

Rules of Procedure of the Competition Authority

Chapter I

Role and scope of activities of the Competition Authority

Article 1

Role of the Competition Authority

The role of the Competition Authority is to enforce the provisions of the Competition Act. This includes the following:

- a. To enforce the requirements and prohibitions of the Competition Act and, as applicable, Articles 53 and 54 of the EEA Agreement, and to permit exemptions pursuant to the Competition Act;
- b. To decide on measures to be taken against anti-competitive behaviour of undertakings;
- c. To observe that measures taken by public entities do not restrict competition, and to indicate to the authorities any means by which competition can be made more effective and the entry of new competitors into the market facilitated;
- d. To monitor the development of competition and trade practices in individual Icelandic market sectors and investigate the management and ownership relations between undertakings;

Article 2

Tasks of the Competition Authority

The Competition Authority is responsible for administrative affairs relating to competition and its tasks include preparing and making decisions in matters concerning competition legislation and, as applicable, the provisions of Articles 53 and 54 of the EEA Agreement. This entails that the the Competition Authority will, *inter alia*:

- a. Collect evidence in any cases which may be under consideration at any time;
- b. Seek the opinions of the parties to cases under consideration;
- c. Prepare a statement of objection forming the basis of further procedure;
- d. Seek an agreement with the parties on measures which could result in the Competition Authority ending its intervention (settlement);
- e. Make interim decisions when special circumstances require;
- f. Communicate with private and public entities, the media, government and courts of justice;
- g. Communicate with foreign competition authorities and foreign organisations and associations.

Article 3

Investigation of competition matters and business practices

The Competition Authority will collect evidence and data relating to investigations of competitive and business practices in specific markets and the mangement and ownership relations between undertakings. On the basis of such

information the Competition Authority can either prepare and publish reports or take measures to promote effective competition.

The Competition Authority is authorised to issue recommendations to undertakings, their associations and public entities for the purpose of promoting effective competition. Such recommendations may be published in the form of guidelines.

CHAPTER II

Commencement of proceedings

Article 4

Circumstances leading to proceedings etc.

The Competition Authority will initiate proceedings either on the basis of complaints received or on its own initiative, which may lead to administrative decisions. Proceedings may be initiated on the initiative of the Authority based on:

- a. Notifications pursuant to Article 7 of these Rules;
- b. Information published in the media;
- c. Assessment of the competitive environment in individual markets.

Article 5

Legally protected interests

Only parties who can demonstrate that their own legally protected interests are at stake can be parties to cases that the Competition Authority sees reason to investigate.

Article 6

Requirements concerning complaints etc.

Formal complaints requesting measures on the basis of the Competition Act shall be submitted in writing and signed. A complaint should include the information listed in the Annex to these Rules.

A complainant can request anonymity. If it appears likely that the interests of the party could be harmed if the name of the party were revealed, a request for anonymity should be respected. If there are no grounds for consenting to anonymity, the complainant should be invited to withdraw the complaint.

Complaints which do not meet the requirements of Paragraph 1 or the Annex to these Rules will not be admitted by the Competition Authority. Such complaints will be treated as notifications in the understanding of Article 7 hereof.

The provisions of this Article do not apply to notifications of mergers pursuant to Article 17 of the Competition Act.

Article 7

Notifications of Anti-competitive practices

Anyone is free to contact the Competition Authority and draw the attention of the Authority to incidents which the party in question believes to be in violation of the Competition Act or anti-competitive. Such notifications may be submitted in writing or orally and under name or anonymously.

Notifications under Paragraph 1 may result in the Competition Authority taking action on its own initiative. A party submitting a notification does not have the status of party to proceedings initiated following the party's notification.

Article 8

Authorisation to accept deficient complaints

Notwithstanding the provisions of Paragraph 3 of Article 6 of these Rules, the Competition Authority may decide to accept a complaint for process even if it does not meet the requirements of Paragraph 1 of Article 6. This is permitted in cases where accepting a complaint for process is perceived as having a positive impact on the investigations or procedures of the Competition Authority.

Article 9

Assessment of grounds for investigation

If a complaint from a party having a legally protected interest does not meet the requirements of Paragraph 1 of Article 6 of these Rules the Competition Authority will decide whether there are sufficient grounds to initiate an investigation and proceedings.

