



GOVERNMENT OF MALTA

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Government response to the Consultation on (An Act to amend the Competition Act, Cap. 379 and the Consumer Affairs Act Cap. 378 and other Laws, to extend the competence of the Civil Court (Commercial Section) and to make ancillary and consequential provisions thereto)

*16 November 2018*

Ministry for Justice, Culture and Local Government.  
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# Executive Summary

## Introduction and overview

### **1. A brief introduction about the subject**

On the 23 May 2011, the Malta Competition and Consumer Affairs Authority Act entered into force amending the Competition Act and the Consumer Affairs Act to introduce administrative proceedings. On the 3rd May 2016, the Constitutional Court delivered a judgement in the names, Federation of Estate Agents v Direttur Ġenerali (Kompetizzjoni) et, where it concluded that the competition proceedings as currently found in the Competition Act involved a criminal charge and should therefore comply with Article 39(1) of the Constitution. The proposed Bill aimed to address the considerations made by the Constitutional Court in the cited judgement. A few weeks after the consultation, the Constitutional Court delivered another judgement, where, whilst making reference to the Federation of Estate Agents judgement, it clarified that when the proceedings involve a criminal charge, a fair hearing can only be guaranteed where the case is heard from the very beginning before a court. In view of the above-mentioned developments, the model upon which the proposed amendments were drawn, needs to be revisited.

### **2. Objective and purpose of the public consultation**

On 10th August 2018, the Government published a consultation paper setting proposals to address the considerations made by the Constitutional Court in the case in the names Federation of Estate Agents v Direttur Ġenerali (Kompetizzjoni) u L-Onorevoli Prim Ministru u L-Avukat Ġenerali.

In this judgement, the Constitutional Court considered that the fines imposed by the Director General (Competition) for breaches of competition law are not intended as compensation for damages but have a punitive function, serve as a deterrent, and given that the fines can be quite severe, these were classified as criminal in nature. In view of this, the Constitutional Court declared that the administrative penalties and provisions as they stand today in the Competition Act, are of a criminal law nature and for this reason, the imposition of such penalties fall within the parameters of Article 39 of the Constitution of Malta.

In particular, the Court declared a number of articles of the Competition Act as incompatible with the dictates of Article 39(1) of the Constitution of Malta.

Article 39 (1) states that:

*Whenever any person is charged with a criminal offence he shall, unless the charge is withdrawn, be afforded a fair hearing within a reasonable time by an independent and impartial court established by law.*

The Constitutional Court concluded that the Competition and Consumer Appeals Tribunal which hears appeals from the decisions of the Director General (Competition) and Director General (Consumer Affairs) does not constitute a 'court' in terms of Article 39 of the Constitution. Therefore, even though the Constitutional Court deemed the tribunal as being both independent and impartial and with full jurisdiction, it was still not considered to fulfil the requisite of 'a Court'.

The main implication of the judgement is that any decision of the Director General (Competition), imposing a fine for breach of Competition Law could be challenged as unconstitutional unless such decision may be revoked, modified or confirmed by an adjudicating body which is a 'Court' in terms of the Constitution.

Despite the fact that this judgement applies specifically to the Office for Competition, the Office for Consumer Affairs considers that as a result of this judgement, the administrative proceedings instituted by the Director General (Consumer Affairs) in terms of the Consumer Affairs Act and also subject to redress in front of the Competition and Consumer Appeals Tribunal, could similarly be challenged constitutionally.

The proposed legislative model introduced a series of amendments to the following legislation:

- the Competition Act (Chapter 379 of the Laws of Malta);
- the Malta Competition and Consumer Affairs Authority Act (Chapter 510 of the Laws of Malta);
- the Consumer Affairs Act (Chapter 378 of the Laws of Malta);
- the Code of Organization and Civil Procedure (Chapter 12 of the Laws of Malta); and
- the subsidiary legislation made thereunder.

