2008 and 2014.
B. Which types of restrictive agreements are eligible for commitment [e.g. hardcore cartels, other types of cartels, vertical agreements only ...]? Are there commitments which are excluded from the commitment possibility?	According to section 25(1) of the Laws, in case the Commission intends to issue a decision demanding that an infringement of the provisions in sections 3 and/or 6 of the Law and/or Articles 101 TFEU and/or 102 TFEU be brought to an end, and the undertakings or associations of undertakings concerned offer to undertake commitments to meet with the Commission's concerns in its preliminary assessment, the Commission may, by a decision, make these commitments binding on the undertakings or associations of undertakings concerned. The Commission's decision may be issued for a specified period and has to conclude that there are no longer grounds for further action. There are no available guidelines at this point. The Commission, in applying the Laws, will be guided by EU case law.
C. List the criteria (if there are any) determining the cases which are suitable for commitment.	There are no such criteria set out in the Laws.

D. Describe, which types of commitments are available under your competition law.[e.g.: behavioural / structural]	Both behavioural and structural.
E. Describe briefly the system [who can initiate commitment – your authority or the parties, in which stage of the investigation commitment may be initiated, etc.]	The parties must initiate the commitment procedure by offering commitments at the earliest possible stage.
I. Does a commitment decision necessitate that the parties acknowledge their liability for the violation?	No.
J. Describe how your authority monitors the parties' compliance to the commitments.	By setting time limits and making sure that these are followed by the parties and / or bringing the matter forward for re-examination at later periods of time (by i.e. contacting the parties and / or other market players).
K. Is there a possibility for parties to appeal a commitment decision at court?	Yes.

9. Investigative powers of the enforcing institution(s)⁶

A. Briefly describe the investigative measures available to the enforcing agency such as requests for information, searches/raids⁷, electronic or computer searches, expert opinion, etc. and indicate whether such measures requires a court warrant.	<p>The CPC may:</p> <ul style="list-style-type: none"> -collect all the necessary information, documents or other material by a written request, from the undertakings or other natural or legal persons (section 30 of Laws); - enter business premises, land and means of transport of the undertakings (no court order required) (section 31(1) of Laws); -examine the books and other records (including electronic records) related to the business, irrespective of the medium on which they are stored during unannounced raids (section 31(1) of the Laws) -take or obtain in any form copies from such books or records or any other document during unannounced raids irrespective of the medium on which they are stored (section 31(1) of the Laws) - seal any business premises and books or records for the period and to the extent necessary for the unannounced raid
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⁶ “Enforcing institutions” may mean either the investigating or the decision-making institution or both.

⁷ “Searches/raids” means all types of search, raid or inspection measures.

	<p>(section 31(1) of the Laws)</p> <ul style="list-style-type: none"> - ask any representative or member of staff of the undertaking or association of undertakings for explanations on facts or documents relating to the subject- matter and purpose of the inspection and to record the answers (section 31(1) of the Laws) - enter any premise or means of transport other than those mentioned in section 31 above or residence after obtaining a Court Order (section 32 of the Law).
<p>B. Can private locations, such as residences, automobiles, briefcases and persons be searched, raided or inspected? Does this require authorisation by a court?</p>	<p>Yes, the CPC has the power to enter residences after obtaining a Court Order.</p> <p>Briefcases and cars, when located at business premises and are considered to contain records related to business, may be searched / inspected without a court warrant.</p>
<p>C. May evidence not falling under the scope of the authorisation allowing the inspection be seized / used as evidence in another case? If yes, under which circumstances (e.g. is a post-search court warrant needed)?</p>	<p>No.</p>
<p>D. Have there been significant legal challenges to your use of investigative measures authorized by the courts? If yes, please briefly describe them.</p>	<p>No.</p>

10. Procedural rights of businesses / individuals

<p>A. Key rights of defence in cartel cases: [e.g.: right of access to documents in the possession of the enforcing authority, right to a written statement of the case against the defendant, right to respond to that case in writing, right to respond orally, right to confront companies or individuals that make allegations against the defendant, right to legal representation before the enforcing authorities, right not to self-incriminate, etc.] Please indicate the relevant legal provisions.</p>	<ul style="list-style-type: none"> - A statement of objections is served to the undertaking or association of undertakings under investigation, in order to enable it to state its position in regards to the objections. A reasonable time is provided to the undertaking to prepare its position which is submitted in writing. (section 17 of the Laws) -The party has a right to legal representation. (section 17 of the Laws) -The party has the right to access documents in the file, provided that section 33 of the Laws (confidentiality) is not violated. However, the CPC is not obliged to give access, to the whole file of the investigation to parties concerned, but only the documents it will rely upon to issue its decision. The CPC cannot base its decision on a document that has not been disclosed to the parties. (section 17 of the Laws) -Any undertaking has a right to be heard orally and respond to the case in writing.
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<p>B. Protection awarded to business secrets (competitively sensitive information): is there a difference depending on whether the information is provided under a compulsory legal order or provided under informal co-operation? Please indicate the relevant legal provisions.</p>	<p>The CPC does not disclose information that the undertakings regard as confidential, except to the effect that it has to support its findings (section 33 of the Laws).</p>
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11. Limitation periods and deadlines

