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**DIRECTORATE FOR FINANCIAL AND ENTERPRISE AFFAIRS  
COMPETITION COMMITTEE****Cancels & replaces the same document of 30 October 2019****Working Party No. 3 on Co-operation and Enforcement****Access to the case file and protection of confidential information – Note by  
Belgium**

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This document reproduces a written contribution from Belgium submitted for Item 4 of the 130th OECD Working Party 3 meeting on 2-3 December 2019.  
More documents related to this discussion can be found at  
[www.oecd.org/daf/competition/access-to-case-file-and-protection-of-confidential-information.htm](http://www.oecd.org/daf/competition/access-to-case-file-and-protection-of-confidential-information.htm)

Please contact Ms Despina PACHNOU if you have any questions about this document  
[Despina.Pachnou@oecd.org, +(33-1) 45 24 95 25]

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## Belgium

### 1. Introduction

1. This contribution only deals with the access to files in infringement cases and not in merger control procedures.
2. In annex you will find the relevant provisions from Book IV, *Protection of competition*, of the Code of economic law (CEL, and the Competition Act) with an unofficial translation in English.
3. Very succinctly, the key procedural steps in infringement procedures can, unless a case is closed or settled by the *Auditorat*, be summarized as follows:
  1. The preliminary investigation by the *Auditorat*: generates internal documents,
  2. The opening of the case and the investigation by the *Auditorat*: dawn raids, requests for information etc.: generates investigation file and internal documents,
  3. The issuing of a statement of objections with supporting documents by the *Auditorat* after which the defendants have access to the investigation file (except to documents that are declared confidential to the party requesting access, but objections may not be based on documents to which the relevant defendant has no access) and to which the parties may respond: generates the procedural file with documents that may be declared confidential vis-à-vis certain parties.
  4. The transmission of a draft decision (*proposition de décision*) and the procedural file (statement of objections, responses, draft decision and supporting documents) to the Competition College to which the parties may respond.
  5. The complainant is informed of the transmission of the draft decision. The president of the Competition College can decide that the complainants and other third parties admitted to the procedure may receive a non-confidential version of the draft decision.
4. The Competition Act, re-enacted as book IV CEL on the 2<sup>nd</sup> of May 2019, organizes procedures in respect of the confidentiality of documents that were mostly proposed by experts from the Bar.

### 2. Access to the file

a. Does your jurisdiction provide access to the competition agency's file in competition proceedings? If so, describe the information that is typically included in the file, and any categories of information that are excluded. Describe the information to which parties are granted access (e.g., documents from investigated parties, information received from leniency applicants or leniency applications, information received from third parties, documents prepared by the agency internally, reports of experts, documents received from other agencies, or only the information that will be used to prove an infringement). Distinguish, where applicable, between types of parties (e.g., investigated parties, merging parties, interested third parties).

