

Competition Act

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New regulations on economic competition (Competition Act)

STATUTE BOOK 1997, 242

CHAPTER 1. DEFINITION OF TERMS ➔

Article 1

The following definition of terms shall apply for the purposes of this Act and the decisions based upon it:

- a. Our Minister: Our Minister of Economic Affairs;
- b. competition authority: the Dutch competition authority, within the meaning of Article 2, Clause 1;
- c. director general: the director general of the competition authority;
- d. Treaty: the Treaty establishing the European Community;
- e. agreement: an agreement within the meaning of Article 85, Clause 1 of the Treaty;
- f. undertaking: an undertaking, within the meaning of Article 85, Clause 1 of the Treaty;
- g. association of undertakings; an association of undertakings, within the meaning of Article 85, Clause 1 of the Treaty;
- h. concerted practices; concerted practices, within the meaning of Article 85, Clause 1 of the Treaty;
- i. dominant position: a position of one or more undertakings which enables them to prevent effective competition being maintained on the Dutch market or a part thereof, by giving them the power to behave to an appreciable extent independently of their competitors, their suppliers, their customers or end-users .
- j. infringement: an action that contravenes the provisions of this act, or provisions pursuant to this Act;
- k. investigation: actions performed with a view to determining whether an infringement has occurred;
- l. fine: an administrative sanction consisting of a commitment to pay the state a specific sum of money.

CHAPTER 2: THE DUTCH COMPETITION AUTHORITY ➔

Article 2

1. A Dutch competition authority shall operate under the responsibility of Our Minister .
2. The competition authority shall be headed by a director general.

Article 3

1. The task of the competition authority shall be to perform activities for the implementation of this Act.
2. The activities relating to the implementation of Articles 60, 61, 62, 78 and 79 shall be performed by persons who were not involved in the preparation of the reports referred to in Article 59, Clause 1 and Article 77, Clause 1 or in the preceding investigation.

Article 4

1. Our Minister shall lay down in policy rules general instructions issued to the director general, regarding the performance of the tasks assigned to the director general by this Act.
2. General instructions within the meaning of Clause 1 of this Article, may relate, or relate partially to how the director general should consider interests other than economic ones in decisions pursuant to Article 17.
3. The policy rules shall be announced by publication in the State Gazette.
4. Our Minister shall issue his instructions to the director general on the exercise of the powers afforded to the director general by this Act in individual cases in writing only. The relevant instruction shall be attached to the documents relating to the case in question.

Article 5

1. The director general shall report to Our Minister before May 1 of each year on the activities of the competition authority in the preceding year.
2. Our Minister shall notify both Chambers of Parliament of the report, accompanied by his findings and notes on his involvement in the director general's decisions in individual cases, before July 1 of each year.

CHAPTER 3: COMPETITION AGREEMENTS ➔

Section 1. Prohibition of competition agreements ➔

Article 6

1. Agreements between undertakings, decisions by associations of undertakings and concerted practices by undertakings which have as their object or effect the prevention,

restriction or distortion of competition within the Dutch market, or a part thereof, are prohibited.

2. Agreements and decisions prohibited pursuant to Clause 1 are legally null and void.

Article 7

1. Article 6, Clause 1 shall not apply to agreements, decisions and concerted practices, within the meaning of that Article, if:

- a. no more than eight undertakings are involved in the relevant agreement or concerted practice, or if no more than eight undertakings are involved in the relevant association of undertakings, and
- b. the combined turnover of the undertakings party to the relevant agreement or the concerted practices in the preceding calendar year, or the combined turnover of the undertakings which are members of the relevant association of undertakings does not exceed:
 1. EUR 4 540 000, if the agreement, concerted practice or association involves only undertakings of which the core activities are the supply of goods;
 2. EUR 908 000, in all other cases.

2. If separate agreements with the same purport are contracted between an undertaking or association of undertakings and two or more other undertakings, such agreements shall be regarded together as a single agreement for the purpose of the application of Clause 1.

3. By general administrative order, subject to conditions and restrictions if necessary, Article 6, Clause 1 may be declared inapplicable to categories of agreements, decisions or practices, within the meaning of that Article, as defined in that order, which are of clearly minor significance from the point of view of competition.

4. The numbers stipulated in Clause 1a , and the amounts stipulated in Clause 1b, may be amended by general administrative order.

Article 8

1. The determination of the turnover, within the meaning of Article 7, Clause 1b shall be based on the provisions relating to net turnover in Article 377, Clause 6 of Book 2 of the Civil Code.

2. If an undertaking forms part of a group, within the meaning of Article 24b of Book 2 of the Civil Code, the turnover of all undertakings in that group shall be added together for the purpose of determining the turnover. Transactions between the undertakings forming part of that group shall be disregarded in that determination.

3. For the purpose of determining the combined turnover of the undertakings concerned, within the meaning of Article 7, Clause 1b, transactions between the undertakings shall be disregarded.

Article 9

1. The director general may issue a decision declaring that Article 6, Clause 1 is nonetheless applicable to an agreement between undertakings, a decision by associations of undertakings or a concerted practice by undertakings which are not subject to Article 6, Clause 1 pursuant to Article 7, Clauses 1 or 3 if, in view of market relationships in the relevant market, such agreements, decisions or practices have a significant detrimental effect on competition.

2. The director general shall notify interested parties of his intention to issue a decision within the meaning of Clause 1, in writing, stating the reasons.

3. By way of departure from Section 4.1.2 of the General Administrative Law Act, the director general shall afford interested parties an opportunity to state their views, orally or in writing, before applying Clause 1 .

4. A decision within the meaning of Clause 1 shall not take effect until six weeks after the date on which it is announced.

Article 10

Article 6 shall not apply to agreements, decisions or practices, within the meaning of that Article, which are directly associated with a concentration, within the meaning of Article 27, and are necessary for the realisation of such a concentration.

Section 2. Exception in relation to the performance of special tasks ➡

Article 11

Article 6, Clause 1 shall apply to agreements, decisions or practices, within the meaning of that Article, involving at least one undertaking or association of undertakings that is entrusted with the operation of services of general economic interest, by law or by an administrative agency, only as far as the application of that Article does not prevent the performance of the special task entrusted to such an undertaking or association of undertakings.

Section 3. Exemptions ➡

Article 12

Article 6, Clause 1 shall not apply to agreements between undertakings, decisions by associations of undertakings and concerted practices by undertakings to which, pursuant to a regulation of the Council of the European Union or to a regulation of the Commission of the European Communities, Article 85, Clause 1 of the Treaty is not applicable.

Article 13

1. Article 6, Clause 1 shall not apply to agreements between undertakings, decisions by associations of undertakings and concerted practices by undertakings to which cannot detrimentally affect trade between the Member States of the European Communities, or which cannot appreciably prevent, restrict or distort competition within the common market, and which, if this were the case, would be exempt pursuant to a regulation within the meaning of Article 12.

2. The director general may issue a decision declaring Article 6, Clause 1 nonetheless applicable to an agreement between undertakings, a decision by associations of undertakings or a concerted practice by undertakings which, pursuant to Clause 1, are not subject to Article 6, Clause 1 if circumstances arise which, pursuant to the relevant regulation, could lead to the declaration of the inapplicability of that regulation.

3. The director general shall notify interested parties of his intention to issue a decision within the meaning of Clause 2, in writing, stating the reasons.

4. By way of departure from Section 4.1.2 of the General Administrative Law Act, the director general shall afford interested parties an opportunity to state their views, orally or in writing, before applying Clause 2.

5. A decision within the meaning of Clause 2 shall not take effect until six weeks after the date on which it is announced.

Article 14

Article 6, Clause 1 shall not apply to agreements between undertakings, decisions by associations of undertakings and concerted practices by undertakings for which dispensation has been granted pursuant to Article 85, Clause 3 of the Treaty.

