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Settlement procedure:
Overview for businesses in light of
Ukraine's new competition law

April 2024

Background



The Law of Ukraine “On Amendments to Certain Legislative Acts of Ukraine on the Improvement of the Activities of the Antimonopoly Committee of Ukraine” came into force on 1 January 2024. In accordance with this law, the Antimonopoly Committee of Ukraine (“**AMC**”) approved an Order “On the Approval of the Procedure for the Settlement of Cases of Anti-Competitive Concerted Actions of Business Entities and Abuse of a Monopoly (Dominant) Position in the Market”. The document came into force on 30 January 2024.

Purpose and grounds

The purpose

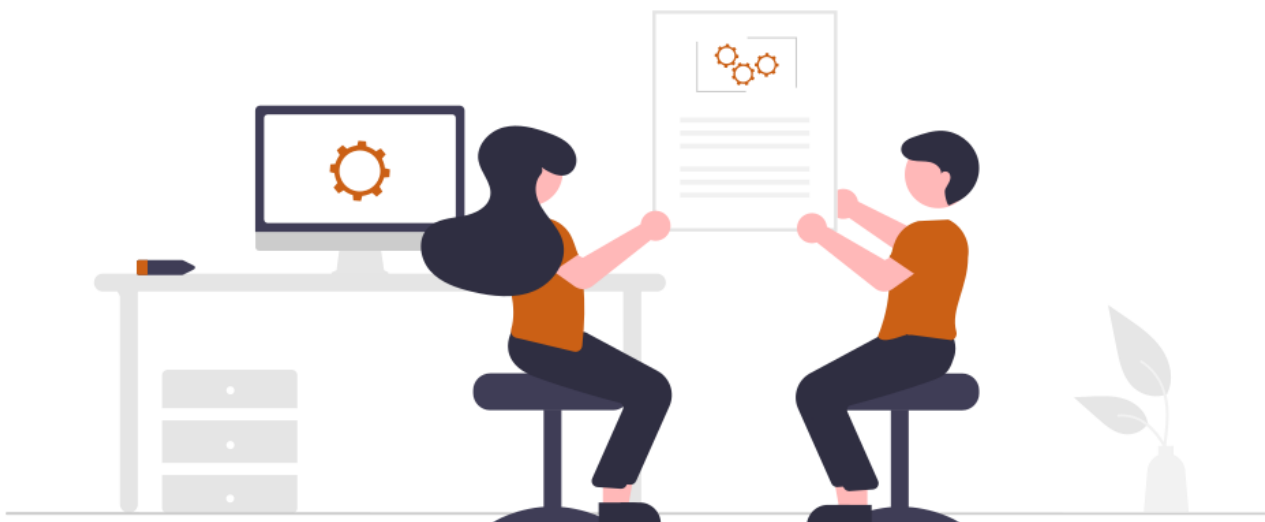


Speeding up investigations of the most serious competition law violations and saving the resources of the AMC that are required to conduct such investigations. The process involves the cooperation of a business entity with the AMC by (1) acknowledging that it has committed a competition law violation, (2) ceasing such a violation, and (3) eliminating its causes and consequences for a 15% reduction of the applicable fine (“**Settlement Procedure**”).

A defendant’s request to settle a case (“**Application**”).