5. Please refer to the Introduction sub 1.

6. Defendants may see leniency applications and decisions with supporting documents filed by other defendants but may not receive copies. Complainants and third parties have no access except when the case is closed (art. IV.55 §3 and chapter 3 of title 3 of book XVII CEL).
7. Information received from other competition authorities in the European Competition network (ECN) are covered by the ECN confidentiality rules.
- b. Is access to the file automatically granted as a matter of law, by statute, rule or case law; if not, is some type of balancing required (in particular, as regards interested third parties)?*
8. Access to the parties is granted by law and the law organizes the procedures for granting access for complainants and third parties.
- c. What body or entity is empowered to grant access to the file in competition proceedings?*
9. If not granted by law: the president of the Competition College.
- d. Is there any transparency obligation that would force a body involved in competition enforcement to provide access to the file even to parties that do not demonstrate any lawfully recognized interest in the case?*
10. No, and granting access may be a criminal offence under the confidentiality rules applicable to all members and staff of the competition authority (art. IV.32-33 and art. XV.80 CEL).
- e. At what stage of competition proceedings is access to the file granted (e.g., statement of objections in administrative proceedings, when the case is brought to court in adversarial systems)? Is information added to the file after that stage accessible (e.g., information obtained after the statement of objections)? Is there any deadline for accessing the file?*
11. Please refer to the Introduction sub 1.
- f. Is it possible to access evidence in the agency's file once the case has been closed? By whom (e.g., investigated parties in that case, investigated parties in another case, other interested third parties)?*
12. The rules on actions concerning damage caused by competition law infringements enable the courts to grant, in certain circumstances, access to specific evidence in competition files of the authority (chapter 3 of title 3 of book XVII CEL).
- g. Is there a statutory or constitutional obligation to act fairly in the collection and disclosure of evidence (in particular, as regards exculpatory evidence)?*
13. The detailed rules on access to files can be qualified as a *lex specialis* but must be interpreted in the light of the general principles in respect of the rights of defendants.
- h. For what purposes can the parties which have accessed the information in the case file use it (e.g., the case at stake, to support other cases, in subsequent competition damages actions)?*
14. Restrictions on the rights of parties to use accessed information have been deleted in an earlier reform.
- i. Can the decision not to grant access to evidence be challenged? What about the decision to grant access to evidence (for instance, to a third party)? By whom? Before what body? What are the consequences if an agency is found improperly to have denied or granted access to the evidence in the file? Explain briefly the methods through which access to the file is provided (e.g., electronic storage devices, in situ at the agency's or court's premises).*

15. Book IV CEL organizes internal procedures to challenge decisions in respect of the confidentiality of documents. Please refer to the provisions in annex.

### 3. Protection of confidential information

*a. How does your agency or a court in your jurisdiction balance a party's right to review and respond to evidence that will be used against it with the need to protect confidential information?*

16. The law stipulates that objections and infringement decisions may not be based on documents to which the relevant defendant had no access (art. IV.46 §1 and 52 §2 CEL).

*b. How is "confidential information" defined in your jurisdiction? Are there any statutes, case law, or agency guidance documents that define what information will be afforded confidential treatment? Describe the types of information generally deemed confidential in your jurisdiction (e.g., business secrets, strategic plans, or other commercially sensitive information; personally identifiable or sensitive personal information; information that implicates certain public interests such as national security; information provided by other agencies, etc.).*

17. Book XI CEL organizes the protection of business secrets in an intellectual property context.

18. The BCA tends to follow EU Commission practice.

*c. Explain the procedure to provide confidential treatment, including: i. What steps, if any, do providers of information need to take to request confidential treatment for submitted material. ii. Which body decides whether to provide confidential treatment (e.g., the body handling the proceedings in the agency, a separate decision maker within the agency). iii. Explain the factors that are used to determine whether confidential treatment should be provided. What role do general considerations on the value of transparency of public proceedings play in this balancing? Is the reasoning behind the decision on confidential treatment shared with the party making the request?*

19. Please refer to the detailed provisions in annexe that can be summarized as follows:

- They need to request when submitting the document,
- The first assessment is made by the case officer (the competition prosecutor),
- That assessment can be appealed to an officer who is not member of the case team, and there is no separate appeal to the court (it can be part of the appeal against the final decision).

*d. Can the decision not to provide confidential treatment be challenged? Can the decision to provide it be challenged? By whom? Before what body?*

20. Book IV CEL organizes internal procedures to challenge decisions in respect of the confidentiality of documents. Please refer to the provisions in annexe and the summary sub c.

*e. Describe the circumstances, if any, under which information deemed to be confidential may be disclosed.*

*i. Does your agency provide notice to the party or third party claiming confidentiality of your intention to disclose confidential information?*

21. The authority needs to decide on a request for confidentiality before disclosure of the relevant information.

*ii. Do parties or third parties have the ability to object to, or appeal within the agency, prior to the disclosure of their information on confidentiality grounds?*

22. Book IV CEL organizes internal procedures to challenge decisions in respect of the confidentiality of documents. Please refer to the provisions in annex and the summary sub c.