In assessing whether a complaint warrants an investigation, the Competition Authority shall take into account the objective viewpoints regarded as relevant in each case. The following points can be significant for the assessment by the Competition Authority of whether an investigation is warranted:

- a. The seriousness of the alleged violation or anticompetitive behaviour;
- b. The question whether the alleged violation or anticompetitive behaviour is relevant only to the business interests of the complainant or whether it may have a wider harmful impact on competition;
- c. Whether the undertaking which is the subject of the complaint has desisted from the conduct giving rise to the complaint.
- d. Whether the interests of the complainant can be protected before the courts of justice.

In assessing whether a complaint warrants an investigation, the Competition Authority may seek outside comments.

Article 10

Complaints not admitted

If the Competition Authority is of the opinion that a complaint does not meet the legal requirements for further investigation or proceedings or does not warrant investigation for other reasons, the complainant shall be notified of that decision. At the same time, the recourse for appeal shall be explained as well as the deadline for appealing the conclusion of the Competition Authority to the Competition Appeals Committee.

CHAPTER III

Procedure

Article 11

Notification of initiation of proceedings

If the Competition Authority decides to accept a case for process, the party affected by the proceedings, individual, legal person or public entity, shall be notified of the substance of the case and given an opportunity to submit comments and

explanations, unless there is a risk that the investigation may be compromised, e.g. when the exercise of authority pursuant to Article 20 of the Competition Act is an option.

Article 12

Proceedings in writing etc.

Proceedings before the Competition Authority shall be conducted in writing. If necessary, the Competition Authority may permit the parties to a case to give an oral account of the principal points of their written submissions at a meeting with the Competition Authority.

Article 13

Deadline for the submission of comments

The parties to a case shall be granted a reasonable time limit to submit documents and their comments.

In proceedings conducted on the basis of Article 17 of the Competition Act, the procedure shall take account of the time limits set in the provisions of that Article. The parties shall in such cases be granted a brief period of time to submit comments and provide information. The same applies to any third party from which information is requested.

If the comments of parties to the proceedings are received after the deadline the Competition Authority is not required to take the comments into account in its decision.

Article 14

Interim decisions

The Competition Authority may issue an interim decision if it is probable that the conduct or circumstances under investigation will infringe the provisions of the Competition Act or decisions taken on the basis of the Act or if the actions of public entities have a detrimental impact on competition. It is also a condition for an interim decision that it is probable that waiting for a final decision of the Competition Authority will lead to distortion of competition which cannot be prevented by a final decision, or the matter is urgent in other respects.

Interim decisions shall be effective for a specific period time and may be renewed if necessary.

If no grounds are seen for an interim decision the Competition Authority may issue a recommendation to the party in question to desist from the conduct in question until a decision has been made in the case.

When issuing an interim decision is an option, whether on the basis of a complaint or on the initiative of the Competition Authority, the party affected by the decision shall be notified as soon as possible. The party shall be informed of the substance and available documents of the case, subject to the provisions of Article 16 of the Rules. The party shall be granted a brief space of time to submit comments. On the expiry of the deadline to respond the Competition Authority shall decide whether there is reason to issue an interim decision.

Article 15

Access to documents

Parties to proceedings before the Competition Authority are entitled to acquaint themselves with documents relating to the proceedings, subject to the provisions of Article 16 of these Rules. Documents received from parties to the case shall be relayed to the counterparty or the counterparty notified of their existence. The Competition Authority shall draw attention to documents other than those originating with the parties if such documents are relevant as case documents. However, this does not apply to documents which are public or publicly available.

Article 16

Restrictions on the right of access to information

The Competition Authority may restrict access by the parties to the documents of a case if their interests in utilising knowledge from the documents are perceived as secondary to greater private or public interests, particularly in the case of sensitive business information which should reasonably be kept confidential.

If the parties to a case supply the Competition Authority with documents or information which in their opinion should remain confidential they shall submit a request for the documents or information to be kept in confidence. The request shall be reasoned and specify which part of the information or documents is perceived as confidential. The Competition Authority shall also be supplied with a copy of the documents in question where the confidential information has been deleted. If no request is submitted for confidentiality the Competition Authority is justified in assuming that the information or documents in question are not confidential.