Article 15

1. By general administrative order, subject to conditions and restrictions if necessary, Article 6, Clause 1 may be declared inapplicable to such categories of agreements, decisions or practices, within the meaning of that Article, as defined in that order, which contribute to improving the production or distribution of goods or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which do not:

- a. impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives, or
- b. afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products and services in question.

2. A general administrative order, within the meaning of Clause 1, may stipulate that the director general may issue a decision declaring Article 6, Clause 1 nonetheless applicable to an agreement, a decision or a concerted practice which, by that decision, are not subject to Article 6, Clause 1, if the requirements laid down in that general administrative order are satisfied.

3. The director general shall notify interested parties of his intention to issue a decision within the meaning of Clause 2, in writing, stating the reasons.

4. By way of departure from Section 4.1.2 of the General Administrative Law Act, the director general shall afford interested parties an opportunity to state their views, orally or in writing, before applying Clause 2.

5. A decision within the meaning of Clause 2 shall not take effect until six weeks after the date on which it is announced.

Article 16

Article 6, Clause 1 shall not apply to agreements, decisions or concerted practices, within the meaning of that Article, which are subject to the approval of, or can be declared invalid, prohibited or nullified by an administrative agency pursuant to the provisions of any other Act, or which have arisen pursuant to any statutory requirement.

Section 4. Dispensation ➡

Article 17

The director general may grant dispensation from the prohibition of Article 6, Clause 1 for agreements, decisions or concerted practices, within the meaning of that Article, which contribute to improving the production or distribution or to promoting technical or economic progress, while allowing consumers a fair share of the resulting benefit, and which do not:

- a. impose on the undertakings concerned restrictions which are not indispensable to the attainment of these objectives, or
- b. afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products and services in question.

Article 18

1. The information that shall be provided with a request for a decision, within the meaning of Article 17, may be laid down by general administrative order.

2. The procedure stipulated in Section 3.4 of the General Administrative Law Act applies to the preparation of a decision, within the meaning of Article 17.

3. Information provided by an undertaking with a request shall not be made available for inspection until one week after the announcement of the relevant decision of the director general, if the undertaking defines that information as confidential.

4. If a request is made for a provisional ruling, within the meaning of Article 8:81 of the General Administrative Law Act, in relation to the decision of the director general as referred to in Clause 3, the term stipulated in Article 19 shall be suspended until the day on which the written ruling of the President of the Court, as referred to in Article 92, is handed down.

5. After its announcement, the decision shall be made available for inspection at the competition authority. Information that does not qualify for release pursuant to Article 10 of the Freedom of Information Act shall not be made available for inspection.

6. The decision shall be announced in the State Gazette.

Article 19

1. The director general shall make a decision on an application at the earliest opportunity, and in any event within four months of the receipt of the application, unless Clause 2 is applied.

2. The director general may extend the term referred to in Clause 1 by four months, within ten weeks of the receipt of the application.

Article 20

The decision granting the dispensation may be made effective retroactively, but not prior to the date on which the application for dispensation is received.

Article 21

1. Dispensation within the meaning of Article 17 shall be granted for a specific period of time, as stipulated in the decision.

2. Dispensation may be granted subject to other restrictions; dispensation may be made subject to conditions.

Article 22

1. Dispensation may be renewed on request, if the conditions referred to in Article 17 are still satisfied.

2. An application for renewed dispensation shall be submitted at least four months prior to the expiry of the dispensation decision.

3. The procedure stipulated in Section 3.4 of the General Administrative Law Act shall apply for the preparation of a decision renewing a dispensation decision.

4. The director general shall make a decision on an application to renew a dispensation decision at the earliest opportunity, and in any event within four months of the receipt of the application.

Article 23

1. The director general shall revoke a dispensation decision if the information provided is inaccurate to the extent that dispensation would have been refused had the correct information been known.

2. The director general may revoke or amend a dispensation decision, wholly or in part:

- a. in the event of failure to comply with the conditions attached to the decision;
- b. in the event of altered circumstances, such that an unacceptable restriction of competition would arise if the decision were to remain in effect, with or without amendment;
- c. in the event that the information provided is inaccurate to the extent that dispensation would have been subject to conditions, or to different conditions, or that dispensation would have been granted subject to restrictions or other restrictions had the correct information been known.

3. A decision to revoke dispensation pursuant to Clause 1 shall take effect retroactively,

from the date on which the dispensation decision took effect.

4. A decision to revoke or amend a dispensation decision pursuant to Clauses 2a or 2c may take effect retroactively, from the date on which the order took effect.

5. The director general shall notify interested parties of his intention to revoke or amend a dispensation decision in writing, stating the reasons.

6. By way of departure from Section 4.1.2 of the General Administrative Law Act, the director general shall afford the parties granted dispensation an opportunity to state their views, orally or in writing, before applying Clause 2.

7. A decision to revoke or amend a dispensation decision, pursuant to Clause 2b, shall not take effect until six weeks after the date on which it is announced. It shall not take effect retroactively.

CHAPTER 4: DOMINANT POSITIONS ➔

Section 1. Prohibition of abuse of dominant positions ➔

Article 24

1. Undertakings are prohibited from abusing a dominant position.
2. The realisation of a concentration as described in Article 27 shall not be deemed to be abuse of a dominant position.

Section 2. Exception in connection with the performance of special tasks ➔

Article 25

1. The director general may, on request, declare Article 24, Clause 1 inapplicable to a specifically defined practice in as far as the application of Article 24, Clause 1 prevents the provision of a service of general economic interest, entrusted to an undertaking by law or by an administrative agency.
2. A decision within the meaning of Clause 1 may be issued subject to restrictions; a decision may be made subject to conditions.

CHAPTER 5: CONCENTRATIONS ➔

Section 1. Definition of terms ➔

Article 26

For the purposes of this Chapter, the term control refers to the possibility of exercising decisive influence on the activities of an undertaking on the basis of actual or legal

circumstances.

Article 27

The term concentration refers to:

- a. the merger of two or more previously mutually independent undertakings;
- b. the acquisition of direct or indirect control by:
 1. one or more natural persons who, or legal persons which already control at least one undertaking, or
 2. one or more undertakings of the whole or parts of one or more other undertakings, by the acquisition of a participating interest in the capital or assets pursuant to an agreement, or by any other means;
- c. the creation of a joint undertaking which performs all the functions of an autonomous economic entity on a lasting basis, and which does not give rise to coordination of the competitive behaviour of the founding undertakings.

Article 28

1. By way of departure from Article 27, a concentration shall not be deemed to arise where:
 - a. credit institutions or other financial institutions, within the meaning of Article 1, Clauses 1a and 1c of the 1992 Credit Institutions Supervision Act, or insurance companies, within the meaning of Article 1h of the 1993 Insurance Industry Supervision Act, or insurance companies, within the meaning of Article 1c of the Funeral Provisions Insurance Industry Supervision Act, the normal activities of which include transactions and dealing in securities for their own account or for the account of others, hold on a temporary basis securities which they have acquired in an undertaking with a view to reselling them, provided that they do not exercise the voting rights in respect of those securities with a view to determining the competitive behaviour of that undertaking, or provided that they exercise such voting rights only with a view to preparing the sale of those securities and that any such sale takes place within one year of the date of acquisition.
 - b. control is acquired by:
 1. receivers, within the meaning of Article 68, Clause 1 of the Bankruptcy Act;
 2. managers appointed by the courts, within the meaning of Article 215, Clause 2 of the Bankruptcy Act;
 3. persons as referred to in Article 28, Clause 3a of the 1992 Credit Institutions Supervision Act;
 4. managers appointed by the courts, within the meaning of Article 71, Clause 7 of the 1992 Credit Institutions Supervision Act;

5. persons as referred to in Article 54, Clause 3a of the 1993 Insurance Industry Supervision Act;
 6. persons as referred to in Article 161, Clause 7 of the 1993 Insurance Industry Supervision Act;
 7. persons as referred to in Article 27, Clause 3a of the Funeral Provisions Insurance Industry Supervision Act;
 8. persons as referred to in Article 70, Clause 7 of the Funeral Provisions Insurance Industry Supervision Act;
- c. participating interests in the capital, within the meaning of Article 27b, are acquired by venture capital undertakings, provided that the voting rights attached to the participating interest are exercised only to maintain the full value of these investments.

