

Kluwer Competition Law Blog

Polish Competition Authority announces important changes to its procedures

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The Polish Competition Authority, which is the President of the Office of Competition and Consumer Protection (the “PCA”), has announced that, starting from 1 September 2015, it will be issuing statements of objections to undertakings and will set up an internal evaluation committee. These new tools are, in PCA’s own words, designed to “strengthen procedural fairness and parties’ defense rights”.

Statement of objections

A statement of objections (in Poland called “detailed justification of charges”) will be issued to an undertaking as soon as the PCA concludes the evidence-gathering stage of the administrative proceedings against the undertaking. It will set out the known facts and the legal grounds for the objections raised, including the evidence that underlie the findings. The party concerned will have an opportunity to respond before a decision is made.

It is a far-reaching novelty with regard to the safeguarding of procedural rights of the parties in PCA proceedings. So far, the Polish antitrust procedure has refused to recognise rules that could provide the parties with safeguard measures similar to the statement of objections available in the proceedings before the European Commission. In particular, before issuance of the decision the undertaking in question has been only informed that the procedure is coming to an end and that it has a right to present its final views. This general information did not present the PCA’s case, nor did it indicate on what grounds and evidence the final decision will be taken (and even more – what will be the final decision).

Evaluation committee

Along with the statement of objections procedure, the PCA has decided to establish an internal evaluation committee as an additional mechanism to make the proceedings more transparent and predictable. The committee will provide an assessment tool for the quality and coherence of proceedings and decisions with regard to the declared policy and goals of the PCA. This team will be responsible for the evaluation of the decision-making process at each stage, from its commencement through to completion. The newly founded body consists of representatives of the PCA’s management and its various departments and field offices.

Significant change

Both the statement of objections and the evaluation committee should be seen as important steps towards better enforcement of competition law in Poland alongside standards of procedural fairness. In its press release the PCA said that “*Poland’s Office of Competition and Consumer Protection (UOKiK) treats effectiveness, administrative transparency, and respect for the rights of all parties in proceedings as its priorities*”. There were not that many situations in the past when

such statement sounded so right in Poland.

What is also worth noticing is that the foregoing changes do not result from changes in the law. On the contrary, they will be introduced on a voluntarily basis as a sort of good administrative practice. This is a real novelty in Poland and makes the change even more significant.

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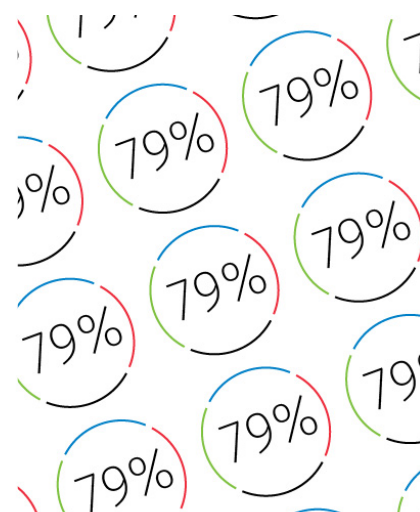
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