

**GUIDANCE OF THE NATIONAL COMPETITION COMMISSION (CNC) FOR
PROCESSING APPLICATIONS FOR EXEMPTION FROM FINES AND REDUCTION
OF FINES¹**

(Non-official Text)

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1.- COMMON CRITERIA THAT APPLY TO APPLICATION FOR EXEMPTION FROM AND REDUCTION OF FINES

- (1) The Competition Act 15/2007 of 3 July 2007 (Ley de Defensa de la Competencia — hereinafter, the LDC) has introduced into the Spanish competition system a leniency programme for undertakings or natural persons who have participated in a cartel. The Spanish leniency programme is similar to that existing at European level, and its procedural rules have been regulated by Royal Decree 261/2008 of 22 February 2008 (hereinafter, RDC).

¹ It should be noted that any leniency application submitted before the CNC must be made in Spanish, as this is the official procedural language according to Spanish legislation. Concerning evidence provided by the applicant, it should also be translated into Spanish.

- (2) According to what is provided in the fourth additional provision of the LDC, for the purposes of the said Act, cartel means any secret agreement between two or more competitors aiming at price fixing, production or sales quotas, market sharing, including bid rigging, or import or export restrictions.
- (3) These practices are classified as very serious infringements in article 62.4.a) of the LDC, and economic agents, undertakings, associations, unions or groups thereof may be fined up to 10% of the total turnover of the infringing undertaking in the year immediately preceding the one in which the fine is imposed.
- (4) The provisional guidance published before the entry into force of the Spanish leniency programme in February 2008 is now replaced by this document, which takes into account the experience acquired in the last year, along with the resolution of the CNC Presidency adopted the 30 January 2009, which created an electronic register, laying down the general requirements for its use in certain procedures (BOE no. 31 of 5 February 2009), specifically, for filing a leniency application through an electronic register.
- (5) As the previous guidance, the current document is only published for informational purposes and clarification, and does not give rise to any legal or other legitimate expectations on the part of any applicant. The sole purpose is to give practical guidance on how to apply for exemption from fines or immunity and/or reduction of fines, as well as to clarify doubts related to the requirements laid down in the LDC and in the RDC, that could arise when such applications are submitted directly by the undertakings or by natural persons involved in a cartel or indirectly by their legal representatives. In addition, this guidance addresses the objective of attaining transparency in the CNC's activities, as provided in the LDC, with respect to the criteria for the actions of the CNC Investigation Division² in receiving and processing leniency applications, and ensuring greater effectiveness in the administration's actions.
- (6) Before filing the application for exemption and/or reduction of the fine, or a summary exemption application (hereinafter, leniency applications), the applicant may approach the CNC in order to request assistance on how to submit the application. To provide this assistance, the Cartels and Leniency Unit of the Investigation Division, created specifically to handle and examine leniency applications and to deal with this kind of procedures, has designated the following telephone numbers:

Leniency programme telephone numbers:

+ 34 91 536 90 58 or

+ 34 91 536 90 24

² The body that will examine the applications for exemption and reduction of fines is the Investigation Division of the National Competition Commission, without prejudice to the powers of the investigation and resolution bodies existing in the Autonomous Communities with competence for these matters, in accordance with the provisions of Act 1/2002 of 21 February 2002 on Coordination of the Powers of the State and the Autonomous Communities in Defence of Competition Matters (Ley de Coordinación de las competencias del Estado y las Comunidades Autónomas en materia de Defensa de la Competencia).

- (7) There follows a description of the different procedures for submitting leniency applications, specifically, in writing (whether in the general register or in the electronic register of the CNC) or as an oral statement.