2. The director general may extend the term referred to in Clause 1a on request, if the relevant institutions or insurance companies show that the sale was not reasonably possible within the set term.

Section 2. Scope of application of supervision of concentrations ➡

Article 29

1. The provisions of this Chapter shall apply to concentrations in which the combined turnover of the participating undertakings in the preceding calendar year exceeded EUR 113 450 000, at least EUR 30 000 000 of which was realised in the Netherlands by at least two of the undertakings concerned.
2. The amounts referred to in Clause 1 may be increased by general administrative order.

Article 30

1. The determination of turnover, as referred to in Article 29, Clause 1, shall take place on the basis of the provisions of Article 377, Clause 6 of Book 2 of the Civil Code regarding net turnover.
2. Where the concentration is realised through the acquisition of control over parts, whether or not constituted as legal entities, of one or more undertakings, only the turnover relating to the parts which are the subject of the transaction shall be taken into account in the determination of turnover, as referred to in Article 29, Clause 1, with regard to the seller or sellers.
3. Without prejudice to the stipulations of Clause 2, the aggregate turnover of an undertaking concerned, within the meaning of Article 29, Clause 1 shall be determined by adding together the respective turnovers of the following undertakings:
 - a. the undertaking concerned;
 - b. those undertakings in which the undertaking concerned, directly or indirectly:

1. owns more than half of the capital or business assets, or
 2. has the power to exercise more than half the voting rights, or
 3. has the power to appoint more than half the members of the supervisory board, the administrative board, or bodies legally representing the undertakings, or
 4. has the right to manage the undertaking's affairs;
- c. those undertakings which, in the undertaking concerned, hold the rights or powers listed in b;
- d. those undertakings in which an undertaking as referred to in item c holds the rights or powers listed in item b;
- e. those undertakings in which two or more undertakings, as referred to in items a to d, hold the rights or powers listed in b.
4. Where undertakings concerned with the concentration jointly have the rights or powers listed in Clause 3b, in calculating the aggregate turnover of the undertakings concerned for the purposes of Article 29, Clause 1:
- a. no account shall be taken of the turnover resulting from the sale of products or the provision of services between the joint undertaking and each of the undertakings concerned, or any other undertaking connected with the undertaking concerned, within the meaning of Clauses 3b to 3e;
 - b. the turnover resulting from the sale of products and the provision of services between the joint undertaking and any third undertakings shall be taken into account. This turnover shall be apportioned to the undertakings in proportion to their participating interests in the joint undertaking.
5. Transactions between the undertakings as referred to in Clause 3 shall not be taken into account for the determination of the combined turnover of the undertakings concerned, as referred to in Article 29, Clause 1.

Article 31

1. For the application of Article 29, Clause 1 the turnover of credit institutions and financial institutions, within the meaning of the 1992 Credit Institutions Supervision Act, shall be replaced by one tenth of the fixed and current assets, within the meaning of Article 364, Clauses 2 and 3 of Book 2 of the Civil Code, as at the end of the preceding financial year, with at least EUR 22 690 000 of tangible fixed assets to be held in the Netherlands.

2. For the application of Article 29, Clause 1, in respect of insurance companies within the meaning of the 1993 Insurance Industry Supervision Act, turnover shall be replaced by the value of the gross premiums written in the preceding financial year, at least EUR 4 540 000 of which should have been received from Dutch residents.

Article 32

The provisions of this Chapter shall not apply to concentrations involving no undertakings other than:

- a. credit institutions or financial institutions, within the meaning of Article 1, Clauses 1a and 1c of the 1992 Credit Institutions Supervision Act,
- b. insurance companies, within the meaning of Article 1h of the 1993 Insurance Industry Supervision Act,
- c. insurance companies, within the meaning of Article 1c of the Funeral Provisions Insurance Industry Supervision Act, or
- d. undertakings heading a group which includes one or more credit institutions, financial institutions or insurance companies, as referred to in items a., b. and c. of this Article, provided that such undertakings are required to obtain a certificate of no objection, within the meaning of Article 23, Clause 1 or Article 24, Clause 1 of the 1992 Credit Institutions Supervision Act, Article 174, Clause 1 or Article 175, Clause 1 of the 1993 Insurance Industry Supervision Act, or Article 81, Clause 1 or Article 82, Clause 1 of the Funeral Provisions Insurance Industry Supervision Act, for such concentrations.

Article 33

1. The provisions of this Chapter shall not apply to concentrations which are subject to the supervision of the Commission of the European Communities pursuant to Regulation (EEC) No. 4064/89 of the Council of the European Communities, dated December 21, 1989, concerning control of concentrations of undertakings (Ref. PbEC 1990, L 257).

2. Clause 1 shall not apply if and in as far as the Commission of the European Communities has applied Article 9, Clause 1 of the Regulation referred to in Clause 1 .

Section 3. Notification ➔

Article 34

The realisation of a concentration before the director general has been notified of the intention to do so and a subsequent period of four weeks has passed, is prohibited.

Article 35

1. Notifications shall include such information as is required by general administrative order. Article 4.4 of the General Administrative Law Act shall apply likewise.

2. The director general may require the notifying party to provide further information in the event of non-compliance with the provisions of Clause 1 , or if the information provided is insufficient for the purpose of the assessment of a notification.

3. Information provided by an undertaking with notification shall not be made public until one week after the announcement of the relevant decision of the director general, if the undertaking defines that information as confidential.

4. If a request is made for a provisional ruling, within the meaning of Article 8:81 of the General Administrative Law Act, in relation to the decision of the director general as

referred to in Clause 3 , the term stipulated in Articles 34 and 37, Clauses 1 and 3, shall be suspended until the day on which the written ruling of the President of the Court, as referred to in Article 92, is handed down.

Article 36

The director general shall announce notifications received in the State Gazette at the earliest opportunity.

Article 37

1. Within four weeks of the receipt of a notification, the director general shall give notice as to whether a licence is required for the concentration to which the report relates.

2. The director general may determine that a licence is required for a concentration if he has reason to assume that a dominant position that significantly restricts competition in the Dutch market or a part thereof could be created or strengthened as a result of that concentration.

3. If Clause 1 is not applied within four weeks, no licence is required for the concentration.

4. As the result of the director general's notification that no licence is required for a concentration, the prohibition of Article 34 shall cease to apply in relation to that concentration.

5. A notification from the director general within the meaning of Clause 1 shall be announced in the State Gazette.

Article 38

The term of four weeks referred to in Article 34 and Article 37, Clauses 1 and 3, shall be suspended as from the day on which the director general requires further information pursuant to Article 35, Clause 2, until the day on which such information is provided.

Article 39

1. Article 34 shall not apply in the case of a public acquisition or exchange bid aimed at the acquisition of a share in the capital of an undertaking, provided that this is reported immediately to the director general, and the acquiring party does not exercise the voting rights attached to that share in the capital.

2. If, in relation to a notification, within the meaning of Clause 1, the director general gives notice that a licence is required pursuant to Article 37, Clause 1, the concentration:

- a. shall be nullified within thirteen weeks if no application for a licence is submitted within four weeks of the issue of such notification, or if a licence is refused;
- b. shall, if a licence is issued subject to restrictions or conditions, comply with such restrictions or conditions within thirteen weeks of the issue of that licence.