<p>A. What is the limitation period (if any) from the date of the termination of the infringement by which the investigation / proceedings must begin or a decision on the merits of the case must be made?</p>	<p>There is a time limit of five years for the exercise of the Commission's power to impose pecuniary sanctions, in cases of infringements of section 3 or 6 of the Law (anticompetitive agreements and abuse of dominance) and three years in case of infringements for collecting evidence and the conduction of inspections (Section 41 of the Laws). The above limitation period begins from the date the infringement takes place and where the infringement continues or is repeated, from the date the infringement ceases. The limitation period is interrupted by any act of the Commission, aiming at the conduct of preliminary investigation or at the examination of a possible infringement of this Law. These acts mainly include:</p> <p>(a) initiation of examination procedure on behalf of the Commission, pursuant to subsection (1) section 17;</p> <p>(b) written request by the Commission to provide information, pursuant to subsection (1), section 30;</p> <p>(c) written order by the Commission for inspection, pursuant to section 31;</p> <p>(d) written order by the Commission for inspection pursuant to subsection (2) section 32A.</p> <p>The limitation period shall re-commence, from the beginning, after every interruption.</p> <p>The limitation period for the imposition of administrative fines shall be suspended for as long as the Commission's decision is the subject of an ongoing procedure before the Administrative and Supreme Court.</p>
<p>B. What is the deadline, statutory or otherwise (if any) for the completion of an investigation or to make a decision on the merits?</p>	<p>See 11A above.</p>
<p>C. What are the deadlines, statutory or otherwise (if any) to challenge the commencement or completion of an</p>	<p>Any person with a legitimate interest may file an appeal against a decision of the CPC within a period of 75 days, starting from the date the decision was notified to it. (Article 146 of the Constitution).</p>

investigation or a decision regarding sanctions? (see also 15A)

12. Types of decisions

A. List which types of decisions on the merits of the case can be made in cartel cases under the laws listed under Section 1. [E.g.: finding of an infringement, ordering to bring the infringement to an end, imposition of fines, etc.]

Where the Commission, in the course of the proceedings carried before it, finds an infringement regarding a cartel, it may (section 24 of the Law):

- impose a fine on undertakings for the infringement of the provisions of the law.
- order the undertakings involved to terminate (cease) (within a set fixed time-period) the infringement and to avoid repetition thereof, or in case the infringement was terminated before the decision of the CPC, to condemn the undertaking by a declaratory judgment.
- impose behavioural and /or structural remedies to the undertakings involved, that are necessary depending on the infringement for the cessation of the infringement.
- impose a fine on undertakings or association of undertakings in case the infringement continues.
- accept commitments offered by the involved undertakings (sections 25 of the Laws).

B. List any other types of decisions on the merits of the case relevant particularly in hardcore cartel cases under the laws listed under Section 1 (if different from those listed under 12/A).

See 12A above.

C. Can interim measures⁸ be ordered during the proceedings in cartel cases? (if different measures for hardcore cartels please describe both⁹.) Which institution (the investigatory / the decision-making one) is authorised to take such decisions? What are the conditions for taking such a decision?

The Commission has the power, after an application or on its own initiative, to order temporary interim measures and to impose such terms which under the circumstances it deems necessary (section 28 of the Laws). These measures, whether mandatory or prohibitory, must be of a temporary and conservative in nature and they must not exceed what is reasonably necessary under the circumstances.

The following conditions must be satisfied cumulatively for such an order to be issued:

- (a) there should be a reasonably strong prima facie case of an infringement
- (b) it is a case of urgency due to the serious risk of irreparable damage on competition.

⁸ In some jurisdictions, in cases of urgency due to the risk of serious and irreparable damage to competition, either the investigator or the decision-making agency may order interim measures prior to taking a decision on the merits of the case [e.g.: by ordering the immediate termination of the infringement].