*iii. Do parties and third parties have the ability to appeal to or seek an order from a court and/ or other agency to prevent or limit disclosure of their information?*

23. Book IV CEL organizes internal procedures to challenge decisions in respect of the confidentiality of documents. Please refer to the provisions in annexe and the summary sub c.

*f. What are the consequences of inadvertently or improperly disclosing confidential information? Distinguish, where applicable, between disclosure by the agency's or the court's personnel and disclosure by the parties that have been granted access to the file.*

24. We assume that this might engage the liability of the authority for tort (but we are glad to report that this has never be put to the test). Granting access to confidential information obtained by the authority to persons or entities who are not entitled to receive such information may be a criminal offence under the confidentiality rules applicable to all members and staff of the competition authority (art. IV.32-33 and art. XV.80 CEL).

*g. With respect to information that has been treated as confidential during the investigative and administrative stages (where applicable), what are the rules on disclosure when a competition case is examined by a court, either on appeal or at trial?*

25. Art. IV.90, §7 CEL stipulates that the Court receive the procedural file and must take efficient measures to ensure confidentiality.

*h. How does your jurisdiction protect the confidentiality of the leniency applicant, information provided by the leniency applicant, or leniency applications before and after a case is closed? How are the interests of private litigants balanced against the need to protect the integrity of the leniency program?*

*Explain briefly the methods through which confidential information is protected (e.g., protective orders, non-confidential versions, negotiated disclosure, data rooms, summaries, in camera reviews).*

26. The Competition Act and the provisions on damages claims in the CEL organize the protection of leniency applications (art. IV.54, §3 CEL and title 3, chapter 3 of book granting access may be a criminal offence under the confidentiality rules applicable to all members and staff of the competition authority (art. IV.32-33 and art. XV.80 CEL) in accordance with EU law.

*j Does your jurisdiction allow the sharing of confidential information with foreign agencies or courts? Does it allow the sharing of confidential information with other domestic agencies, or government and legislative bodies? If so, what factors are taken into consideration to decide whether the information is shared (e.g., the approach of that agency or body to the protection of confidential information)?*

27. The BCA can, in accordance with EU law, share all information with the European Commission and other ECN authorities without any restriction (art. IV.78 CEL).

28. The BCA can also exchange confidential information with regulators with which it has a cooperation agreement approved by Royal Decree, with the exception of information

obtained from an ECN authority or a leniency applicant. It has at present such agreements with the energy (CREG) and telecom&postal (BIPT/IBPT) regulators.

## Annexes:

### 1. Extrait du Livre IV du Code de droit économique, *Protection de la concurrence*

*Art. IV.44. § 1<sup>er</sup>. L'auditeur peut, après avis de l'auditeur-conseiller, classer une plainte, une requête ou une injonction par décision motivée :*

[]

*L'auditeur notifie la décision de classement au plaignant, au requérant ou à l'auteur de l'injonction, ainsi qu'aux parties concernées. Il les informe qu'ils peuvent consulter auprès du secrétariat les documents et données du dossier d'instruction sur lesquels s'appuie l'auditeur dans sa décision de classement en obtenir une copie électronique moyennant paiement et intenter un recours contre la décision de classement auprès du président.*

*Art. IV.46. § 1<sup>er</sup>. Lorsque l'auditeur estime que la plainte, la requête, l'injonction ou l'instruction d'office, est fondée, il informe, après avis de l'auditeur-conseiller, les parties concernées des griefs motivés retenus contre elles, et leur donne accès à toutes les versions non confidentielles des documents et données du dossier d'instruction, tel qu'il est constitué au moment de la communication des griefs. Il leur donne un délai d'au moins deux mois pour répondre aux griefs et déposer leurs pièces au secrétariat. L'auditeur peut prolonger ce délai à la demande motivée d'une partie concernée.*

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*Les griefs vis-à-vis d'une partie concernée ne peuvent pas s'appuyer sur des documents et données qui sont confidentiels vis-à-vis d'elle.*

[]