3. At the request of the notifying party, within the meaning of Clause 1 , the director general

may decide that, by way of departure from that Clause, the voting rights referred to in that Clause may be exercised in order to maintain the full value of that party's investment.

Article 40

1. For serious reasons, the director general may grant dispensation from the prohibition of Article 34, at the request of the notifying party.
2. Dispensation may be granted subject to restrictions; conditions may be attached to a dispensation decision.
3. If, after granting dispensation within the meaning of Clause 1, the director general gives notice that a licence is required in relation to the relevant report on the grounds of Article 37, Clause 1, and the concentration has been realised before such notice is issued, the concentration:
 - a. shall be nullified within thirteen weeks if no application for a licence is submitted within four weeks of the issue of such notification, or the application for a licence is withdrawn, or if a licence is refused;
 - b. shall, if a licence is issued subject to restrictions or conditions, comply with such restrictions or conditions within thirteen weeks of the issue of that licence.

Section 4. Licences ➡

Article 41

1. The realisation of a concentration to which notification that a licence is required pursuant to Article 37, Clause 1 relates, is prohibited without such a licence.
2. A licence shall be refused if a dominant position that significantly restricts actual competition in the Dutch market or a part thereof could be created or strengthened as a result of the proposed concentration.
3. If at least one of the undertakings involved in the concentration is entrusted with the operation of services of general economic interest, by law or by an administrative agency, a licence may be refused only if such refusal does not obstruct the performance of the task entrusted to the undertaking or undertakings in question.
4. A licence may be issued subject to restrictions; conditions may be attached to a licence.

Article 42

1. An application for a licence shall be submitted to the director general.
2. The information to be provided with an application may be laid down by general administrative order.
3. Information provided by an undertaking with an application shall not be made public until one week after the announcement of the relevant decision of the director general, if the undertaking defines that information as confidential.

4. If a request is made for a provisional ruling, within the meaning of Article 8:81 of the General Administrative Law Act, in relation to the decision of the director general as referred to in Clause 3 , the term stipulated in Article 44, Clause 1, shall be suspended until the day on which the written ruling of the President of the Court, as referred to in Article 92, is handed down.

5. The director general shall announce applications received in the State Gazette at the earliest opportunity.

Article 43

An undertaking shall provide the director general, on request, with such explanations of its business information as can reasonably be deemed necessary for the assessment of a licence application.

Article 44

1. The director general shall issue his decision on the application within thirteen weeks of the receipt of that application. Failure to issue a decision within thirteen weeks shall be equated with the granting of a licence.

2. If an application is submitted before the director general issues notification that a licence is required for the relevant concentration, the application shall not be processed until such notification has been issued. The term as referred to in Clause 1 shall commence on the date of such notification.

3. The decision shall be deposited for inspection at the competition authority, following its announcement. Information which does not qualify for publication pursuant to Article 10 of the Freedom of Information Act shall not be deposited for inspection.

4. The decision shall be announced in the State Gazette.

Article 45

The director general may revoke a licence if the information provided is inaccurate to the extent that a different decision would have been made regarding the licence had the correct information been known.

Article 46

1. For serious reasons, at the request of a licence applicant, the director general may grant dispensation from the prohibition of Article 41, Clause 1 until a final decision is made on the licence application.

2. Dispensation may be granted subject to restrictions; conditions may be attached to a dispensation decision.

3. If, after granting dispensation within the meaning of Clause 1 , the licence application is withdrawn or a licence is refused, the concentration, in as far as it has been realised, shall be nullified within thirteen weeks.

4. If the licence is granted subject to restrictions or conditions, the concentration, in as far as it has been realised, shall comply with such restrictions or conditions within thirteen

weeks.

Article 47

1. Our Minister may, after the director general has refused a licence for the realisation of a concentration, decide in response to a request to that effect that the licence shall be granted if, in the Minister's view, this is necessary for serious reasons in the general interest, which outweigh the expected restriction of competition.

2. A request within the meaning of Clause 1 may be made up to four weeks after the director general's decision to refuse a licence has been finalised.

3. If a request within the meaning of Clause 1 is made, the consideration of objections and appeals against the director general's decision shall be suspended until a final decision is made on that request.

Article 48

The information that should be provided with a request for a licence submitted to Our Minister may be laid down by general administrative order.

Article 49

1. Our Minister shall issue his decision on a request, in accordance with the views of the Cabinet, within eight weeks of receipt of the request.

2. Article 44, Clauses 3 and 4, shall apply likewise.

CHAPTER 6. SUPERVISION AND INVESTIGATION ➔

Section 1. Supervision ➔

Article 50

1. The officials of the competition authority as appointed by order of the director general are responsible for supervising compliance with the provisions of or pursuant to this Act.

2. In the interests of the application of the director general's powers, within the meaning of Article 9, Clause 1, Article 13, Clause 2 and Article 15, Clause 2, the officials appointed pursuant to Clause 1 shall hold the powers assigned to them in order to perform such supervision.

3. An order, within the meaning of Clause 1, shall be announced by means of publication in the State Gazette.

Article 51

Article 5:17 of the General Administrative Law Act shall not apply to documents relating to the application of competition rules exchanged by an undertaking and an advocate admitted to the Bar, which are in the possession of the undertaking but which, had they been in the possession of the advocate, would have been subject to Article 5:20, Clause 2 of the

General Administrative Law Act.

Section 2. Investigation ➡

Article 52

1. The officials appointed pursuant to Article 50, Clause 1 are responsible for the investigation.

2. For the purpose of the investigation, they shall possess the powers assigned to them in this Section, as well as the powers assigned to them for the performance of supervision within the meaning of Article 50, Clause 1, taking account of the relevant restrictions imposed in this Section.

Article 53

If the officials referred to in Article 52, Clause 1, that a certain undertaking or association of undertakings has committed an infringement, there is no obligation on the part of that undertaking or association of undertakings to make a statement. The parties concerned shall be notified to that effect before being asked to provide oral information on the matter.

Article 54

The officials referred to in Article 52, Clause 1 are authorised to place business premises and articles under seal between the hours of 18.00 and 8.00, in as far as this can reasonably be deemed necessary for the exercise of the powers referred to in Article 5:17 of the General Administrative Law Act.

Article 55

The officials referred to in Article 52, Clause 1 shall, if necessary, exercise the powers assigned to them by Article 5:17 of the General Administrative Law Act with the help of the police.

CHAPTER 7. INFRINGEMENT OF THE PROHIBITION OF COMPETITION AGREEMENTS AND PROHIBITION OF ABUSE OF A DOMINANT POSITION ➡

Section 1. Administrative fine and order sanctioned by periodic penalty payments ➡

Article 56

1. In the event of an infringement of Article 6, Clause 1 or of Article 24, Clause 1, the director general may:

- a. impose a fine;
- b. impose an order sanctioned by periodic penalty payments on the natural person to

whom, or the legal person to which the infringement can be attributed.

2. A fine and an order sanctioned by periodic penalty payments may be imposed together.
3. The director general shall not impose a fine if the natural person to whom, or the legal person to which the infringement can be attributed can reasonably demonstrate that no culpability for the infringement attaches to the person in question.
4. A manager of a legal person shall not be regarded as a natural person within the meaning of Clause 1 .

Article 57

1. The fine referred to in Article 56, Clause 1a shall not exceed the higher of EUR 450 000 or 10% of the turnover of the undertaking or, if the infringement is committed by an association of undertakings, of the combined turnover of the undertakings which are members of the association, in the financial year preceding that in which the fine is imposed.
2. In determining the level of the fine, the director general shall in any event take into account the seriousness and duration of the infringement.
3. The determination of the turnover, as referred to in Clause 1 , shall take place on the basis of the provisions of Article 377, Clause 6 of Book 2 of the Civil Code regarding net turnover.