The proposed Bill proposed that the administrative procedures of the Office for Competition and Office for Consumer Affairs as currently established in the law are retained, albeit with a series of amendments:

- 1) The functions of the Competition and Consumer Appeals Tribunal will be transferred to the Civil Court (Commercial Section) that will have the power to review the decisions of the DG (Competition) and DG (Consumer Affairs) in their totality and issue its own decisions. These decisions will be appealable by the aggrieved parties on both points of fact and points of law to the Court of Appeal.
- 2) The competence of the Civil Court (Commercial Section) shall be extended to matters regulated by the Competition Act and any regulations made thereunder, the Consumer Affairs Act and any regulations made thereunder and by the Malta Competition and Consumer Affairs Authority Act.
- 3) The undertaking and, or association of undertakings or the trader/person concerned, as the case may be, may file a sworn application for review before the Civil Court (Commercial Section) on both points of law and fact, regarding any infringement decision, cease and desist or compliance order, interim measure, administrative fine and/or daily penalty payment or daily administrative fine adopted or imposed by the Director General (Competition) in terms of the Competition Act or by the Director General (Consumer Affairs) in terms of the Consumer Affairs Act.
- 4) The Court shall have the power to substitute its discretion for that of the respective Director General and this includes the power to either confirm or modify in whole or in part or quash or annul the decision and/or order or interim measure of the respective Director General. The Court may also confirm, revoke or vary the administrative fine and/ or daily penalty payment or daily administrative fine imposed by the respective Director General.
- 5) Filing the sworn application shall have the effect of suspending the administrative fine and/or daily penalty payment imposed by the respective Director General pending the final determination of the review. The sworn application shall not have the effect of suspending an interim measure, cease and desist order, and/or compliance order imposed by the respective Director General, unless upon a reasoned request contained in the sworn application. The Court can upon a reasoned request contained in the sworn application, suspend or modify the interim

measures, compliance order, and, or cease and desist order under such conditions as it may deem fit pending the final determination of the review. The respective Director General and any party to the proceedings before the Court, who feels aggrieved by the judgement of the Court, may appeal on both points of law and fact before the Court of Appeal by means of an application filed in the registry of that court within twenty days from the date of the judgement.

- 6) The Civil Court (Commercial Section) will be assisted by technical experts from a list published by the Minister. The technical experts will prepare an opinion for the judge presiding the Civil Court. This panel of technical experts replicates the panel of experts who currently assist the Tribunal in reaching its decision from a technical point of view.

Other amendments were proposed as follows:

#### *Imposition of fines in the course of investigation*

Besides introducing administrative fines for substantive breaches of the Competition Act, the 2011 amendments introduced administrative fines which were imposed by the Director General for any procedural infringement of the Competition Act such as for instance, in the case of a person, giving false or misleading information. Under the new proposed amendments, such type of procedural infringements are a criminal offence and the penalties contemplated by the Competition Act can only be imposed following successful prosecution before the Court of Magistrates.

#### *Settlement*

The 2011 amendments to the Competition Act introduced settlement for cartel cases when the parties admit to have infringed the law, and in return receive a 10% reduction in the fine. Under the new proposed amendments, the settlement is no longer limited to cartel cases but refers to all competition law infringements including abuse of dominance cases and other types of restrictive practices. Moreover, it is being proposed that, in the case of settlement, the current 10% fixed reduction in the fine is changed to a range of between 10% and 35% in order to encourage settlements over court disputes.

#### *Unannounced Inspections*

The amendments remove the power of the Director General, introduced in 2011, to order inspections in business premises upon his written authorization. Inspections are now to be conducted solely following a warrant issued by the Court of Magistrates. The Office has studied developments in other member states and considered such amendment important due to its potential constitutional implications.

#### *The right against self-incrimination*

The European Commission had pointed out in February 2017 that the present Competition Act, where it refers to inquiries, investigations, administrative fines and appeals does not explicitly protect the right of the investigated parties against self-incrimination. In view of this, it is being proposed that such right is explicitly protected in the Competition Act. This right is already explicitly protected under Article 104(2) of the Consumer Affairs Act.

#### *Amendments to the Consumer Affairs Act*

Despite the fact that the judgement delivered by the Constitutional Court in *Federation of Estate Agents v Direttur Generali (Kompetizzjoni) u L-Onorevoli Prim Ministru u L-Avukat Generali* referred solely to the administrative proceedings instituted by the Director General (Competition) in terms of the

Competition Act, it was considered that the decision of the Court was similarly relevant to the administrative proceedings instituted by the Director General (Consumer Affairs) in terms of the Consumer Affairs Act.

In this regard, the amendments proposed to delete any reference to the 'Appeals Tribunal' in favour of the newly established review procedure before the Civil Court (Commercial Section). This necessitates amendment to the Consumer Affairs Act and to the Subsidiary Legislation made thereunder where reference to the 'Appeals Tribunal' is made. Other related amendments are also being proposed. These include:

- granting the DG (Consumer Affairs), the discretionary power to extend the operative period of an undertaking (agreement) entered into with a defaulting trader to a period longer than the current three-year period. This ensures that a defaulting trader does not revert to the infringing conduct upon the lapse of three years; and
- granting the DG (Consumer Affairs) the power to publish his/her decisions on the media, including on the official website of the Malta Competition and Consumer Affairs Authority. This is in line with similar administrative measures issued by regulators under their respective legislation.