Any decision by the Competition Authority to deny or limit access by the parties to a case to documents shall be reasoned and notified to the parties. The notification shall inform the parties to the case of their right to appeal the decision to the Competition Appeals Committee within 14 days from the notification of the decision.

Article 17

Statement of Objection

If the Competition Authority is of the opinion that an onerous decision, including any decision on administrative fines, may be taken in cases falling within the scope of Articles 10, 11 and 12 or Paragraph 1 of Article 17 of the Competition Act and, as applicable, Articles 53 or 54 of the EEA Agreement, and conducted wholly on the initiative of the Competition Authority, a report shall be compiled known as a statement of objection. The statement of objection shall describe the principal facts of the case and give an account of the principal reasoning that certain circumstances or conduct may be in violation of the Competition Act, or decisions taken on the basis of the Act, or may have a detrimental impact on competition. A statement of objection from the Competition Authority is not required to contain an exhaustive description of the facts of the case or the viewpoints of the Competition Authority.

The statement of objection is prepared in order to promote the full disclosure of the facts of a case before a decision is made and in order to facilitate the exercise by a party of its right of protest. The statement of objection represents a stage in the process of a case and does not constitute a binding administrative decision.

The statement of objection shall be sent to the parties to a case, who shall be granted a reasonable time to comment in writing on the statement and submit further explanations and documents. The deadline granted for the submission of comments

should not be less than two weeks and no longer than two months except as justified by special circumstances.

A statement of objection may be prepared in cases other than those referred to in Paragraph 1 if the facts are unclear or if it is desirable for other reasons to clarify a matter further.

The parties shall treat the statement of objection as confidential while the procedures are in progress.

Article 18

Prioritisation

If the Competition Authority decides at any stage of proceedings to exercise the authorisation in Paragraph 3 of Article 8 of the Competition Act to prioritise cases, the parties to the case which is delayed as a result shall be notified of the foreseeable delay and informed of the time at which a decision may be expected.

Article 19

Notification of the end of the gathering of evidence

The gathering of evidence shall always conclude with the comments of the party against whom the complaint is directed or who may be subjected to an onerous decision of the Competition Authority. Other parties shall be sent the final comments of the subject of the complaint for information purposes. The parties to a case shall be notified when the gathering of evidence is concluded.

CHAPTER IV

Decisions of the Competition Authority etc.

Article 20

Decision in a case

Following the gathering of evidence and due process the Competition Authority shall return a decision in the case. Major and material decisions shall be submitted to the Board of Directors of the Competition Authority in accordance with the Rules of Procedure of the Competition Authority No. 759/2005. Decisions of the Competition Authority shall be signed by the Director General.

Article 21

Publication of decisions

After a case has been concluded the decision shall be notified to the parties to the case; the decision is binding on delivery to the parties. Guidance shall be provided as regards recourses for appeal and deadlines to appeal the case to the Competition Appeals Committee, as applicable.

Decisions pursuant to Article 20 of the Rules shall be published on the Competition Authority website after they have been sent to the parties. A decision pursuant to Article 10 of the Rules not to open an investigation may be published on the Competition Authority website if it is regarded as being of general significance.

Article 22

Settlement

The Competition Authority is permitted at all stages of a case to conclude it by means of a settlement. A settlement may involve the admission by a party of a violation of the Competition Act and consent, as applicable, to pay an administrative fine. The settlement may also involve a party consenting to change a specified conduct in the market or to observe instructions or conditions intended to protect or promote competition.

A settlement is binding for the party to a case once it has been accepted and its substance confirmed by the party's signature.

Article 23

In other respects, procedure is subject to the provisions of the Competition Act and the Administrative Act.

CHAPTER V **Opinions of the Competition Authority**

Article 24

An opinion directed by the Competition Authority to public entities on the basis of Sub-section (c) of Paragraph 1 of Article 8 or Article 18 of the Competition Act does not constitute an administrative decision.

The provisions of Chapters II-IV do not apply in cases where directing an opinion to public entities is an option.