Article 58

1. An order sanctioned by periodic penalty payments within the meaning of Article 56, Clause 1b, shall serve to nullify the infringement or further infringements, or to prevent a recurrence of the infringement. Conditions relating to the provision of information to the director general may be attached to an order sanctioned by periodic penalty payments.
2. An order shall apply for a period to be determined by the director general, not exceeding two years.
3. Article 5:32, Clauses 4 and 5, Article 5:33, Article 5:34, Clause 1 and Article 5:35 of the General Administrative Law Act shall apply.

Section 2. Procedure ➔

Article 59

1. If the director general reasonably suspects , after an investigation has been completed, that an infringement within the meaning of Article 56, Clause 1 has been committed, and that a fine or an order sanctioned by periodic penalty payments should be imposed for this, he shall commission a report.
2. The report shall in any event include a statement of:
 - a. the facts and circumstances underlying the finding that an infringement has been

committed;

- b. where and when the facts and circumstances referred to in Clause 2a occurred;
- c. the undertaking or association of undertakings to which the infringement can be attributed;
- d. the natural person to whom, or the legal person to which the infringement can be attributed;
- e. the statutory provision that has been infringed.

3. A copy of the report shall be sent to the undertaking or association of undertakings referred to in Clause 2c .

4. At the request of an interested party who, due to inadequate knowledge of the Dutch language, does not understand the report fully, the director general shall ensure as far as possible that the party concerned is notified of the contents of the report in a language which that party understands.

Article 60

1. By way of departure from Section 4.1.2 of the General Administrative Law Act, interested parties shall be invited in writing to state their views on the report referred to in Article 59, Clause 1, orally or in writing, at their discretion.

2. The report and all other documents relating to the matter shall be made available for inspection by interested parties for a period of at least four weeks. The invitation referred to in Clause 1 shall state where and when the documents will be available for inspection.

3. Article 3:11, Clauses 2 and 3 and Article 3:13, Clause 3 of the General Administrative Law Act shall apply.

4. If an undertaking or association of undertakings, within the meaning of Article 59, Clause 2c, presents its views orally, at the request of a party who does not adequately understand the Dutch language, the director general shall ensure that an interpreter is appointed to support the party concerned at the hearing, unless it can reasonably be assumed that there is no need for this.

Article 61

1. If necessary, interested parties shall be given an opportunity to respond to the views presented.

2. A report shall be drawn up of oral presentations.

Section 3. Decisions ➡

Article 62

1. The director general shall decide by decision whether to impose a fine or an order

sanctioned by periodic penalty payments.

2. A decision imposing a fine or an order sanctioned by periodic penalty payments shall in any event state:

- a. if a fine is imposed: the sum of money payable, as well as an explanation of the amount, taking into account the provisions of Article 57, Clause 2;
- b. if an order is imposed: the nature of the order and the term for which it applies;
- c. the infringement for which the fine or order is imposed, as well as the statutory provision which has been infringed;
- d. the information referred to in Article 59, Clause 2.

3. At the request of the party on whom the decision is imposed and who, due to inadequate mastery of the Dutch language, does not understand the decision fully, the director general shall ensure as far as possible that the party concerned is notified of the contents of the decision in a language which that party understands.

Article 63

1. The effectuation of a decision, within the meaning of Article 62, Clause 1, shall be suspended until the term for objections has expired or, if an objection is lodged, until a decision on the objection has been made.

2. Clause 1 shall not apply in as far as the decision imposes a penalty, and the director general has explicitly determined this in the decision.

Article 64

The power to impose a fine or an order sanctioned by periodic penalty payments, within the meaning of Article 56, Clause 1, shall lapse five years after the infringement is committed.

Article 65

1. A decision, within the meaning of Article 62, Clause 1, shall be deposited for inspection at the competition authority after it has been announced.

2. The decision shall be announced in the State Gazette. Information which does not qualify for publication pursuant to Article 10 of the Freedom of Information Act shall not be deposited for inspection.

Section 4. Amendment or revocation of the order sanctioned by periodic penalty payments ➡

Article 66

1. The director general may amend or revoke a an order sanctioned by periodic penalty payments.

2. By way of departure from Section 4.1.2 of the General Administrative Law Act, the director general shall afford interested parties an opportunity to state their views, orally or in writing, before applying Clause 1

Section 5. Collection of the fine ➡

Article 67

1. A fine shall be paid within thirteen weeks of the date on which the decision imposing the fine becomes effective.

2. The fine shall be increased by interest charged at the statutory rate as from the date on which the period referred to in Clause 1 expires.

3. If payment is not made within the term referred to in Clause 1, the party owing the fine shall be ordered in writing to pay the amount of the fine, increased by the interest charged pursuant to Clause 2 and the costs of the reminder, within two weeks.

Article 68

1. In the event of failure to pay within the term of two weeks, as referred to in Article 67, Clause 3, the director general may collect the fine, increased by the interest due pursuant to Article 67, Clause 2 and the costs relating to the reminder and collection, by writ.

2. The writ shall be served by a bailiff at the expense of the party owing the fine and shall give rise to a writ of execution, within the meaning of Book 2 of the Code of Civil Procedure.

3. For six weeks after the date on which the writ is served, the writ may be contested by summoning the Sstate.

4. The execution of the writ shall be suspended by the summons. At the request of the Sstate, the court may lift the suspension of execution.

CHAPTER 8. INFRINGEMENTS OF OBLIGATION TO COOPERATE AND SUPERVISION OF CONCENTRATIONS ➡

Section 1. Infringements of obligation to cooperate ➡

Article 69

1. The director general may impose a fine not exceeding EUR 4 500 on a party that acts in contravention of Article 5:20, Clause 1 of the General Administrative Law Act in respect of the officials referred to in Article 50, Clause 1 or Article 52, Clause 1.

2. The director general shall not impose a fine if the interested party can reasonably demonstrate that no culpability for the infringement attaches to that party.

3. Article 184 of the Criminal Code shall not apply to an infringement as referred to in Clause 1.

Article 70

1. If the infringement referred to in Article 69, Clause 1 involves a refusal to cooperate in the application of Article 5:17, Clause 1 of the General Administrative Law Act, the director general may impose an order sanctioned by periodic penalty payments, ordering that business information and documents mentioned in the order be made available for inspection.

2. A fine within the meaning of Article 69, Clause 1 and an order within the meaning of Clause 1 of this Article may be imposed together.

3. Article 5:32, Clauses 4 and 5, Article 5:33, Article 5:34, Clause 1 and Article 5:35 of the General Administrative Law Act shall apply to the order referred to in Clause 1 .

Section 2. Infringements of supervision of concentrations ➡

Article 71

In the event of non-compliance with the conditions attached to the dispensation pursuant to Article 40, Clause 2 or Article 46, Clause 2, within the meaning of the relevant Article, the director general may impose a fine not exceeding EUR 4 500 on a natural person to whom, or legal person to which that infringement can be attributed.

Article 72

The director general may impose a fine not exceeding EUR 4 500 on a party that acts in contravention of Article 43.

Article 73

The director general may impose a fine not exceeding EUR 22 500 on a party that provides inaccurate or incomplete information when notifying a concentration pursuant to Article 34 or in an application for a licence to realise a concentration within the meaning of Article 41, Clause 1.

Article 74

1. In the event of the infringement of:

1. Article 34,
2. Article 39, Clauses 2a or 2b,
3. Article 40, Clauses 3a or 3b,
4. Article 41, Clause 1,
5. Article 46, Clauses 3 or 4, the director general may impose on the natural person to whom, or the legal person to which the infringement can be attributed
 - a. a fine not exceeding EUR 22 500;

- b. an order sanctioned by periodic penalty payments serving to nullify the infringement.

2. A fine and an order sanctioned by periodic penalty payments may be imposed together.

3. Article 5:32, Clauses 4 and 5, Article 5:33, Article 5:34, Clause 1 and Article 5:35 of the General Administrative Law Act shall apply to the order referred to in Clause 1b .