*L'auditeur notifie la décision de mettre fin à l'instruction au plaignant, au requérant ou à l'auteur de l'injonction, ainsi qu'aux parties concernées. Il les informe qu'ils peuvent consulter auprès du secrétariat les documents et données du dossier d'instruction sur lesquels s'appuie l'auditeur dans sa décision de mettre fin à l'instruction, en obtenir une copie électronique moyennant paiement et intenter un recours contre la décision de mettre fin à l'instruction auprès du président.*

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*Le président du Collège de la concurrence fixe les délais dans lesquels les parties concernées, le plaignant, le requérant ou l'auteur de l'injonction peuvent déposer des observations écrites. Il se prononce le cas échéant sur la confidentialité des documents et données.*

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*La proposition de décision est accompagnée du dossier de procédure.*

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*Art. IV.49. § 1er. Le même jour que le dépôt de la proposition de décision, l'auditeur avise les parties concernées de ce dépôt et leur transmet une copie de la proposition de décision. Il les informe qu'elles peuvent consulter le dossier d'instruction et le dossier de procédure auprès du secrétariat et en obtenir une copie électronique moyennant paiement.*

*Le secrétariat informe le plaignant, le requérant ou le ministre du dépôt de la proposition de décision.*

*§ 2. Si le président du Collège de la concurrence l'estime nécessaire, le plaignant et les tiers que le Collège de la concurrence entendra reçoivent une version non confidentielle de la proposition de décision ou un extrait de celle-ci.*

*L'auditeur invite les parties concernées à indiquer les passages confidentiels de la proposition de décision en vue de la transmission d'une version non confidentielle de la proposition de décision ou d'un extrait de celle-ci au plaignant et aux tiers que le Collège de la concurrence entendra. L'auditeur établit ensuite la version non confidentielle. Sa décision n'est susceptible d'aucun recours distinct.*

*§ 3. Les parties concernées disposent d'un délai d'un mois à partir du jour où elles ont reçu accès au dossier d'instruction et au dossier de procédure pour déposer au secrétariat leurs observations écrites et les pièces qu'elles désirent ajouter au dossier de procédure, avec communication à l'auditeur le même jour.*

*Lorsqu'une partie concernée demande, dans les deux jours ouvrables suivant la communication de la proposition de décision, une copie électronique du dossier d'instruction et du dossier de procédure, le délai visé à l'alinéa 1er commence à courir à partir du jour où la copie est mise à disposition par le secrétariat.*

*Le président du Collège de la concurrence prolonge le délai visé à l'alinéa 1er à la demande motivée d'une partie concernée ou de l'auditeur lorsqu'il l'estime nécessaire et pour une durée qui ne peut excéder la durée demandée.*

*Lorsqu'une partie concernée dépose une pièce qu'elle n'avait pas déposée au cours de l'instruction, le président du Collège de la concurrence fixe un délai dans lequel l'auditeur peut déposer des observations écrites concernant cette pièce ainsi qu'un délai dans lequel la partie concernée peut répondre à ces observations écrites. L'auditeur peut appliquer l'article IV.40, § 1er, lors de la préparation de ses observations écrites.*

*§ 4. Le président du Collège de la concurrence décide de l'accès demandé par une partie concernée aux observations écrites et aux pièces complémentaires déposées par une autre partie concernée. Il détermine le délai dans lequel l'autre partie concernée peut répliquer par écrit à cette demande. Il se prononce, par décision motivée, au sujet de la confidentialité des données contenues dans les observations écrites et des pièces de l'autre partie concernée. Sa décision n'est susceptible d'aucun recours distinct.*

*§ 5. Dans le cas où l'auditeur a accepté la confidentialité d'un document ou d'une donnée vis-à-vis d'une partie concernée, cette partie, lorsqu'elle s'estime lésée dans son droit de la défense, peut introduire un recours contre la décision de confidentialité de l'auditeur auprès du président du Collège de la concurrence. Le recours est introduit dans les cinq jours ouvrables après que la partie concernée a eu accès au dossier d'instruction et au dossier de procédure, le cas échéant, à la copie électronique de ces dossiers.*