1.1.- Leniency applications filed in writing

1.1.1. In the CNC Register

- (8) It is recommended that written leniency applications be filed in the CNC register, if that is the competition authority competent to deal with them, taking into account that the order of reception of the applications is determined on the basis of the date and time of their entry in the CNC register (Calle Barquillo, 5, 28004 Madrid). The 12 February 2009 resolution of the Presidency of the CNC, amending the 13 February 2008 resolution that created the Office of the General Register of the CNC (BOE no. 42 of 18 February 2008), stipulated the CNC register service hours.
- (9) Even though the leniency applications can be presented before any register office of the General State Administration, the entry date and time of those applications taken into account when determining their order of reception will be that of their entry in the CNC register, as provided in the RDC.
- (10) To guarantee the confidentiality of the leniency application, and of the information and evidence provided by the applicant, it is recommended that the applications be filed by the applicant or the legal representative thereof at the CNC register, in a sealed envelope specifically addressed to the Cartels and Leniency Unit of the Investigations Division. The CNC will thus be able to ensure the confidentiality of the application and of the information submitted, as well as the anonymity of the applicant, as the envelope will only be opened by the staff of that Unit.
- (11) In addition, in order to make it easier for the leniency applicant to submit the application, the Annex attached to this Guidance contains the **Form to be submitted with the leniency application**. That form, which in no event allows the leniency applicant to be identified, may be filed by the applicant in the CNC register, together with the sealed envelope so that it may be affixed with the adhesive voucher automatically issued by the CNC register specifying the entry date and time in that register. Applicants who so desire, may submit the form in duplicate (one for the CNC and the other for the applicant).
- (12) With respect to the information contained in the form, the applicant should indicate in the form the number of pages comprised by the leniency application that is being filed, pages that correspond to the documents indicated in the list that must be attached to the application, duly signed, with an enumeration of those documents. In addition, the form shall identify the application by indicating the locator number and/or name assigned by the applicant.
- (13) To ensure the authenticity and integrity of the application and of the information and evidence submitted, the applicant may submit the original and a copy in sealed envelopes, so that after they have been registered, the applicant can go to the Cartels and Leniency Unit of the Investigations Division (4th floor of the

CNC headquarters), where the envelopes will be opened and the copy of the application and evidence submitted will be checked against the original before being given to the applicant.

- (14) Applications presented in writing in the CNC register must contain the information and be accompanied by the evidence of cartel cited in article 46.3 of the RDC, as described further below. Nevertheless, in accordance with article 46.5 of the RDC, the Investigations Division may grant additional time for submitting evidence on the cartel. A request for such additional time will not release the applicant from the obligation in all cases, and from the initial filing date, to submit to the Investigations Division the relevant information for identifying the applicant and other participants in the cartel, a detailed description of the cartel (aims, activities and functioning; affected products, services and territory; estimated duration and nature of the cartel) and a list of the leniency applications the applicant has presented or intends to present before other competition authorities in respect of the same cartel.
- (15) If requested by the leniency applicant, the Cartels and Leniency Unit of the Investigation Division will issue a receipt for the submission of the leniency application. The receipt will identify the applicant, with the Cartels and Leniency Unit certifying the date and time the leniency application entered the CNC register, as competent body to process it, indicating the locator number or name given by the applicant when filing the application and the number of documents and/or pages comprised by the application according to the list of documents presented by the applicant.
- (16) The submission receipt may be requested when the application is filed or afterwards. In no event will issuance of the receipt imply grant of the conditional exemption by the Investigation Division or, as applicable, of the requested reduction in the fine. The receipt provided only serves to certify that the leniency applicant has applied for leniency in the CNC register on the date and at the time indicated in the adhesive sticker issued.

1.1.2. In the Electronic Register of the CNC

- (17) The 30 January 2009 resolution creates the CNC electronic register (<https://oficinavirtual.cncompetencia.es>) for receiving, transmitting and processing documents, applications and communications presented to the CNC electronically in relation to the procedures and proceedings listed in Annex I to the resolution. These procedures include the filing of leniency applications, whether an exemption, summary exemption or a reduction application, in accordance with the official form for submitting leniency applications through the CNC electronic register, without prejudice to the applicant's right to also submit the application in the CNC register or in the form of an oral statement.