Article 75

1. In the event of non-compliance with the conditions attached to a licence pursuant to Article 41, Clause 4, the director general may impose on the natural person to whom, or the legal person to which the infringement can be attributed

- a. a fine not exceeding EUR 22 500;
- b. an order sanctioned by periodic penalty payments serving to secure the compliance with the relevant conditions.

2. A fine and an order sanctioned by periodic penalty payments may be imposed together.

3. Article 5:32, Clauses 4 and 5, Article 5:33, Article 5:34, Clause 1 and Article 5:35 of the General Administrative Law Act shall apply to the order referred to in Clause 1b .

Article 76

A fine pursuant to Article 71, Article 72, Article 73, Article 74, Clause 1 or Article 75 shall not be imposed if the interested party can reasonably demonstrate that no culpability for the infringement attaches to that party.

Section 3. Procedure ➔

Article 77

1. If an official, within the meaning of Article 52, Clause 1 determines that an infringement, within the meaning of Article 69, Clause 1, Articles 71, 72, 73, 74, Clause 1 or Article 75 has been committed, the official shall draft a report on that infringement.

2. The report shall in any event include a statement of:

- a. the facts and circumstances underlying the finding that an infringement has been committed;
- b. where and when the facts and circumstances referred to in Clause 2a occurred;
- c. the party which committed the infringement;
- d. the natural person to whom, or the legal person to which the infringement can be attributed;

- e. the statutory provision that has been infringed.

3. A copy of the report shall be sent to the party referred to in Clause 2c .

4. At the request of an interested party who, due to inadequate knowledge of the Dutch language, does not understand the report fully, the director general shall ensure as far as possible that the party concerned is notified of the contents of the report in a language which that party understands.

Article 78

1. By way of departure from Section 4.1.2 of the General Administrative Law Act, interested parties shall be invited in writing to state their views on the report within the meaning of Article 77, Clause 1, orally or in writing, at their discretion.

2. If the director general intends to impose an order sanctioned by periodic penalty payments, he shall also afford interested parties an opportunity to make their views known regarding the intended order, orally or in writing.

3. If an interested party presents its views orally, at the request of a party who does not adequately understand the Dutch language, the director general shall ensure that an interpreter is appointed to support the party concerned, unless it reasonably can be assumed that there is no need for this.

Article 79

1. A fine, within the meaning of Article 69, Clause 1, Articles 71, 72, 73, 74, Clause 1a, Article 75, Clause 1a and an order within the meaning of Article 70, Clause 1, Article 74, Clause 1b and Article 75, Clause 1b shall be imposed by decision issued by the director general.

2. The decision shall in any event state:

- a. if a fine is imposed: the sum of money payable, as well as an explanation of the amount;
- b. if an order is imposed: the nature of the order and the term for which it applies;
- c. The information referred to in Article 77, Clause 2.

3. At the request of the party on whom the decision is imposed and who, due to inadequate mastery of the Dutch language, does not understand the decision fully, the director general shall ensure as far as possible that the party concerned is notified of the contents of the decision in a language which that party understands.

4. The decision shall be issued within thirteen weeks of the preparation of a report, within the meaning of Article 77, Clause 1.

Article 80

1. The effectuation of a decision, within the meaning of Article 79, Clause 1, shall be

suspended until the term for objections has expired or, if an objection is lodged, until a decision on the objection has been made.

2. Clause 1 shall not apply in as far as the decision imposes an order sanctioned by periodic penalty payments, and the director general has explicitly determined this in the decision.

Article 81

Articles 67 and 68 shall apply to the fine within the meaning of Article 69, Clause 1, Articles 71, 72, 73, 74, Clause 1a and Article 75, Clause 1a.

Article 82

The power to impose a fine, within the meaning of Article 69, Clause 1, Articles 71, 72, 73, 74, Clause 1a and Article 75, Clause 1a, shall lapse two years after the infringement is committed.

CHAPTER 9. PROVISIONAL ORDER SANCTIONED BY PERIODIC PENALTY PAYMENTS ➡

Article 83

1. The director general may impose a provisional order sanctioned by periodic penalty payments if, in his provisional opinion, it is probable that Article 6, Clause 1 or Article 24, Clause 1 have been infringed and, in view of the interests of the undertakings affected by the infringement or in the interest of preserving actual competition, immediate action is required.

2. A provisional penalty obliges the natural person to whom, or the legal person to which the infringement can provisionally be attributed to perform or refrain from the actual or legal action described in that order.

3. Article 5:32, Clauses 4 and 5, Article 5:33, Article 5:34, Clause 1 and Article 5:35 of the General Administrative Law Act shall apply to the order referred to in Clause 1 .

Article 84

1. The director general shall notify interested parties in writing of the intention to impose a provisional order, stating the reasons.

2. By way of departure from Section 4.1.2 of the General Administrative Law Act, the director general shall afford interested parties the opportunity to present their views orally or in writing before Clause 1 is applied.

Article 85

1. The director general shall decide on the imposition of a provisional order at the earliest opportunity, by decision.

2. If a provisional penalty is imposed, the director general may stipulate in the decision

when it shall expire.

3. The provisional order shall in any event expire:

- a. if a report, within the meaning of Article 59, Clause 1, is not prepared within six months of the date on which the decision is issued;
- b. as soon as an decision, within the meaning of Article 62, Clause 1, is issued, if the report referred to in Clause 3a is prepared within the term referred to in that Clause.

Article 86

Article 65 shall apply likewise to a decision imposing a provisional order.

Article 87

1. The director general may revoke or amend a provisional order.
2. Articles 84, 85 and 86 shall apply likewise.

CHAPTER 10. DECENTRALISED APPLICATION OF EUROPEAN COMMUNITY COMPETITION RULES ➔

Article 88

The director general shall exercise the power, as afforded pursuant to the Regulations based on Article 87 of the Treaty, to apply Article 85, Clause 1 and Article 86 of the Treaty, as well as the existing power, pursuant to Article 88 of the Treaty, to determine the admissibility of competition agreements and the abuse of a dominant position in the common market.

Article 89

Chapter 3, Section 4, Chapter 6, Chapter 7 and Chapter 9 shall apply likewise to the exercise of the powers referred to in Article 88.

CHAPTER 11. USE OF INFORMATION ➔

Article 90

Information or data concerning an undertaking, obtained in the course of any activity for the implementation of this Act, may be used solely for the purpose of the application of this Act.

Article 91

By way of departure from Article 90, the director general is authorised to provide information or data obtained in the performance of the tasks assigned to him by this Act, to:

1. a foreign institution which is responsible, pursuant to national statutory provisions, for the application of competition rules, in as far as such information or data are, or could be of significance for the performance of the tasks of that institution and, in the director general's opinion, provision of that information or data is in the interests of the Dutch economy, provided that:
2. an administrative body that is responsible for tasks relating, or partly relating to the application of competition rules, pursuant to statutory provisions other than this Act, in as far as such information or data are, or could be of significance for the performance of the tasks of that body, providing that:
 - a. the confidentiality of the information or data is sufficiently protected and
 - b. there is sufficient assurance that the information or data will not be used for any purpose other than that for which they are provided.

CHAPTER 12. LEGAL PROTECTION ➔

Article 92

1. A commission, within the meaning of Article 7:13 of the General Administrative Law Act, shall advise on any objection to a decision within the meaning of Article 62.
2. The members of the advisory commission within the meaning of Clause 1 shall not be employees of the Ministry of Economic Affairs.

Article 93

1. By way of departure from Article 8:7 of the General Administrative Law Act, the Rotterdam District Court is competent to hear appeals against decisions pursuant to this Act.
2. Article 7:1 of the General Administrative Law Act shall not apply to decisions within the meaning of Article 37, Clause 1 and Article 44, Clause 1.

