



Parlamentul României
Senat

Bucharest, June 12 2017

Courtesy translation

OPINION

of the ROMANIAN SENATE

on the proposal for a

**DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL
to empower the competition authorities of the Member States to be more effective
enforcers and to ensure the proper functioning of the internal market**

COM (2017) 142 final

The Romanian Senate, pursuant to art.67,art.148 (2) and (3) of the Romanian Constitution and the Protocol no.1 annexed to the Treaty of Lisbon amending the Treaty on European Union and the Treaty on the Functioning of the European Union, ratified by Law no.13/2008, has examined the **proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND THE COUNCIL to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market - COM (2017) 142 final**

Considering the report of the Committee for European Affairs, the **Romanian Senate issued on the 12 of June 2017, an OPINION**, as follows:

The Senate notes that the proposal complies with the principle of subsidiarity because the rules applied by NCA apply have a cross-border dimension. Only an action at EU level can ensure the satisfactory operation of the cooperative system that allows ANC to investigate the violations beyond the borders of the Member State in which it is based.

The proposal for a directive also respects the principle of proportionality as it will lay down minimum standards to enable the NCAs to ensure effective compliance with EU competition rules. Member States will continue to be able to set higher standards and adapt their rules to national specificities.

The Senate recommends:

a. to replace the definition of "secret cartel", provided in Art. 2 (9), with the terminology used in Directive No 104/2014 on "compensation" and on "cartel", in order to refer to agreements or concerted practices between two or more competitors seeking to coordinate their competitive behavior on the market; or influencing the relevant competition parameters through practices that

include, among other things, the fixing or coordination of purchase or selling prices or other commercial conditions, including intellectual property rights, allocation of production or sales quotas, market sharing and Including the handling of bidding procedures, restrictions on imports or exports, or anti-competitive action against other competitors.

Cartels, by their nature, are secret.

b. to review the provisions of art. 21. In its current form, the article encourages the submission of full leniency applications to the European Commission, in the detriment of a better placed national competition authority which, according to the provisions of Art. 21 (6), would receive a simplified application in the procedural circuit. Only if the authority is informed that there is no interest in action by the Commission, it will be able to receive a full leniency application and have the power to act.

c. To clarify the provisions of art. 29 (1), which in the current form does not allow the transmission of the data from the case file investigated by the competition authorities, in application of the relevant legislation, to the court / prosecutor's office, when the criminal liability of the natural person is concerned.

p. President of the Senate

A handwritten signature in black ink, appearing to read 'Iulian - Claudiu MANDA', with a long horizontal line extending to the right.

Iulian – Claudiu MANDA