- (18) As indicated in the aforesaid resolution and at the beginning of the form itself, the leniency application may be presented in the CNC electronic register by the leniency applicant or his legal representative, whether a legal or natural person with electronic signature. In relation to evidence of powers of representation, where the leniency application is submitted in the CNC electronic register by a representative of the leniency applicant, a digitalised copy of the power of attorney must be attached.
- (19) The electronic register form also has a space for the leniency applicant's contact information so that the CNC can communicate with the applicant. The inclusion of this contact data is recommended.
- (20) According to article 8 of the resolution, a leniency application may be submitted to the CNC electronic register any day of the year, 24 hours a day. Nevertheless, where absolutely necessary, the electronic service may undergo occasional shutdowns, which will be announced on the website. The CNC electronic register date and time will be the official date and time for mainland Spain, Ceuta and Melilla and the Balearic Islands. For purposes of computing time limits, receipt of a document on a non-working day will be understood to have taken place at the beginning of the next following working day.
- (21) Leniency applications presented in the CNC electronic register, which will be received directly by the Cartels and Leniency Unit, must contain the information and be accompanied by the evidence indicated in article 46.3 of the RDC.
- (22) Nevertheless, as with applications for exemption from payment of the fine submitted in writing in the CNC register or those made orally, the Investigations Division may grant an additional time period for submitting the evidence on the cartel, upon a prior reasoned request from the exemption applicant, who in this case must complete the relevant field in the form cited above.
- (23) In all events, the application for exemption from payment of the fine, with the locator number and/or name indicated by the applicant, must contain the following information:
 - Identifying information of the applicant
 - Information on the other participants in the cartel: complete individual or corporate name and address of the undertakings and professional data of all natural persons involved or who have been involved in the cartel.
 - Detailed description of the cartel: aims, activities and functioning; affected products, services and territory; estimated duration and nature of the cartel.
 - List of immunity or reduction applications that the applicant has filed or intends to file before the European Commission or other European competition authorities in respect of the same cartel.
- (24) When a leniency application is submitted through the CNC electronic register, a receipt will be automatically issued containing the information provided by the leniency applicant, with an indication of the date and time of presentation in the CNC electronic register and a register entry number. The receipt will have the

effects provided in article 6.3 of Royal Decree 772/1999 of 7 May 1999, which regulates the submission of applications, documents and communications before the General State Administration, the issuance of copies of documents and return of originals, and the rules governing registry offices, and may be printed on paper or recorded in electronic format by the applicant.

- (25) Issuance of this receipt will not imply issuance of the submission receipt for presentation of a fine exemption or reduction application regulated in the RDC. The latter receipt will be sent by the CNC at the express request of the leniency applicant, after the CNC has determined the competent body to process the application according to the LDC and to Act 1/2002 of 21 February 2002.

1.2.- Oral statements

- (26) At the applicant's request, the Investigations Division may allow the leniency applications to be presented orally, arranging a meeting for such purpose at the CNC headquarters. The oral declaration will be done at the CNC offices and, after the recording has been transcribed, the declaration will be registered. The entry date and time in that register will determine the order of receipt of leniency applications presented orally.
- (27) The oral statement will be recorded using CNC materials and equipment; leniency applicants will not be allowed to use recording devices. After the oral statement has been made, the applicant or the support staff that accompany him will then proceed to transcribe the declaration on the CNC premises. Such transcriptions will not be done by CNC staff, although the CNC will provide the material resources for producing the transcripts.
- (28) The transcript will expressly indicate that the document is CNC property and that, in view of its nature, if and when formal sanctioning proceedings are initiated (in accordance with paragraphs 2 and 3 of article 51 of the RDC, in consonance with the terms of article 50.3 of the LDC), the parties involved in the proceedings may have access to the transcript, although they will not be allowed to reproduce it by mechanical means, nor to use it for purposes other than the relevant administrative or judicial proceeding to enforce competition rules. It should be recalled that article 51.3 of the RDC provides that no copies can be obtained of statements specifically made by the leniency applicant for submission with the related application. However, if and when formal proceedings have been opened and a statement of objections has been issued, the interested parties in the proceeding will be able to see a print copy of the statements made, although they will not be allowed to make copies of such statements.
- (29) Leniency applications presented orally must contain the information and be accompanied by the evidence on the cartel indicated in article 46.3 of the RDC, with the relevant specifications for summary immunity applications and fine-reduction applications.