CHAPTER 13. AMENDMENTS OF OTHER ACTS ➔

Article 94

The phrase referring to the Economic Competition Act¹ in Article 1, Clause 20 of the Economic Offences Act, shall be withdrawn.

Article 95

The Economic Competition Act shall be repealed.

Article 96

The final phrase in Article 8a, Clause 1c of the 1964 Income Tax Act² and the Act on Enforcement of Traffic Regulations under Administrative Law (Statute Book 1990, 435) shall be replaced by: the Act on Enforcement of Traffic Regulations under Administrative Law and the Competition Act.

Article 97

Article 20 of the Maritime Transport Act³ shall be amended as follows:

1. Clause 3 shall be withdrawn.
2. Clause 4 shall be renumbered Clause 3.

Article 98

The Industrial Organisation Administrative Jurisdiction Act⁴ shall be amended as follows:

A.

Article 15 shall be amended as follows:

1. The number "1." shall be inserted before the text of the Article.
2. A new Clause shall be added to the Article as follows:
 2. The Courts and presiding judges are required to provide information if so requested by the presiding judge of the Industrial Appeals Court.

B.

Title III shall read as follows:

TITLE III: APPEALS BEFORE THE COURT OF APPEAL FOR TRADE AND INDUSTRY

CHAPTER I: APPEALS AGAINST ADMINISTRATIVE ORDERS

Article 18

1. The Court shall rule, exclusively, in the first and at the same time highest instance on the appeal presented by interested parties against:
 - a. an order of a body, with the exception of an order pursuant to the Freedom of Information Act and an order to collect by writ of execution, and
 - b. another action by a body in the performance of its administrative duties, with the exception of a legal act under private law.
2. Clause 1 shall not apply in as far as the appeal against particular orders or other actions is otherwise regulated by law.

3. The Court is also exclusively responsible for hearing the disputes assigned to its jurisdiction by law, in first and at the same time highest instance.

4. The powers of the Court are subject to Articles 8:1, Clause 3, 8:2, 8:3 and 8:6, Clause 2 of the General Administrative Law Act.

Article 19

1. With the exception of section 8.1.1 and Articles 8:10 and 8:13, chapter 8 of the General Administrative Law Act shall apply likewise to orders and other actions, on the understanding that Article 8:86, Clause 1 can be applied only with the consent of the parties. The parties shall also be notified of this in the invitation, within the meaning of Article 8:83, Clause 1.

2. The cases brought before the Court shall be heard by a three-judge section.

3. If, in the opinion of the three-judge section, it is appropriate for further proceedings in a case to be heard by a singlejudge section, it may refer the case to a singlejudge section.

4. If, in the view of the singlejudge section, it is not appropriate for a case to be heard by a single-judge section, it may refer the case to a three-judge section.

5. Referral may take place at any point in the proceedings. A referred case shall be continued from the point reached on referral.

CHAPTER II: APPEALS AGAINST DECISIONS OF LOWER COURTS

Article 20

1. An interested party and the administrative body may file an appeal with the Court against a decision of a District Court, within the meaning of Section 8.2.6 of the General Administrative Law Act, and against a decision of the presiding judge of the District Court, within the meaning of Article 8:86 of that Act, with regard to an order taken pursuant to a statutory provision included in the Appendix to this Act.

2. Appeals may not be filed against:

- a. a decision of a District Court following the application of Article 8:54, Clause 1 of the General Administrative Law Act,
- b. a District Court decision within the meaning of Article 8:55, Clause 5 of that Act,
- c. a decision of the presiding judge of a District Court, within the meaning of Article 8:84, Clause 2 of that Act, and
- d. a decision of the presiding judge within the meaning of Article 8:75a, Clause 1, in relation to Article 8:84, Clause 4 of that Act.

3. Appeals against other decisions of the District Court or the presiding judge may be filed only in conjunction with an appeal against a decision as referred to in Clause 1 .

Article 21

1. The clerk of the Court shall notify the clerk of the District Court that handed down the decision of any appeal filed, at the earliest opportunity.
2. The clerk of the District Court, within the meaning of Clause 1 , shall send the case documents with four copies of the record of the hearing, in as far as this relates to the case, and four copies of the decision, within one week of receipt of the notification from the Clerk of the Court, within the meaning of Clause 1 .

Article 22

1. Chapter 8 of the General Administrative Law Act shall apply likewise to the appeal, with the exception of Section 8.1.1 and Articles 8:10, 8:13, 8:41, 8:74 and 8:82, unless this Chapter provides otherwise. Article 8:86, Clause 1 may be applied only if a single-judge section or the presiding judge has handed down a decision on the appeal.
2. Cases presented to the Court shall be heard by a three-judge section.
3. If, in the opinion of the three-judge section, it is appropriate for further proceedings in a case heard by a single-judge section of the District Court or by the presiding judge of the District Court to be heard before a single judge, it may refer the case to a single-judge section.
4. If, in the opinion of a singlejudge session, it is not appropriate for a case to be heard by a single judge, the case may be referred to a three-judge section.
5. Referral may take place at any point in the proceedings. A referred case shall be continued from the point reached on referral.

Article 23

1. If the administrative body withdraws the appeal, the administrative body may, at the request of a party, be ordered to pay costs in a separate decision, with the corresponding application of Article 8:75 of the General Administrative Law Act. If the appeal is withdrawn orally, the request of the party in attendance shall be made orally at the same time as the withdrawal of the appeal. In the event of non-compliance with this provision, the request shall be declared inadmissible. If the appeal is withdrawn in writing, the request shall be presented in writing. Articles 6:5 to 6:9, 6:11, 6:14, 6:15, 6:17 and 6:21 of the General Administrative Law Act shall apply likewise.
2. Article 8:75a, Clauses 2 and 3 of the General Administrative Law Act shall apply likewise.

Article 24

1. The party submitting the appeal shall be charged a court registry fee by the clerk of the Court. If the District Court ruling, in as far as an appeal has been filed against it, relates to more than one decision, or if a joint appeal is presented by two or more appellants with regard to the same ruling, the fee is payable once only. In such cases, the court registry fee shall amount to the higher of the fees payable by one of the appellants for each individual decision pursuant to Clause 2.

2. The court registry fee shall amount to:
 - a. NLG 300 if the appeal is filed by a natural person, unless otherwise provided by law, and
 - b. NLG 600 if the appeal is filed by a party other than a natural person.
3. If the administrative body files an appeal and the District Court's decision is upheld, the relevant legal person shall be charged a court registry fee of NLG 600.
4. The clerk of the court shall notify the party submitting the appeal of the fact that a court registry fee is payable and that the amount due should be credited to the Court's account or deposited at the Court's registry within four weeks of the notification date. If the amount is not credited or deposited within this period, the appeal shall be declared inadmissible, unless the appellant cannot reasonably be deemed to be in default.
5. If the appeal is withdrawn because the administrative body has met the appellant's claim, wholly or in part, the relevant legal person shall reimburse the appellant for the court registry fee. In other cases, the relevant legal person may refund the court registry fee, in part or in full, if the appeal is withdrawn.
6. The amounts referred to in Clauses 2 and 3 may be altered by general administrative order, in as far as the consumer price index provides grounds for this.
7. This Article shall apply likewise to a request for review.

Article 25

1. The applicant for a provisional ruling shall be charged a court registry fee by the clerk of the Court. Article 24, Clause 1, second and third sentences, Clause 2 and Clause 6 shall apply likewise.
2. Article 24, Clause 4 shall apply likewise, on the understanding that the term for payment of the amount due by transfer or deposit shall be two weeks. The presiding judge may fix a shorter term.
3. If the request is withdrawn because the administrative body or the interested party to which the contested decision relates notify the presiding judge in writing that they will suspend implementation of the contested decision pending the outcome of the legal proceedings on the primary issue, or that they will take the provisional measures requested, the court registry fee shall be refunded by the clerk of the Court's office. In other cases, the relevant legal person may refund part or all of the court registry fee paid, if the request is withdrawn.
4. The decision may provide that the court registry fee paid shall be refunded, partly or in full, by the party ordered to do so by the presiding judge.
5. If the request is presented by the administrative body and is admitted, wholly or in part, the decision may provide that the clerk of the Court's office shall refund the relevant legal person the court registry fee.
6. This Article shall apply likewise to a request for a provisional ruling made after a

request for review has been presented.