The grounds



Settlement procedure: what businesses should know

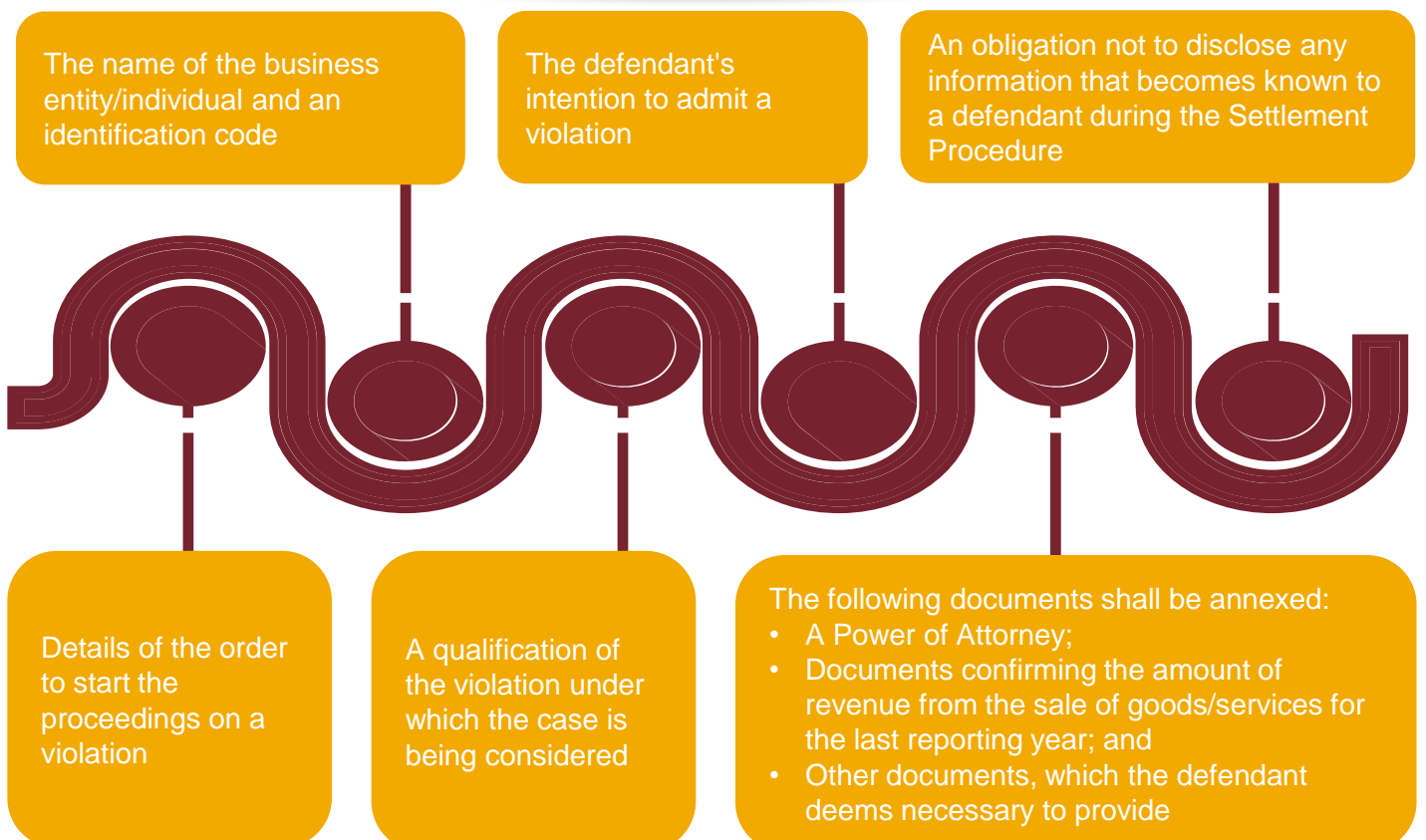
Admissibility

The Settlement Procedure is applicable only for the (i) abuse of dominance and (ii) anticompetitive concerted practices cases. It does not apply:



Requirements to the Application

The Application should contain:



Settlement procedures: what businesses should know

Settlement Procedure Steps

First stage:

Filing the Application to the AMC. Within 15 business days after receiving the Application, the AMC verifies the compliance of the Application with the terms of the Settlement Procedure and notifies the defendant of:

- 1) either consent to initiate the Settlement Procedure, or
- 2) leaving the Application without a motion due to the identified deficiencies. The AMC may allow the defendant time to refine and/or correct the Application. Otherwise, the AMC will not consider the Application. However, the defendant may refile.

Second stage:

The exchange of proposals, a clarification of the positions of the defendant and AMC in order to prepare and agree on a draft settlement agreement ("**Agreement**") via in-person negotiations or via correspondence.

Third stage:

Entering into the Agreement.

Essential Terms of the Agreement



The AMC has approved the template of the Agreement outlining the above essential terms and allowing setting the maximum amount of the fine that may be imposed by the AMC in its final decision.



Those needing more detailed guidelines on settlements or seeking special training in this respect, please contact



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