The amendments sought to address the concerns raised by the Constitutional Court whilst retaining the powers necessary for the respective Offices to fulfill their functions at law.

### **3. This consultation sought views on:**

*Whether the proposed model as demonstrated above adequately addresses the concerns raised by the Constitutional Court whilst retaining the powers necessary for the respective Offices to fulfill their functions.*

## **Responses to the consultation and process used to seek stakeholder views**

This document is the Government Response to this consultation and sets out the Government's decisions on these matters.

### **4. The closing date of the public consultation. Which methods were used to receive the feedback. The total amount of responses. From whom you received the feedback**

The consultation closed on 28th September 2018. The consultation document and the reply form were available online and responses were accepted electronically and on paper. In total, there were 5 responses. These were received from legal firms, bar associations, consumer associations, individuals and from the European Commission Services.

A list of respondents can be found at Annex A.

## **5. Meetings with stakeholders**

No meetings were held with stakeholders during the consultation period.

## **Summary of responses and decisions**

The following is a summary of the consultation responses received. We would like to thank all those who took the time to respond to the consultation.

## **6. Statistics**

- Total feedback received: 5
- Total feedback received by individuals: 1
- Total feedback received by organisations: 4
- Total feedback received through email: 5
- Total feedback received through online form: 0
- Total feedback received by post: 0

## **7. Summary of feedback received**

Overall, the feedback received was positive and constructive. The concerns expressed can be summarised as follows:

### *Technical Experts*

- a) Concern was expressed on the provisions relative to the panel of technical experts set up to assist the Court, particularly Article 36(7) which states that the Civil Court (Commercial Section) shall be assisted by a panel of technical experts when hearing competition law and consumer affairs law related cases. While this was considered to be a positive initiative, it was noted that it was unclear whether the opinions of such technical experts could be redacted and that the amendments to this article fail to provide for the protection of business secrets and confidential information.

In this regard, it was suggested that the proviso be amended as to clarify that the opinions of the technical experts will not be made public in such a way as to divulge any business secrets and confidential information. It was also suggested that should the opinions of the panel deal with confidential information and business secrets, partial access to the opinion shall be given by providing non-confidential versions of the said opinions.

- b) It was suggested that the technical experts should have restricted voting rights, that the duration of their term, the criteria for their appointment and the number of experts which can be appointed are explicitly indicated.

### *Amendments to the Consumer Affairs Act*

- a) The proposed new article 115 of Cap. 378 provides that an application for a review of a decision taken by the Director General (Consumer Affairs) shall have the effect of suspending the administrative fine pending the final determination of the review. Concern was expressed that non-compliant undertakings may use this procedure to delay the application of dissuasive measures, which measures could otherwise lead to compliance in short order. It was suggested that given that article 115 of Cap 378 , as is, provides an opportunity for the non-compliant undertakings to delay the application of dissuasive measures, a daily fine should be accompanied by an annual compound interest of 8% applicable from the date set by the Director General for the payment of the fine in question.
- b) It was also suggested that the administrative fine structure applicable in the case of non-compliance with consumer law should vary from 1% to 5% of the turnover of the non-compliant undertaking.
- c) Article 22 of the proposed Bill provides for the substitution of article 15 of Cap. 378, which provision empowers the Prime Minister to extend the applicability of various enforcement related provisions of Cap. 378 to offences or infringements committed under any other law administered by the Director General (Consumer Affairs). It is being suggested that the application of the relevant provisions of Cap. 378 in relation to any laws enforced by the Director General should be stated categorically at law without the need of an order from the Prime Minister.

### *Timeframes*

- a) Concern was expressed on the lack of clarity on why different timeframes are given in relation to, on the one hand contestation of certain decisions taken by the Director General (Competition), and on the other hand to contestation of decisions by the Director General (Consumer Affairs), and appeals from judgments of the Civil Court (Commercial Section). It was suggested that a uniform time frame of five working days should apply to the time frames provided at law. Longer time frames would ensure more illicit profits for the undertaking due to the non-compliance.
- b) It was also suggested that the proposed amendments should also state what happens if the 3 month timeframe imposed to determine the Appeal in cases of Article 29 of the MCAA Act regarding confidentiality claims is not adhered to, since without any other provision this measure is ineffective.
- c) It was also suggested that any decision or order taken by the Director General should be published within two working days.