- (30) Just as with applications presented in writing, leniency applicants who submit their application orally may request to be provided with a receipt showing they have presented the application. The receipt will identify the applicant, with the Cartels and Leniency Unit certifying the date and time the transcript of the oral leniency application entered the CNC register, indicating the locator number or name given by the applicant when submitting the application and its content.

2.- APPLICATIONS FOR EXEMPTION FROM PAYMENT OF THE FINE

- (31) As indicated in article 46.4 of the RDC, the order of receipt of the immunity applications will be set according to their CNC register entry date and time. Nevertheless, on an exceptional basis and upon a prior reasoned request from the applicant, article 46.5 of the RDC provides that the Investigation Division may give the applicant additional time to submit evidence on the cartel, although in this case the applicant must provide the following information at the time the immunity application is filed:
- Information on the applicant: registered corporate name and address of the undertaking
 - Information on the other participants in the cartel: complete individual or corporate name and address of the undertakings and professional data of all natural persons involved or who have been involved in the cartel.
 - Detailed description of the cartel: aims, activities and functioning; affected products, services and territory; estimated duration and nature of the cartel.
 - List of fine immunity or reduction applications that the applicant has filed or intends to file before the European Commission or other European competition authorities in respect of the same alleged cartel.
- (32) When such evidence has been submitted within the stipulated time limit, the filing date for the immunity application will be deemed to be the date of the initial application. If the applicant submits the evidence after the time limit granted by the Investigations Division, the filing date for the immunity application for exemption from payment of the fine will be deemed to be the last date on which such evidence was submitted and in no event the initial application date.
- (33) Therefore, according to the LDC, being the first to submit an immunity application does not necessarily guarantee that the conditional exemption will be granted by the Investigation Division, because granting conditional exemption requires that the applicant is also the first to submit the elements of proof which, in the judgment of the Investigations Division, meet the requirements laid down in article 65.1 LDC.
- (34) However, the order of receipt does guarantee applicants that the different immunity applications that may have been submitted in relation to the same alleged cartel will be examined in the order of receipt of those applications, as indicated in article 47.3 of the RDC.

- (35) In the event the immunity applicant does not fulfil the conditions established in article 65.1 of the LDC for obtaining the conditional exemption, the applicant may request of the Investigations Division that the application be examined according to the provisions of article 66 of the LDC as an application for reduction of the fine. This request to the Investigation Division may be made when the immunity application is submitted, as well as after the Investigations Division notifies the applicant that the application does not meet the requirements established in article 65.1 of the LDC or that the immunity application has been submitted after the notification of the statement of objections and that the Investigations Division has therefore rejected the immunity application.
- (36) An immunity applicant who has taken measures to coerce other undertakings to participate or to remain in the cartel will not be eligible for immunity, but may benefit from a reduction of the fine if the applicant fulfils the stipulated requirements and conditions according to the provisions of the LDC.

3.- SUMMARY IMMUNITY APPLICATIONS

- (37) According to the [European Competition Network's \(ECN\) Model Leniency Programme](#), summary immunity applications may be submitted in writing or orally to the Investigations Division in those cases in which the undertaking has filed or is going to file an immunity application before the European Commission because the latter is the competition authority particularly well placed to investigate the cartel.³
- (38) Summary applications may only be presented within the framework of what is provided in article 65.1.a) of the LDC, with the content described in article 48.3 of the RDC: identification of the applicant and of the rest of the participants in the cartel, detailed description of the cartel (aims, activities and functioning; affected products, services and territory; estimated duration and nature of the cartel; Member States in whose territory evidence may be found on the cartel) and the list of leniency applications that the applicant has presented or will present to other competition authorities in respect of the same cartel. In any event, the Investigations Division may ask the applicant to submit additional information, setting a time limit for such submissions.
- (39) Summary applications will be processed, as regards the order of their receipt, according to the general rules established for immunity applications, that is, the order will be set according to the date and time of entry in the CNC register, irrespective of the register where the applications were presented.
- (40) The applicant may also ask the CNC to provide a receipt of submission of the summary immunity application with an indication of the CNC register entry date and time.

³ According to point 14 of the Commission Notice on cooperation within the Network of Competition Authorities, the Commission is particularly well placed to investigate a cartel if it has effects on competition in more than three Member States.