Article 26

The Court shall uphold the District Court's decision, as handed down or with improved grounds or, by overturning that decision in part or in full, shall do what the District Court should have done.

Article 27

1. If the Court overturns the District Court's decision, wholly or in part, the decision shall also provide that the appellant shall be refunded the court registry fee by the legal person ordered to do so by the Court.

2. In other cases the decision may provide that the court registry fee shall be refunded, in full or in part, by the legal person ordered to do so by the Court.

Article 28

1. The Court shall refer the case back to the District Court of first instance if:

- a. the District Court wrongly ruled itself to be non-competent or the appeal to be inadmissible and the Court overturns this decision, ruling that the District Court is competent to hear the case or that the appeal is admissible, or
- b. the Court is of the opinion that the case should be reopened before the District Court for reasons other than those referred to in Clause 1a .

2. The clerk of the Court shall send the case documents to the clerk of the District Court, accompanied by a copy of the decision, at the earliest opportunity.

Article 29

In cases within the meaning of Article 28, Clause 1a the Court may settle the case without re-referral if, in the Court's opinion, no further hearing before the District Court is required.

Article 30

If the Court is of the opinion that the decision was handed down by a court other than the competent court, it may declare the non-competence covered and rule that the decision was handed down by a competent body.

C. (The former) Article 20 shall be renumbered Article 31.

D. The Appendix referred to in (the new) Article 20 shall be as follows:

APPENDIX TO THE INDUSTRIAL ORGANISATION ADMINISTRATIVE JURISDICTION ACT

1. Competition Act.

Article 99

The words 'or the Industrial Appeals Court' shall be inserted in Article 37, Clause 1 of the Council of State Act5, after 'Judicial Section of the Council of State'.

CHAPTER 14. TRANSITIONAL PROVISIONS ➔

Article 100

1. For three months after the date Article 6 takes effect or, if an application for dispensation, within the meaning of Article 17, is submitted during that term as of the date Article 6 takes effect, until a decision is taken on that application, Article 6 shall not apply to an agreement or decision in effect on that date, or to a practice which commenced prior to that date, in as far as the agreement, decision or practice are not invalidated or prohibited by or pursuant to the Economic Competition Act.

2. By way of departure from Article 19, Clause 1, a decision on an application for dispensation within the meaning of Clause 1 shall be made within 12 months of the receipt of the application. By way of departure from Article 19, Clause 2, the director general may extend this term by six months within ten months of receipt of the application.

Article 101

Applications, within the meaning of Article 9g, Clause 1 and Article 12, Clauses 1 and 2 of the Economic Competition Act on which no decision has yet been made prior to the date on which Article 6 takes effect shall be deemed to be applications within the meaning of Article 17. The date on which Article 6 takes effect shall be deemed to be the date on which the application is received for the purposes of Article 19.

Article 102

Dispensation granted pursuant to Article 9g, Clause 1 and Article 12, Clauses 1 and 2 of the Economic Competition Act shall be deemed to be dispensation within the meaning of Article 17. Articles 22 and 23 shall not apply.

Article 103

1. For the application of Article 6:7 of the General Administrative Law Act in respect of decisions taken pursuant to the provisions of Article 9g, Clause 1 and Article 12, Clauses 1 and 2 of the Economic Competition Act, the date on which Article 6 takes effect shall be regarded as the date for the announcement of the decision if the term for submission of objections provided in Article 6:7 has not yet expired, and no objection has yet been filed to the decision on that date. Objections shall be submitted to the director general and processed in accordance with the law in effect after that date.

2. The law in effect prior to the date on which Article 6 takes effect shall continue to apply for the processing of objections or appeals filed prior to that date, or filed against a decision taken pursuant to the provisions of Article 9g, Clause 1 and Article 12, Clauses 1 and 2 of the Economic Competition Act.

3. The law in effect prior to the date on which Article 6 takes effect shall continue to apply

for appeals against a decision on an objection issued pursuant to Clause 2 and with regard to the handling of the appeal.

Article 104

1. A decision issued pursuant to Article 24, Clause 1b of the Economic Competition Act shall be deemed to be an order, within the meaning of Article 56, Clause 1b as from the date on which Article 24 takes effect, on the understanding that Article 58, Clause 2 shall not apply. The director general shall issue a decision on the associated periodic penalty payments within six weeks of the said date.

2. A decision issued pursuant to Article 27, Clause 1 of the Economic Competition Act shall be deemed to be a provisional order, within the meaning of Article 83, Clause 1, as from the date on which Article 24 takes effect, on the understanding that, by way of departure from the term provided in Article 85, Clause 3a, the order shall lapse if, within three months of the said date, a report, within the meaning of Article 59, Clause 1, is not issued on the infringement of Article 24, Clause 1 after the expiry of the three month term. The director general shall issue a decision on the periodic penalty payments associated with the provisional order within four weeks of the date on which Article 24 takes effect.

Article 105

1. If the term for submission of objections to a decision pursuant to Article 24, Clause 1b, or Article 27, Clause 1 of the Economic Competition Act, as provided in Article 6:7 of the General Administrative Law Act, has not expired on the date on which Article 24 takes effect, and no objection has yet been presented, the date on which Article 24 takes effect shall be deemed to be the date of notification of the decision for the purposes of Article 6:7. The objection shall be submitted to the director general and shall be processed in accordance with the law in effect after that date.

2. The law in effect prior to the date on which Article 24 takes effect shall continue to apply for the processing of objections or appeals filed prior to that date, or filed against a decision taken pursuant to the provisions of Article 24, Clause 1b or Article 27, Clause 1, of the Economic Competition Act.

3. The law in effect prior to the date on which Article 24 takes effect shall continue to apply for appeals against a decision on an objection issued pursuant to Clause 2 and with regard to the handling of the appeal.

Article 106

Punishments and measures imposed for violations of provisions of or pursuant to the Economic Competition Act, constituting economic offences and committed before the date on which Article 94 takes effect, shall remain in force.

CHAPTER 15. FINAL PROVISIONS ➔

Article 107

1. The chapters of this Act shall take effect as of a date to be determined by royal decree, which date may vary for each chapter or section thereof.

2. Article 16 shall be repealed five years after the date on which it takes effect.

3. Article 32 shall be repealed two years after the date on which it takes effect.

Article 108

1. If Article 50 takes effect before the Act of 20 June 1996 supplementing the General Administrative Law Act (Statute Book 333), the following sentence shall be added to Clause 1 of that Article: Articles 5:15, 5:16, 5:17 and 5:20 of the General Administrative Law Act shall apply.

2. If Clause 1 is effected, the second sentence of Article 50, Clause 1 shall be withdrawn as of the date on which the Act of 20 June 1996, as referred to in Clause 1 , takes effect.

Article 109

1. If Article 83 takes effect before the Act of 20 June 1996 supplementing the General Administrative Law Act (Statute Book 333), Clause 3 of that Article shall read as follows:

3. Article 5:32, Clauses 4 and 5, Article 5:33, Article 5:34, Clause 1 and Article 5:35 of the General Administrative Law Act shall apply.

2. If Clause 1 is effected, the words "shall apply" in Article 83, Clause 3 shall be replaced by "shall apply likewise" as of the date on which the Act of 20 June 1996, as referred to in Clause 1 , takes effect.

Article 110

This Act shall be known as: Competition Act.