### *The right to legal assistance*

Concern was expressed on the new proviso which introduced the right to legal assistance in the course of an inspection, where enforcement officers are required to wait 'a reasonable time' for legal counsel of the undertaking whose premises are being inspected as this would jeopardise all investigations given that data today is held in a digital form which can be tampered with from anywhere in a few minutes.

### *Appeal on both points of law and fact*

On the proposal that a judgement given by the Civil Court can be appealed on both points of law and of fact, it was suggested that this should be restricted to points of law as the Courts of Appeal does not appear to be able to call on the opinion of technical experts.

### *Settlement Procedure*

- a) It was suggested that settlement procedures should be accompanied by transparency whereby the Director General should state in writing the reasons for his decisions.
- b) It was also suggested that the latitude of reducing the fine should have a maximum of 20% of the fine and that the criteria for reducing the fine should be stated.
- c) Reference was made to the new article 12B(11) of the Competition Act where the word 'reward' is used. It has been suggested that a different terminology be used. The respondent does not believe that it should be stated at law that an undertaking is being 'rewarded' in the case it opts to avail itself of a procedure which would allow it to pay a lower fine for an infringement committed.
- d) Reference was made to the new article 12C(13) – paragraph (c) thereof – where the words "sincere intention of settling the case" are used. It has been suggested that different wording should be used to give more latitude to the Director General in deciding whether to discontinue the settlement procedure.

### *'Review'*

- a) Concern was expressed on the use of the word 'review' as opposed to 'appeal', particularly due to the fact that in the past, the Commission for Fair Trading had raised the point that the word 'review' does not connote a thorough and detailed examination into the merits of the case. It was held that, as was pointed out in *Motor Hearses II* by the Commission for Fair Trading, '...the word review...indicates the re-examination of the decision taken by the Director... [and does not] indicate[s] instead that a full scale inquiry has to be conducted by the Commission on all the workings'.
- b) Given the aforementioned point raised about the right of 'review' and the fact that competition law proceedings may be of a hard core criminal law nature, concern was raised on whether the proposed amendments to Article 13A are enough to provide the undertakings concerned with a fair hearing in terms of Article 39(1) of the Constitution.
- c) It was also suggested that the Court should also have recourse to the decisions of the Commission for Fair Trading, which decisions remain relevant and applicable.

### *The power of the DG to publish a press release when issuing a Statement of Objections*

Reference was made to the proposed proviso to Article 19(2) of the Competition Act which states that the Director General shall also publish a notice on the website of the Malta Competition and Consumer Affairs Authority or on a daily newspaper stating that he has issued a Statement of Objections. It was argued by the respondent that the publication to the effect that a Statement of Objections has been issued does away with the principle of the presumption of innocence.

The respondent argued that regulation 1/2003 on the implementation of competition rules laid down in Articles 101 and 102 of the TFEU, which applies to national competition authorities, makes no mention of the need for such a publication to be made. Moreover, the principle of transparency as established in Section 3.1.1.4 of the Best Practice Rules and Article 2 of Regulation 773/2004 do state that the Commission may make public the initiation of proceedings pointing out the main issues held in the Statement of Objections whilst also highlighting that the issuing of a Statement of Objections does not predetermine the final outcome of the proceedings.

The respondent also noted that when an investigation is commenced by the Commission, the competition law concerns would have significant effects on the Internal Market as a whole (as opposed to the national market of one Member State), and such a publication is done to deter undertakings having a substantial market share from skirting competition rules. The respondent held that it is not in the public interest to know that a Statement of Objections has been issued, more so since the Maltese market is a small one.

Therefore, the issuance of such a notice is likely to cause prejudice to the undertaking concerned, as well as its employees, causing it to lose its esteem on the local market. The respondent thus proposed that the proposed proviso to Article 19(2) be struck out.

#### *Transitory Provisions*

As to the transitory provisions in relation to the Competition Act and the Consumer Affairs Act, concern was expressed that the provisos to article 70(2) of the amendments seem to make the proposed new procedure applicable retroactively to pending competition and consumer claims. In this regard it was suggested that such provisos be done away with.