- (41) If the CNC is finally the competition authority that will investigate the cartel, the undertaking must complete the summary immunity application with the relevant information and evidence, within ten days after the date on which the European Commission notifies the undertaking that the case has been assigned to the CNC (article 48.5 of the RDC).

4.- APPLICATIONS FOR REDUCTION OF THE FINE

- (42) If the applicant does not qualify for immunity, the undertaking or individual who has participated in the cartel may submit an application for reduction of the fine, with the content already indicated in article 46.3 of the RDC, submitting evidence of the alleged cartel that represents significant added value relative to the evidence already in the CNC's possession at the time of the application. The application will be deemed to contain evidence representing significant added value when the evidence provided strengthens, by its very nature and/or by its level of detail, the CNC's ability to prove the alleged cartel.
- (43) The Investigations Division may accept a reduction application submitted after the statements of objections has been notified if, taking into account the information in the case file, the nature or the content of the evidence submitted by the applicant so justifies (article 50.3 of the RDC).
- (44) Throughout the examination of the case, applicants for reduction of fines may continue submitting evidence to the Investigations Division, and such evidence will have decisive bearing on the proposal made by that Investigation Division regarding the specific reduction percentage to apply to each applicant according to relevant intervals provided in article 66.2 of the LDC.
- (45) The order of receipt of applications for a reduction of fines will be determined according to the entry date and time in the CNC register. At the applicant's request, the Cartels and Leniency Unit of the Investigations Division will issue a receipt of the filing of the application for reduction of the fine, and for all subsequent submissions of evidence that may be made by the fine reduction applicant.
- (46) The Investigations Division will not examine the evidence submitted by the fine reduction applicant without having first ruled on any possible conditional exemption that may be granted to prior immunity applications presented in relation to the same cartel.

5.- INFORMATION TO BE SUBMITTED

- (47) In order for the leniency application, be it for exemption from or for reduction of the fine, to be considered complete, the leniency applicant must provide the following information and evidence, in accordance with article 46.3 of the RDC:
1. Identification of the leniency applicant:

1.1. Complete individual or corporate name and address of the applicant. Contact person and telephone and fax number. In the case of applications filed by individuals or undertakings without legal personality that operate under a trade name, the owners or members must be identified, with an indication of their complete names and address.

1.2. Succinct description of the undertaking that submits the application, including its corporate objects and the territory where it operates.

1.3. For applications filed in the name of an undertaking or in the name of more than one natural person, identification of the representative and a copy of the power of attorney will be needed.

2. Participants in the cartel:

2.1. Complete individual or corporate name, address and professional particulars of all individuals participating or who have participated in the cartel.

2.2. Succinct description of the companies, including their corporate objects and the geographic zone where they operate.

2.3. Form and extent of participation of the different undertakings in the cartel, both at present and in preceding years.

3. Detailed description of the cartel:

3.1 Aims, activities and functioning.

3.2. Affected products, services and territory.

3.3. Estimated duration and nature of the cartel.

3.4. Specific data, locations, content and participants in meetings with cartel participants.

4. Evidence relating to the cartel in the applicant's possession (or under its control, so they may be obtained within a reasonable time period, if the applicant submitting for immunity, justifies that an additional period of time to present evidence may be needed). In particular, the applicant must submit contemporaneous evidence of the cartel that allows its existence to be verified:

4.1. Identification and address of the persons or undertakings participating in the cartel that may have information on it, and which can be obtained through an inspection by the CNC, on the terms established in article 65 of the LDC.

4.2. Information on all steps and acts it is aware of in relation to the cartel, including those carried out by any other participants therein.

4.3. Documents referring to the existence and participation in a cartel (texts of agreements, travel documents, trade documents, circulars, e-mails, minutes of negotiations or meetings, etc.).

4.4. Statistics or other data referring to the facts described and which demonstrate the existence and participation in the cartel (regarding, for example, the evolution and formation of prices, conditions of offers or sale, usual conditions of the transactions, etc.).

4.5. Any other evidence of the existence or participation in the cartel that could allow the Investigations Division to find that a cartel exists.

