

## • **Belgium: New Belgian Competition Authority and new Competition Act**

A new Belgian Competition Act (the Act) was adopted on 3 April 2013. This new Act establishes an independent Competition Authority with a simplified structure and introduces significant procedural changes in competition proceedings.

The new Competition Authority becomes an autonomous legal entity, managed by a board of directors consisting of the president of the Competition Authority, the Prosecutor General, the Chief Economist and the General Legal Counsel.

Although the Authority will now be fully integrated in one autonomous institution, there will still be a division between the decision making body, the Competition College, and the service in charge of the investigation, which is composed of the Prosecutor General and his staff of prosecutors. The new Competition College replaces the Competition Council, the former decision-making body and will be composed of the President of the Authority and two assessors.

This reform of the Competition Act not only introduces a new enforcement structure, but also some meaningful procedural changes:

- A new interim measures procedure is put in place, with strict deadlines and the removal of the requirement of a prima facie investigation by a competition prosecutor, in order to achieve a more efficient procedure;
- A settlement procedure for cartel and abuse cases is introduced as an important tool to avoid lengthy procedures for undertakings, as well as the associated insecurity and costs. In order to settle, the company has to admit its liability for the infringement and has to accept to pay a fine on which it will receive a reduction of 10%. A major consequence of the settlement is that the company will not be able to appeal the settlement decision;
- The new Act also allows the Competition Authority to impose administrative fines on natural persons involved in hardcore cartel infringements with the aim of increasing deterrence.

Apart from the above mentioned changes, the Act introduces new rules to further streamline procedures. Such rules deal more specifically with the following issues: mandate for inspections which has to be awarded by the investigating judge; recognition of confidentiality of documents; access to the investigation file which will be limited to the defendants; formalized state of play meetings with access to file as well as limited possibility to introduce new documents before the College and a strict timetable for procedures.

The Act is composed of two acts of Parliament because some provisions required an adoption by the two houses of parliament and others did not. The two texts will be merged and the numbering of the articles will be maintained.

It is foreseen that the new Competition Authority should start operating in the second half of 2013.

See the new law in Dutch and French (request form)