

NOTICE REGARDING THE IMPLEMENTATION OF SECTION 14 bis of LAW No. 287 of 10 OCTOBER 1990

Introduction¹

The authority is issuing this Notice to provide preliminary details regarding the implementation of section 14 *bis* of the Competition Act (Law No. 287 of 10 October 1990), introduced by article 14 (1) of Legislative Decree No 223 of 4 July 2006, amended and enacted as Law No. 248 of 4 August 2006.²

This article provides that, “In urgent cases in which there is a risk of serious and irreparable damage to competition, where the Authority, after a summary examination of the case, finds that there has been a violation of the law, it may use its discretionary powers and issue interim measures”.

Consistently with the general principles of domestic and EU legislation, interim measures may be issued where the following conditions are met: the likelihood that a violation has been committed, and the likelihood that the conduct at issue may seriously and irreparably damage competition.

Procedure for the adoption of interim measures

Whenever the Authority has *prima facie* evidence that the conditions obtain for the adoption of interim measures, it shall commence the proceeding, which may also be simultaneous with the commencement of the investigative phase, and shall give the parties a deadline that shall be not less than seven days which to submit written state and exhibits.

The parties may also apply to testify at a hearing before the Board. The case officer shall then give the parties a deadline by which to file this application. Once the application has been filed, Board shall set the date for the hearing and serve notice on the parties. After appraising the evidence in its possession, the Authority shall resolve on the issue of interim measures and require the interested parties to submit advisories regarding the measures they have adopted in order to comply with its resolution.

Procedure for the adoption of interim measures in extremely serious and urgent cases

In extremely serious and urgent cases requiring immediate action, the couple authority shall issue provisional interim measures, which may be done simultaneously with the commencement of proceedings.

Within seven days of service of notice of the adoption of interim measures, the interested parties may submit written statements and exhibits, and apply to testify at a hearing before the Board.

After appraising the submissions of the parties, the Authority may confirm the interim measures and also order the interested parties to submit advisories regarding the measures they have adopted in order to comply.

¹ Save where otherwise indicated the following short forms used in the text shall have the following meanings:

“**Act**”: Law No. 287 of 10 October 1990 (enacting provisions to protect competition on the market), published in the *Official Gazette* No. 240 of 13 October 1990;

“**Authority**”: Autorità Garante della Concorrenza e del Mercato - the Competition Authority - pursuant to section 10 of the Act.

² “Enacting, with amendments, Decree Law No. 223 of 4 July 2006, containing urgent measures for economic and social revival, and to contain and rationalise public expenditure, and measures relating to tax revenues and combating tax evasion” in the “Supplemento Ordinario” of the *Official Gazette* No. 186 of 11 August 2006.