5. List of immunity or reduction applications which the applicant, as the case may be, has filed or intends to file before the European Commission or other European competition authorities in relation to the same cartel.

6. Actions adopted before submitting the leniency application:

6.1. Declaration that the applicant has disclosed neither its intention to submit the leniency application nor its content, directly or indirectly, to third parties other than the European Commission or other Competition Authorities.

6.2. Declaration that the applicant has not destroyed evidence relating to the leniency application.

6.3. Declaration that the applicant has not adopted measures to coerce other companies to participate in the infringement, in the event of submission of an immunity application.

6.4. Statement by the applicant with respect to the steps taken to demonstrate that it has put an end to its participation in the infringement at the time the evidence is submitted, except in those events provided for in article 65.2.b) of the LDC.

7. An itemised list of the documents contained in the application, identifying the information and evidence contained in those documents, with an indication of the number of pages in each document.

(48) Summary immunity applications will contain at least the following information, in accordance with article 48.3 of the RDC:

1. Identification of the applicant: registered corporate name and address of the undertaking.

2. Participants in the cartel: registered corporate name and address of the undertakings participating in the cartel.

3. Detailed description of the cartel: products and territories affected by the cartel;

4. Estimated duration and nature of the cartel.

5. Member States in whose territory evidence of the cartel may be found.

6. List of the fine immunity or reduction applications which the applicant has submitted or is going to submit to the European Commission or to other European competition authorities in relation to the same cartel.

6. - CONFIDENTIALITY OF THE CASE FILE

- (49) The very fact of the existence of a leniency application is confidential, and the application is to be treated in a special separate case file, together with all of the application data or its accompanying documents that are also deemed to be confidential, including, as expressly indicated in article 51.1 of the RDC, the applicant's identity, in order to protect the secrecy of the application's filing.
- (50) Nevertheless, if formal proceedings are opened, in accordance with article 50.3 of the LDC the interested parties will have access to the information or documents which form part of the separate confidential case file and which are necessary for replying to the statement of objections. In relation to an application for leniency, this means that, in accordance with article 51.2 of the RDC, after the interested parties have been served the statement of objections, they will be allowed to have access to those documents submitted with the application and declared confidential that are needed, because they contain the evidence against them, to safeguard their rights to due process. The leniency applicant will be given prior notice if such access is granted.
- (51) Concerning the statements made by the immunity or reduction applicant, once the statement of objection have been notified, access to them will be granted to the interested parties who will take notes of them, but, in no event will they be allowed to obtain or make copies of those statements.
- (52) In any event, access to the case file will be granted on the condition that the information obtained can only be used for purposes of judicial or administrative proceedings to enforce the competition rules referred to by the administrative sanctioning proceedings to which the file relates.

7.- OTHER REQUIREMENTS TO BE FULFILLED BY APPLICANTS FOR EXEMPTION OR REDUCTION OF FINES

- (53) Article 65.2 of the LDC sets out a series of requirements that must be met by the immunity applicant in order for the CNC to grant the immunity. Those requirements, except for the one regarding the role played by the immunity applicant in relation to the other members of the cartel, must also be completed by applicants for reductions of fines.
- (54) The first requirement that must be met by the leniency applicant relates to the duty of cooperation. Thus, for the purposes provided for in articles 65.2.a) and 66.1.b) of the LDC, as implemented in article 52 of the RDC, from the time the application is submitted, the leniency applicant must cooperate diligently, fully and on a continuous basis with the CNC throughout the entire procedure by:
 - a) immediately providing the Investigation Division with all information and evidence in relation to the alleged cartel that is in the possession of or available to the applicant;
 - b) remaining at the disposal of the Investigation Division to reply promptly to any requests that may contribute to the establishments of facts;