⁹ Only for agencies which answered “yes” to question 2.B. above

	Failure to comply with the interim measures imposed by the Commission constitutes an offence and the Commission has the power to impose administrative fines.
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13. Sanctions for procedural breaches (non-compliance with procedural obligations) in the course of investigations

A. Grounds for the imposition of procedural sanctions / fines [e.g. late provision of requested information, false or incomplete provision of information, lack of notice, lack of disclosure, obstruction of justice, destruction of evidence, challenging the validity of documents authorizing investigative measures, etc.]:	<p>-A procedural sanction may be imposed for the omission to provide the required information within the fixed time period and for the intentional or negligent provision of inaccurate or misleading information. (section 30 (7) and (8) of the Laws)</p> <p>-A procedural sanction may also be imposed in case of omission to comply with an order of the Commission to conduct an unannounced raid or alteration of documents or records. (section 31(7) and (8) of the Laws)</p>
B. Type and nature of the sanction (civil, administrative, criminal, combined; pecuniary or other):	The sanctions imposed by the CPC are administrative. Criminal sanctions may only be imposed by the National Courts in regards to failure to comply with an unannounced raid order, alteration, destruction, conciliation of documents or records, provision of incorrect or misleading information or refusal to provide information during a dawn raid.
C. On whom can procedural sanctions be imposed?	On the parties participating in the proceedings
D. Criteria for determining the sanction / fine:	See 13A above.
E. Are there maximum and / or minimum sanctions / fines?	<p>In relation to violations provided for in sections 30(7) and 31(7) (see 13/A) the Commission has the power to impose a fine up to 1% of their turnover in the preceding financial year. It may also impose a fine up to 5% of the average daily turnover during the preceding financial year for every day the infringements continue (sections 30(8) and 31(8) of the Laws).</p> <p>In case a person knowingly and for the purpose of misleading the Commission fails to comply with an unannounced raid order, alters, destructs, conceals documents or records, provides incorrect or misleading information or refuses to provide information that person commits a criminal offence that is punishable with up to one year imprisonment or a fine up to 85.000 euros (Section 31 (11) of the Laws).</p>

14. Sanctions on the merits of the case

<p>A. Type and nature of sanctions in cartel cases (civil, administrative, criminal, combined):</p> <p>On whom can sanctions be imposed? [E.g.: representatives of businesses, (imprisonment for individuals), businesses, in the case of associations of companies the associations or the individual companies?]</p>	<p>The decisions taken by the Commission are of administrative nature and administrative sanctions may be imposed on undertakings or association of undertakings.</p>
<p>B. Criteria for determining the sanction / fine: [e.g.: gravity, duration of the violation, benefit gained from the violation]</p>	<p>The Commission determines the level of a fine according to the gravity and duration of the infringement (section 24 (a) and section 42 of the Laws).</p> <p>The Commission may decide on the immunity or the reduction of a fine imposed, according to the criteria specified in the Leniency Programme.</p>
<p>C. Are there maximum and / or minimum sanctions / fines?</p>	<p>The fine imposed should not exceed ten percent of the combined annual turnover of the undertaking or association of undertakings in the preceding financial year (section 24(a) of the Laws).</p>
<p>D. Guideline(s) on calculation of fines: [name and reference number, availability (homepage address) and indication of the languages in which these materials are available]</p>	<p>None.</p>
<p>E. Does a challenge to a decision imposing a sanction / fine have an automatic suspensory effect on that sanction / fine? If it is necessary to apply for suspension, what are the criteria?</p>	<p>A challenge of the decision reached on the merits of the case has no automatic suspensory effect in respect to the fine in question. However, a suspension may be requested by the party through an application for such suspension to the Administrative Court of Cyprus.</p>

15. Possibilities of appeal

<p>A. Does your law provide for an appeal against a decision that there has been a violation of a prohibition of cartels? If yes, what are the grounds of appeal, such as questions of law or fact or breaches of</p>	<p>A party having a legitimate interest may file an appeal to the Administrative Court of Cyprus against a decision of the CPC. The Administrative Court examines whether the decision of the CPC was taken according to the administrative law. Grounds for recourse include a claim that the CPC acted wrongly vis-à-vis the true facts of the case or erred in applying the provisions of the law.</p>
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procedural requirements?	
B. Before which court or agency should such a challenge be made? [if the answer to question 15/A is affirmative]	Administrative Court of Cyprus The parties file a recourse to the Administrative Court. If the decision of the Administrative Court does not satisfy the party then it may file an appeal to the Supreme Court in relation to that decision, which will be heard by a panel of 3 judges or an extended composition of the Supreme Court, depending on the circumstances.