*Le président du Collège de la concurrence désigne, sans prendre connaissance du document ou de la donnée en question, ni des motifs du recours, un assesseur qui ne fait pas partie du Collège de la concurrence. L'assesseur désigné entend le requérant, l'auditeur et la personne dont ou auprès de laquelle le document ou la donnée a été obtenu. Il se prononce par décision motivée dans un délai de dix jours ouvrables après l'introduction du recours. L'assesseur annule la décision de l'auditeur en tout ou en partie si la prise de connaissance par le Collège de la concurrence ou par certaines parties concernées est de nature à compromettre les droits de la défense de l'autre partie concernée, qui a introduit le recours. Dans ce cas, le document ou la donnée concerné est écarté du dossier d'instruction et du dossier de procédure et remplacé par sa version ou son résumé non confidentiel, à moins que la personne dont ou auprès de laquelle le document ou la donnée a été obtenu renonce à la confidentialité.*

*La décision de l'assesseur n'est susceptible d'aucun recours distinct.*

*§ 6. Le président du Collège de la concurrence peut fixer un délai, dans le délai visé au paragraphe 3, dans lequel le plaignant ou les tiers que le Collège de la concurrence entendra, peuvent déposer leurs observations écrites et pièces. Le président du Collège de la concurrence fixe également un délai dans lequel l'auditeur et les parties concernées peuvent déposer leurs répliques écrites.*

*Lorsque le plaignant et les tiers que le Collège de la concurrence entendra souhaitent communiquer des documents et données confidentiels au Collège de la concurrence, le président du Collège de la concurrence désigne un assesseur qui ne fait pas partie du Collège de la concurrence et qui se prononce sur la confidentialité en appliquant par analogie la procédure visée à l'article IV.41, §§ 1er à 4. Lorsque la prise de connaissance par le Collège de la concurrence ou une partie concernée est susceptible de compromettre les droits de la défense d'une autre partie concernée, l'assesseur décide que le document ou la donnée concerné n'est pas repris dans le dossier de procédure et est remplacé par la version ou le résumé non confidentiel. La décision de l'assesseur n'est susceptible d'aucun recours distinct.*

*§ 7. Les parties concernées, le plaignant, les tiers que le Collège de la concurrence entendra ainsi que l'auditeur se transmettent mutuellement par e-mail leurs observations écrites et pièces, le même jour que le dépôt au secrétariat.*

*Art.IV.50. § 1er. Après réception des observations écrites et pièces ou expiration du délai dans lequel des observations écrites et des pièces peuvent être déposées, le président du Collège de la concurrence déclare que la procédure écrite est clôturée et organise sans délai une audience du Collège de la concurrence. Cette audience se tient dans un délai de minimum deux semaines et maximum deux mois après la clôture de la procédure écrite.*

*§ 2. Le Collège de la concurrence instruit chaque affaire à l'audience. Il entend l'auditeur général et/ou l'auditeur, les parties concernées, ainsi que le plaignant et les tiers intéressés qui lui en font la demande.*

*Quand le Collège de la concurrence l'estime nécessaire, il entend toute personne physique ou morale qu'il convoque.*

*Le Collège de la concurrence entend également les tiers qui justifient d'un intérêt suffisant et qui demandent à être entendus. En ce qui concerne les secteurs*



*économiques placés sous le contrôle ou la surveillance d'un organisme public ou d'une autre institution publique spécifique, ces organismes ou institutions sont à considérer comme ayant un intérêt suffisant. Le ministre est considéré comme ayant un intérêt suffisant.*

*Le directeur des affaires juridiques et le directeur des affaires économiques sont entendus à leur demande.*

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*§ 3. Le président du Collège de la concurrence peut décider d'organiser plus d'une audience dans le délai maximum visé au paragraphe 1er. Si une audience supplémentaire ne s'avère pas nécessaire, le Collège de la concurrence peut, dans sa décision, constater la clôture des débats.*

