

ESTONIA INTRODUCES THE NEW LENIENCY PROGRAM

The new leniency program, granting immunity for the cartel members, will enter into force on 27 February 2010.

Based on ECN model leniency program: The new leniency program has been designed on the basis of the European Competition Network's model leniency program. The model has been modified to take account of the special features of the enforcement of Estonian competition law, in particular the criminal liability for cartels.

Conditions for leniency: The first cartel member to notify the Estonian Competition Authority of an unknown cartel receives immunity from criminal liability if such leniency applicant fully co-operates with the authorities for the conviction of the other cartel members. The criminal proceedings in relation to such applicant are terminated.

If the authorities already have information on the cartel, then the leniency applicant is released from criminal liability only if the applicant provides such substantial information, which allows the prosecution to submit a statement of charges against other cartel members. The criminal proceedings in such case are also terminated.

If one cartel member has already submitted a leniency application, then the next applicants may qualify for a reduction of fine in proportion to the assistance that they have provided to the authorities. In such case the criminal proceedings are not terminated.

The leader of the cartel and the member who has coerced others are not eligible for leniency.

Increase in the enforcement of competition law in Estonia: Activities for the enforcement of competition law have recently boosted in Estonia. Since the reorganisation of Estonian Competition Authority at the beginning of 2008, the fight with cartels has been set as one of the main priorities of the Estonian Competition Authority. It is expected that the Estonian Competition Authority and state prosecution will continue active enforcement of competition law in the near future.

Sectors under scrutiny: Recently, the following sectors have been under scrutiny by the Estonian Competition Authority: waste management, road construction and maintenance, retreading of tires, card payments, water supply.

Sanctions reviewed: The sanctions for the cartels were amended. Member of a hard-core cartel may face a fine of 5-10% of their annual turnover (the maximum fine may not exceed EEK 250 million (EUR 16 million)). Besides fines, individuals may face up to 3 years imprisonment for hard-core cartels and 1 year imprisonment for vertical restraints and non-hard-core cartels. The individuals may also face 1-5 years' ban on entrepreneurial activities.

Additional information:



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