#### *Right against Self–Incrimination*

A representative from the European Commission Services made reference to the newly introduced provision concerning the right against self-incrimination and it was suggested that the provision should be amended to reflect the jurisprudence of the Court of Justice of the EU and other EU secondary legislation such as recital 23 of Regulation 1/2003. The aim is to make it clear that although undertakings cannot be forced to admit that they have committed an infringement, they are still obliged to answer factual questions and to provide documents.

#### *Clarifications Sought on the Imposition of Fines in the Course of an Investigation*

The Office for Competition also sought clarifications from the European Commission Services where under the proposed amendments, procedural infringements were to be considered a criminal offence and the penalties contemplated by the Competition Act would only be imposed following successful prosecution before the Court of Magistrates. It has been observed by a representative of the European Commission Services that there would be a conflict between the proposed amendment and the Proposal for a Directive to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market because under the proposed Directive, national competition authorities must be able to impose fines for procedural infringements themselves or seek their imposition before a non-criminal court.

## **8. Assessment of feedback received**

In light of recent judgements delivered by the Constitutional Court, few weeks after the consultation, a number of third party responses received on the proposed amendments are no longer applicable and a number of provisions contemplated in the proposed amendments will need to be redrafted. Feedback is therefore being provided on those responses that remain relevant in the context of a dual system/ judicial enforcement model.

### *Technical Experts*

Concerns raised on the protection of business secrets and confidential information regarding the opinions of technical experts are supported and shall be duly addressed in the updated Bill.

Concerns raised regarding the qualifications of experts and their term of appointment, will be taken into account.

On the other hand, on the proposition that such experts should have voting rights, it should be noted that the panel of experts is specifically intended to assist the Court and as such, their opinion is to be considered but not imposed on the Court.

### *Amendments to the Consumer Affairs Act*

The proposal that the administrative fine structure applicable in the case of non-compliance with consumer law should be changed from the current fixed range structure of up to 47,000 euro to between 1% to 5% of the turnover of the non-compliant undertaking, will be considered also in view of the proposed 'new deal for consumers' Directives which already propose a fine of up to 4% of the turnover for wide-spread infringements.<sup>1 2</sup>

With respect to Article 22 of the proposed Bill which empowers the Prime Minister to extend the applicability of various enforcement related provisions of Cap. 378 to offences or infringements committed under any other law administered by the Director General (Consumer Affairs), it was suggested that the application of the relevant provisions of Cap. 378 in relation to any laws enforced by the Director General should be stated categorically at law without the need of an order from the Prime Minister. This shall be considered further.

### *Time frames*

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<sup>1</sup> Proposal for a Directive of the European Parliament and of the Council amending Council Directive 93/13/EEC of 5 April 1993, Directive 98/6/EC of the European Parliament and of the Council, Directive 2005/29/EC of the European Parliament and of the Council and Directive 2011/83/EU of the European Parliament and of the Council as regards better enforcement and modernisation of EU consumer protection rules.

<sup>2</sup> Proposal for a Directive of the European Parliament and of the Council on representative actions for the protection of the collective interests of consumers, and repealing Directive 2009/22/EC.

The suggestion that the proposed amendments should also state what happens if the 3 month timeframe imposed to determine the Appeal in cases of Article 29 of the MCCA Act regarding confidentiality claims is not adhered to, will be considered.

#### *The right to legal assistance*

The concern on the possible tampering of data while enforcement officers wait 'a reasonable time' for legal counsel of the undertaking whose premises will be inspected to arrive was noted. Research was undertaken into the practices adopted by Competition Authorities in a number of EU member states<sup>3</sup> and the following summarises the findings:

The right of the undertaking to request legal assistance in the context of a dawn raid is absolute and that right cannot be withheld by the officers conducting the search. However, the competition authorities of the Member States are generally not obliged to wait for the legal counsel to arrive in order to start the inspection. In case there is no in-house lawyer on the premises of the undertakings subject to the dawn raid, the competition authorities may wait a reasonable time for external legal counsel to arrive, before starting the inspection. In case the officers decide to wait for the legal counsel to arrive, the officers may take any reasonable measures to prevent any potential tampering with evidence or to prevent any potential communication by which other undertakings will be informed that an inspection is taking place. The relative provision will be amended accordingly to reflect this position.

#### *Appeal on both points of law and fact*

On the suggestion that an appeal from the judgement of the Civil Court should remain restricted to points of law, it should be noted that in line with other civil claims instituted through a sworn application, an appeal is available from decisions of the first court, both on points of law and points of fact. Therefore an appeal from a judgement of the Civil Court (Commercial Section) will also be made on both points of law and fact.