*§ 4. Une partie concernée peut offrir des engagements qui sont de nature à répondre aux préoccupations du Collège de la concurrence, au plus tard le troisième jour ouvrable suivant la première audience. Le Collège de la concurrence peut demander à l'auditeur de déposer des observations écrites sur les engagements offerts. Dans ce cas, la partie concernée peut répondre par écrit à ces observations écrites.*

*L'auditeur peut appliquer l'article IV.40, § 1er, pour préparer ses observations écrites.*

*Le Collège de la concurrence fixe les délais pour le dépôt des observations écrites et de la réponse.*

*Le Collège de la concurrence peut décider d'entendre la partie concernée et l'auditeur.*

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## 2. Unofficial translation :

Art. IV.44. § 1. The competition prosecutor can, after consulting the competition prosecutor-advisor, dismiss a complaint, request or injunction by reasoned decision :

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The competition prosecutor notifies the dismissal to the person submitting the complaint, request or injunction, and to the parties involved. He informs them that they can consult at the secretariat the documents and data from the investigation file on which the competition prosecutor has based his dismissal. They can receive an electronic copy against payment, and can appeal the dismissal with the president.

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Art. IV.46 § 1. If the competition prosecutor considers the complaint, the request, the injunction, or the ex officio investigation, justified, he shall, after hearing the opinion of the competition prosecutor-advisor, inform the parties involved which motivated objections he holds against them and give them access to all non-confidential versions of documents and data in the investigation file as it is compiled on the moment of notification of the objections. He gives them a period

of at least two months to reply to the objections and to submit their documents to the secretariat. The competition prosecutor can extend this period at the motivated request of a party involved.

[]

The objections against a party cannot rely on documents and data which are confidential with respect to that party. []

The competition prosecutor gives notice of the dismissal decision to the complainant, the applicant or the author of the injunction, as well as to the parties involved. He informs them that they can consult at the secretariat the documents and data from the investigation file on which the competition prosecutor has based his dismissal decision. They can receive an electronic copy of it against payment and can appeal the cancellation decision with the president.

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The president of the Competition College sets the time limits within which the parties involved, the complainant, the applicant or the author of the injunction can submit written comments. He rules where appropriate, on the confidentiality of the documents and data.

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The proposal for a decision is accompanied by the procedural file.

Art. 49 § 1. On the same day as the submission of the proposal for a decision, the competition prosecutor informs the parties involved and sends them a copy of the proposal for a decision. He informs them that they can consult the investigation file and the procedural file at secretariat and obtain an electronic copy against payment. The secretariat informs the complainant, the applicant or the minister of the submission of the proposal of a decision.

§ 2. If the president of the Competition College consider this necessary, the complainant and the third parties who will be heard by the Competition College will get a non-confidential version of the proposal for a decision or an extract thereof.

The competition prosecutor invites the parties involved to indicate the confidential passages of the proposal for a decision in view of the transmission of a non-confidential version of the proposal or an extract from it to the complainant and to the third parties who will be heard by the Competition College. The competition prosecutor then prepares the non-confidential version. His decision is not subject to a separate appeal.

The complainant and the third parties who will be heard by the Competition College will not have access to the investigation file and the procedural file, unless the president of the Competition College decides otherwise regarding the parts of the procedural file which he indicates, without prejudice to Articles XVII.77, XVII.78 and XVII.79.

§ 3. The parties involved have a period of one month from the day on which they received access to the investigation file and the procedural file to deposit to the secretariat their written observations and the documents they wish to add to the procedural file, with communication to the competition prosecutor the same day.

In case an interested party requests, within two working days following the communication of the proposal for a decision, an electronic copy of the investigation file and the procedural file, the period, referred to in the first subparagraph, starts to run from the day the copy has been made available by the secretariat.

The president of the Competition College extends the period referred to in the first subparagraph at the motivated request of a party involved or the competition prosecutor in case he considers this necessary and for a period that is no longer than the requested period.