Any person may draw the attention of the Competition Authority to public obstructions to competition and request the Authority to direct an opinion to public entities. Such notifications may be submitted in writing or orally and under name or anonymously.

If the Competition Authority decides to open a case, whether on the basis of complaints received or on its own initiative, the Authority shall normally give the public entity in question an opportunity to submit comments and explanations before the Competition Authority concludes the case with the issue of an opinion. The Competition Authority may impose a deadline on a public entity for this purpose.

As circumstances may warrant, the Competition Authority will present the evidence of the case to the complainant, except in the case of confidential documents, and give the complainant an opportunity to comment. The Competition Authority may also request comments from other parties.

Normally, opinions submitted by the Competition Authority to public entities shall be published on the Authority's website.

CHAPTER VI **Entry into Force**

Article 25

These Rules of Procedure are adopted in accordance with Paragraph 2 of Article 8 of the Competition Act No. 44/2005 and shall enter into force on their publication. At the same time, Rules No. 922/2001 are repealed.

Prior to 1 October 2006, the Competition Authority shall consider the need to review these Rules.

Reykjavik 27 September 2005

Gunnar Páll Pálsson

ANNEX

Required information in complaints to the Competition Authority

Formal complaints requesting measures on the basis of the Competition Act shall be submitted in writing. A complaint shall be accompanied by two photocopies of the complaint and two photocopies of attached documents, if any. An electronic copy of the complaint shall be attached as well. If the complaint contains confidential information, the Competition Authority should be supplied with an additional copy where the confidential information has been deleted. The complaint should include the following information:

Information on the parties concerned in the complaint

1. The complaint should specify the name, address and Id. number of the party submitting the complaint and e-mail address, if available. If the party submitting the complaint is a legal person a brief account should be included of the person's economic operation. If applicable, the complaint should specify any group of undertakings to which the legal person belongs and the structure and economic operation of the group.
2. The complaint should specify the undertaking, group of undertakings or public entity at which the complaint is directed. If applicable, the complaint should describe in the fullest possible detail the group of undertakings to which the undertaking in question belongs, together with a description of the economic operation in which such parties are involved. It should be stated whether the complainant is a competitor or customer of the party who is the subject of the complaint or whether there is any other relation.

Description of the substance of the complaint and evidence

3. If the complaint concerns an alleged violation of the Competition Act or public obstructions to competition, a detailed description should be included of the incidents which, in the opinion of the complainant, support the allegation of the violation or distortion of competition. Furthermore, reasoning should be supplied as to why the incidents are regarded as violating the Competition Act or distorting competition. A detailed description should be included of the product, service or economic operation relating to the alleged violation or distortion of competition. If applicable, a description should also be supplied of the market which the complaint concerns and the market conditions, e.g. trade practices and nature of the trade in the product or service in question. All available information should be provided concerning contracts, incidents, circumstances or actions of the parties against whom the complaint is directed. If applicable, the complaint should specify, to the extent possible, the market share of all the undertakings concerned and account for the principal competitors and customers. If a complaint concerns a request for exemption from Articles 10 and 12 of the Competition Act, detailed reasoning should be included in support of the assessment of the party in question that such exemption is justified.
4. The complaint should be accompanied by copies of all documents in the possession of the complainant relating to the incidents concerned in the complaint. Such documents may include letters, e-mail messages, contracts, flyers, minutes of

meetings, memoranda relating to meetings or telephone calls, price trend overviews and other data or statistics indicating the trends in the market in question, etc. The names and addresses of parties able to confirm the incidents described in the complaint should be specified.

Legally protected interests etc.

5. The complaint shall include reasoning as regards the legally protected interests of the party in question. The complaint should also specify the action that the Competition Authority is requested to take. It should be stated if the intervention of other government authorities has been sought with regard to the same case.

6. A complaint to the Competition Authority should conclude with the following statement, signed by, or on behalf of, all the parties to the complaint.

The undersigned warrant that the information given in this complaint is true, accurate and complete to the best of our knowledge, that the attached copies of documents are unabridged, that all estimates are identified as such and submitted to the best of our knowledge of the facts of the case, and where an opinion is stated, such opinion is stated in good faith. The undersigned have acquainted themselves with the provisions of Paragraph 2 of Article 42 of the Competition Act.