#### *Settlement Procedure*

With regard to the suggestion that the latitude of reducing the fine should have a maximum of 20% of the fine, it should be noted that the introduction of a 35% maximum discount in settlement procedures is in line with decisions taken by the European Commission, which has indeed provided even higher discounts than 35%. It is considered vital for a settlement discount to be sufficiently attractive for infringers so that they would be willing to settle.

On 20 September 2016, the European Commission issued a settlement decision under Article 102 TFEU following the introduction of Regulation 1/2003 and reduced the fine by 30% in exchange for its cooperation. On 24 July 2018, the Commission issued fines against four undertakings for imposing fixed or minimum resale prices on their online retailers. Discounts of 40% and 50% were granted to the undertakings since they effectively cooperated with the Commission beyond their required legal obligation by i) providing additional evidence representing significant added value with respect to the evidence already in the possession of the Commission. The evidence provided strengthened to a large extent the ability of the Commission to prove the infringements; whilst (ii) acknowledging the

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<sup>3</sup> The countries researched were Austria, Belgium, Finland, France, Germany, Hungary, Italy, Portugal, Slovakia, Spain and the United Kingdom.

infringements of Article 101 of the Treaty in relation to the conduct; and (iii) waiving certain procedural rights, resulting in administrative efficiencies.<sup>4 5</sup>

On the suggestion that the term 'reward' be replaced, it should be noted that the current wording of the Competition Act uses the word 'reward' and this is also in line with the wording used in the "Commission Notice on the conduct of settlement procedures in view of the adoption of Decisions pursuant to Article 7 and Article 23 of Council Regulation (EC) No 1/2003 in cartel cases". Section 2.5 clearly speaks of "Commission decision and settlement reward". Specifically, Section 32 of the Notice states that, "Should the Commission decide to reward a party for settlement in the framework of this Notice, ....)". In view of this, the current wording which is also currently found in the Competition Act will be maintained.

On the suggestion that the words "sincere intention of settling the case" in article paragraph (c) of Article 12C(13) of the proposed Bill be changed to give more latitude to the Director General in deciding whether to discontinue the settlement procedure, it has been considered that the wording of article 12C(13) already confers on the Director General of the Office for Competition a broad margin of discretion to discontinue settlement discussions and the current wording will be maintained.

#### *'Review'*

The suggestion that the Court should have recourse to the decisions of the Commission for Fair Trading will be taken into consideration.

#### *The power of the DG to publish a press release when issuing a Statement of Objections*

The relative provisions shall be reconsidered in the light of latest developments by the Constitutional Court.

#### *Transitory Provisions*

In light of recent Constitutional judgements, the transitory provisions, particularly those relative to investigations which started after the introduction of Act VI of 2011 shall be re-drafted.

#### *Right against self-incrimination*

The feedback received has been taken into consideration and the relative provision shall be amended accordingly. This means that the provision concerning the right against self-incrimination will make it clear that although undertakings cannot be forced to admit that they have committed an infringement, they are still obliged to answer factual questions and to provide documents.

#### *Clarifications Sought on the Imposition of Fines in the Course of an Investigation*

The feedback received has been taken into consideration and the relative provision shall be amended accordingly. This entails that any fines imposed during the course of an investigation, such as in the case of an undertaking providing false information, will also be imposed by the Civil Court (Commercial Section).

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<sup>4</sup> Available at: [http://ec.europa.eu/competition/antitrust/cases/dec\\_docs/40465/40465\\_337\\_3.pdf](http://ec.europa.eu/competition/antitrust/cases/dec_docs/40465/40465_337_3.pdf)

<sup>5</sup> Commission Decision of 24.7.2018 relating to proceedings under Article 101 of the TFEU, Case AT.40465-Asus Paras 143 and 144 of decision.

## Implementation

An updated version of the Bill, taking into consideration latest developments by the Constitutional Court shall be presented for Parliamentary approval with the aim of the amendments coming into force early next year.

## Contact Details

If you have any questions regarding this response, please contact:

[publicconsultation.mcaa@mcaa.org.mt](mailto:publicconsultation.mcaa@mcaa.org.mt)

## Annex A: List of respondents

<b>Organisation</b>
<a href="#">Mamo TCV Advocates</a>
<a href="#">Private Individual (1)</a>
<a href="#">European Commission Services</a>
<a href="#">American Bar Association (antitrust law section)</a>
<a href="#">Ghaqda tal-Konsumaturi</a>