In case a party involved submits a document that it had not filed during the investigation, the president of the Competition College set a period within which the competition prosecutor may submit written comments concerning that document as well as a period within which the party involved can respond to these written comments.

§ 4. The president of the Competition College decides about the access that a party involved requests to the written comments and additional documents that were submitted by another involved party. He determines the period within which the other involved party can submit a written reply to this request. In his reasoned decision he speaks out about the confidentiality of data in the written comments and of the documents of the other involved party. His decision is not subject to separate appeal.

§5. In the event the competition prosecutor has accepted the confidentiality of a document or data with regard to a party involved, that party may, if it considers that its right of defense has been harmed, appeal to the president of the Competition College against the decision concerning the confidentiality of the competition prosecutor. The appeal is brought within five working days after the party involved has gained access to the investigation file and the procedural file, or where appropriate, the electronic copy thereof.

The president of the Competition College designates, without taking notice of the document concerned, of the data or of the grounds of the appeal, an assessor who is not part of the Competition College. The designated assessor hears the applicant, the competition prosecutor and the person from or with whom the document or data has been obtained. He decides by reasoned decision within ten working days after filing the appeal. The assessor annuls the decision of the competition prosecutor in whole or in part in the event that knowledge by the Competition College or of certain parties involved is likely to compromise the right of defense of the other party involved that brought the appeal. In that case the relevant document or data are removed from the investigation file and the procedural file and replaced by the non-confidential version or summary, unless the person of which or with whom the document or data has been obtained waives the confidentiality.

The decision of the assessor is not subject to separate appeal.

§ 6. The president of the Competition College can determine a period, within the period referred to in paragraph 3, within which the complainant or third parties who will hear the Competition College, can submit written comments and documents. The president of the Competition College also determines a period within which the competition prosecutor and the parties involved can submit a written reply.

In the event the complainant and third parties who will be heard by the Competition College wish to communicate confidential documents and data to the Competition College, the president of the Competition College appoints an assessor who is not part of the Competition College and who rules on confidentiality by application of the procedure referred to in Article IV.41, §§ 1 to 4. In case the information of the Competition College or a party involved is likely to compromise the right of defense of another party involved, the assessor decides that the document or data in question will not be included in the procedural file and are replaced by the non-confidential version or summary. The decision of the assessor is not eligible for separate appeal.

§ 7. The parties involved, the complainant, the third parties who will be heard by the Competition College as well as the competition prosecutor communicate directly to each other by email their written comments and documents, on the same day as its submission to the secretariat.

Art. IV. 50. § 1. After receiving the written comments and documents or the expiry of the period in which written comments and documents can be submitted, the president of the Competition College declares the written procedure closed and he organizes a hearing before the Competition College without delay. This hearing takes place at least two weeks and at most two months after closing the written procedure.

§ 2. The Competition College deals with each case in a hearing. It shall hear the competition prosecutor general and /or the competition prosecutor, the parties involved, as well as the complainant and interested third parties at their request.

If the Competition College deems it necessary, it will hear every natural or legal person who it calls.

It also hears third parties that demonstrate a sufficient interest and ask to be heard. In the economic sectors placed under the control or supervision of a public body or another specific public administration, the said bodies or institutions shall be considered to have a sufficient interest. The minister is deemed to have a sufficient interest.

The general counsel and the chief economist are heard at their request.

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§ 3. The president of the Competition College can decide to organize more than one session within the maximum period referred to in paragraph 1. In the event an additional session still appears unnecessary, it is possible the Competition College determines the conclusion of the debates in its decision.

§ 4. An involved party can offer commitments to meet the concerns of the Competition College, no later than the third working day after the first session. The Competition College can ask the auditor to submit written comments concerning the commitments offered. In that case the party involved can respond in writing to this written comments.

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The Competition College determines the period for submitting the written comments and the response.

The Competition College can decide to hear the party involved and the competition prosecutor.

[]