

20 September 2016

Online Public Consultation on Antitrust Damages

The draft legislation relates to Malta's obligation to transpose Directive 2014/104/EU of the European Parliament and of the Council of 26 November 2014 on certain rules governing actions for damages under national law for infringements of the competition law provisions of the Member States and of the European Union. The Directive is commonly referred to as the "Antitrust Damages Directive".

The Antitrust Damages Directive is intended to enable compensation for persons suffering damages as a result of infringements of EU antitrust law. It applies to all actions for damages, whether individual or collective, which are available in the Member States of the European Union.

Maltese law already contemplates the recovery of damages to undertakings that have been victims of violations of competition law. This is the subject of Article 27A of the Competition Act (read in conjunction with the procedural rules in the Code of Organisation and Civil Procedure), which sets out some basic rules for such actions for damages. In fact, in a recent case, damages were awarded for an abuse of competition law.

The Directive – and the draft legislation - fine-tunes the interplay between private and public enforcement of competition law, and will allow private enforcement of competition law decisions taken by the national competition authorities of all Member States, wherever such private enforcement is commenced.

The amendments are drafted in terms of the following documents which can be downloaded by clicking the respective links:

- a. Antitrust Damages Directive – Directive EC/2014/104
- b. A Bill to amend the Competition Act, removing all procedural provisions from the Act and making reference to the new regulations governing claims for damages as per the Directive; the prescriptive period of two years is also removed, and is to be replaced by a five-year period established in the Regulations;
- c. A Legal Notice promulgating the Antitrust Damages Regulations, which implement the rights established by the Directive, codifying the entire body of new rules which will govern claims for damages resulting from an infringement of the Competition Act.

Comments are welcome up to the 18 October 2016 and may be sent to info@mccaa.org.mt with the subject heading "Antitrust Damages Directive" or by post to the Director General (Office for Competition), MCCA, Mizzi House, National Road, Blata l-Bajda, Hamrun, HMR 9010.