

## **The Belgian Competition Authority confirms the use of a data room in the context of a merger control case**

In the second phase merger investigation in case N° MEDE-C/C-22/0011 Ter Beke-Pluma N.V./ Campofrio Food Group Netherlands Holding B.V. and Imperial Meat Products VOF, the notifying party Ter Beke requested the competition prosecutor to provide access - by setting up a data room - to confidential quantitative data (sales and tender data) that had been transmitted to the investigation team by Belgian supermarkets.

On 4 January 2023, pursuant to Article IV.41, §3, 3<sup>de</sup> paragraph CEL, the competition prosecutor took a decision regarding each supermarket concerned to lift the confidentiality of the transmitted data vis-à-vis Ter Beke-Pluma. N.V. through setting up a data room subject to specific rules and conditions. A data provider lodged an appeal against this decision with the president of the Competition College pursuant to Article IV.41, § 5, first paragraph CEL.

On 13 January 2023, the assessor of the Belgian Competition Authority, pursuant to article 41, §5, 2<sup>de</sup> paragraph CEL, confirmed the competition prosecutor's decision regarding the setting up of a data room while providing at the same time useful clarifications. In essence, the assessor confirmed that Article IV.41, §3, third paragraph CEL provides the legal basis for the organisation of a data room. Therefore, the Investigation and Prosecution Service can decide to lift the confidentiality of data in the context of a data room subject to specific rules and conditions. Access to the data room was given in accordance with the conditions described in the auditor's lifting decision dated 4 January 2023. The assessor found that the data room rules elaborated by the Investigation and Prosecution Service were not only in line with the European Commission's principles for the use of data room, but also provided additional safeguards against improper use of data room data.

The non-confidential version of the decision is available on the website of the Belgian Competition Authority.