- c) in the case of leniency applications submitted by undertakings, making current and, if possible, former employees and officers available for interviews with the Investigations Division;
 - d) refraining from destroying, falsifying or concealing relevant information or evidence relating to the alleged cartel; and
 - e) refraining from disclosing the fact or the content of the leniency application to third parties other than the European Commission or other competition authorities before the statement of objections has been notified or, as applicable, before the time agreed with the Investigations Division.
- (55) Second, the leniency applicant must put an end to its involvement in the alleged cartel immediately after filing the application, except in those cases in which the Investigations Division deems it necessary that participation be continued in order to preserve, if applicable, the effectiveness of a future inspection.
- (56) The leniency applicant must not have destroyed evidence relating to the leniency application submitted, nor have directly or indirectly disclosed to third parties other than other competition authorities their intention to submit the leniency application or the content thereof.
- (57) Lastly, as indicated above, in the case of an immunity application, article 65.2.d) of the LDC requires that the applicant have not adopted measures to coerce other companies to participate in the infringement. This requirement does not apply to applicants for reductions of fines, in accordance with article 66.2.b) of the LDC.
- (58) The foregoing requirements must be maintained during the entire proceeding in order to obtain the exemption or reduction from the CNC Council. Any breach of the requirements will mean that (i) the final exemption cannot be granted, even where the immunity applicant was given a conditional exemption by the Investigation Division, and (ii) the amount of the fine levied on the fine reduction applicant will not be reduced.

8.- COORDINATION MECHANISMS WITH COMPETENT BODIES OF THE AUTONOMOUS COMMUNITIES IN PROCEDURES FOR EXEMPTION FROM PAYMENT OF FINES

- (59) Article 53 of the RDC establishes that in the event the immunity application is filed before a regional competition authority, the competent body of the Autonomous Community in question, before resolving on the exemption, will give notice of the immunity application to the CNC, along with all the information and evidence in its possession. The notice will indicate the State or regional office which it considers competent for the matter, applying the mechanisms for coordination and distribution of powers envisaged in Act 1/2002 of 21 February 2002.

- (60) Similarly, before resolving on the conditional exemption, the Investigation Division will notify the competent body of the Autonomous Community of the immunity applications, along with all information and evidence in its possession, in those cases in which Act 1/2002 of 21 February 2002 applies and the reported conducts does not affect territory beyond its Autonomous Community. In that notice, the Investigations Division will indicate the State or regional office it considers competent.
- (61) If pursuant to article 2.4 of Act 1/2002 of 21 February 2002 there is a change in the designation of the competent authority after the conditional exemption has been granted by the competent investigative office when the conditional exemption was evaluated, the conditional exemption previously granted by said investigative office will be recognised, be it of a State or regional authority, provided that the immunity applicant has given its full, continuous and diligent cooperation to the competition authority that processed its immunity application and granted the conditional exemption in accordance with the provisions of article 65 of the LDC.

ANNEX

Form to be submitted with the leniency programme application

Mr./Ms. ... , holding identity document number ... , with address in ... and telephone and/or fax number ... ,

STATES:

In accordance with the provisions of article/s 65 and/or 66 of the Competition Act 15/2007 of 3 July 2007 (Ley de Defensa de la Competencia), I hereby

REQUEST:

That this application for exemption from payment of the fine and/or for reduction of the amount of the fine be deemed to have been presented in the register of the National Competition Commission.

This fine exemption and/or reduction application is addressed to the Cartels and Leniency Unit in the Investigations Division of the National Competition Commission, as the competent body to process the application according to the Competition Act 15/2007 of 3 July 2007, and to Act 1/2002 of 21 February 2002 on Coordination of the Powers of the State and the Autonomous Communities in Competition Matters.

For purposes of identifying and authenticating the fine exemption and/or reduction application submitted in a sealed envelope, and its integrity, it is hereby indicated that this application consists of (num.) pages, of (num.) documents identified in the list attached in the sealed envelope, duly signed, and enumerating the said documents, with an indication of the number of pages in each. In addition, it is hereby noted that this application corresponds to the locator num. ... and/or name ... identifying the application submitted in sealed envelope.

Also submitted in the sealed envelope is a copy of the application and of the documents filed, in order that they will be checked against the original by the Cartels and Leniency Unit in the Investigations Division, with the request that the copy will be delivered to this applicant after being stamped by the said Unit upon verification of its consistency with the original.

The Investigations Division of the National Competition Commission is hereby requested to issue the receipt for the filing of this exemption and/or reduction application, indicating the entry date and time in the register of the National Competition Commission.

Date and signature