

Guidelines of the Belgian Competition Authority on the calculation of fines

As a result of the Royal Decree of 31 July 2020 published in the Belgian Official Gazette on 12 August 2020, the new Article IV.79 of the Code of Economic Law (CEL) entered into force on 22 August 2020.

Pursuant to Article IV.79 § 1 CEL, the Belgian Competition Authority (BCA) may, as before, impose fines on each of the undertakings and associations of undertakings concerned of up to 10% of their turnover in the event of infringement of Articles IV.1 § 1 and/or IV.2 CEL and/or Articles 101 and/or 102 TFEU. In addition, Article IV.79 § 2 CEL now provides that where the decision or procedure relates to an abuse of a position of economic dependence within the meaning of Article IV.2/1 CEL, the fine may not exceed 2% of the turnover of the undertaking or association of undertakings concerned.

The Board of the BCA adopted new guidelines on the imposition of fines on 3 September 2020, stipulating that the BCA will, in principle, be guided by the European Commission guidelines on the method on setting fines when calculating the fines referred to in Article IV.79 § 1 and § 2 CEL. The calculation of fines for infringements of the prohibition of abuse of a position of economic dependence will therefore, in principle, also be guided by these Commission Guidelines.

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The Belgian Competition Authority (BCA) is an independent administrative authority that contributes to the definition and implementation of competition policy in Belgium. Concretely, the BCA pursues anti-competitive practices, such as cartels and abuses of a dominant position, and reviews the main merger operations. The BCA cooperates with the other competition authorities of the member states of the European Union and the European Commission within the European Competition Network (ECN)