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REGULATION (EEC) No 1629/69 OF THE COMMISSION

of 8 August 1969

on the form, content and other details of complaints pursuant to Article 10, applications pursuant to Article 12 and notifications pursuant to Article 14 (1) of Council Regulation (EEC) No 1017/68 of 19 July 1968

THE COMMISSION OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 75, 87 and 155 thereof;

Having regard to Article 29 of Regulation (EEC) No 1017/68[1] of 19 July 1968 applying rules of competition to transport by rail, road and inland waterway;

Having regard to the Opinion of the Advisory Committee on Restrictive Practices and Monopolies in the field of transport;

Whereas, pursuant to Article 29 of Regulation (EEC) No 1017/68, the Commission is authorised to adopt implementing provisions concerning the form, content and other details of complaints pursuant to Article 10, applications pursuant to Article 12 and notifications pursuant to Article 14 (1) of that Regulation;

Whereas the complaints may make it easier for the Commission to take action for infringement of the provisions of Regulation (EEC) No 1017/68; whereas it would consequently seem appropriate to make the procedure for submitting complaints as simple as possible; whereas it is appropriate, therefore, to provide for complaints to be submitted in one written copy, the use of forms being left to the discretion of the complainants;

Whereas the submission of the applications and notifications may have important legal consequences for each undertaking which is a party to an agreement, decision or concerted practice; whereas each undertaking should, therefore, have the right to submit such applications or notifications to the Commission; whereas, on the other hand, if an undertaking makes use of that right, it must so inform the other undertakings which are parties to the agreement, decision or concerted practice, in order that they may protect their interests;

Whereas it is for the undertakings and associations of undertakings to inform the Commission of the facts and circumstances in support of the applications submitted in accordance with Article 12 and the notifications provided for in Article 14 (1);

Whereas it is desirable to prescribe that forms be used for applications and notifications in order, in the interest of all concerned, to simplify and speed-up examination thereof by the competent departments;

HAS ADOPTED THIS REGULATION:

Article 1

Complaints

1. Complaints pursuant to Article 10 of Regulation (EEC) No 1017/68 shall be submitted in writing in one of the official languages of the Community; they may be submitted on Form I shown in the Annex.

2. When representatives of undertakings, of associations of undertakings, or of natural or legal persons sign such complaints, they shall produce written proof that they are authorised to act.

Article 2

Persons entitled to submit applications and notifications

1. Any undertaking which is party to agreements, decisions or practices of the kind described in Article 2 of Regulation (EEC) No 1017/68 may submit an

[1] OJ No L 175, 23.7.1968, p. 1.

application under Article 12 or a notification under Article 14 (1) of Regulation (EEC) No 1017/68. Where the application or notification is submitted by some, but not all, of the undertakings concerned, they shall give notice to the others.

2. Where applications or notifications under Articles 12 and 14 (1) of Regulation (EEC) No 1017/68 are signed by representatives of undertakings, of associations of undertakings, or of natural or legal persons, such representatives shall produce written proof that they are authorised to act.

3. Where a joint application or notification is submitted, a joint representative shall be appointed.

Article 3

Submission of applications and notifications

1. Applications pursuant to Article 12 of Regulation (EEC) No 1017/68 shall be submitted on Form II shown in the Annex.

2. Notifications pursuant to Article 14 (1) of Regulation (EEC) No 1017/68 shall be submitted on Form II shown in the Annex.

3. Several participating undertakings may submit an application or notification on a single form.

4. Applications and notifications shall contain the information requested in the forms.

5. Eight copies of each application or notification and of the supporting documents shall be submitted to the Commission.

6. The supporting documents shall be either originals or copies. Copies must be certified as true copies of the original.

7. Applications and notifications shall be in one of the official languages of the Community. Supporting documents shall be submitted in their original language. Where the original language is not one of the official languages, a translation in one of the official languages shall be attached.

Article 4

Entry into force

This Regulation shall enter into force on the day following its publication in the *Official Journal of the European Communities*.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels, 8 August 1969.

For the Commission

The President

Jean REY

ANNEX

FORM I

This form and the supporting documents should be forwarded in eight copies together with proof in a single copy of the representative's authority to act.

If the space opposite each question is insufficient, please use extra pages, specifying to which item on the form they relate.

To the Commission of the European Communities

Directorate General for Competition

170 rue de la Loi, Brussels 4

Complaint submitted by natural or legal persons pursuant to Article 10 of Council Regulation (EEC) No 1017/68 of 19 July 1968 and having as its object the opening of proceedings for the verification of infringements of Article 2 or Article 8, or the application of Article 4 (2), of that Regulation

I. *Information regarding parties*

1. Name, forenames and address of person submitting the complaint. If such person is acting as representative, state also the name and address of his principal; for undertakings, and associations of undertakings or persons, state the name, forenames and address of the proprietors or partners or, in the case of legal persons, of their legal representatives.

   Proof of representative's authority to act must be supplied.

   If the complaint is submitted by a number of persons or on behalf of a number of persons, the information must be given in respect of each complainant and each principal.

2. Name and address of persons about whom the complaint is made.

II. *Object of the complaint*

A. Description of the alleged infringement of Article 2 or Article 8

Attach a detailed statement of the facts which, in your opinion, constitute an infringement of Article 2 or Article 8:

State in particular:

1. which practices by undertakings or associations of undertakings, referred to in the complaint, have the object or effect of preventing, restricting or distorting competition or constitute an improper exploitation of a dominant position in the common market, and

2. to what extent trade between Member States may be affected thereby.

B. Description of the alleged abuse of exemption for groups of small or medium-sized undertakings (Article 4 (2))

Attach a detailed statement of the facts which, in your opinion, justify the application of Article 4 (2):

State in particular:

1. against which of the agreements, decisions or concerted practices referred to in Article 4 (1) the complaint is made;

2. to what extent implementation of the agreement, decision or concerted practice leads to results incompatible with the conditions laid down in Article 5;

3. to what extent this fact constitutes an abuse of exemption from the prohibition under Article 2.

III. *Existence of legitimate interest*

Describe—if necessary in an annex—the reasons for which you consider that you have a legitimate interest in the Commissions's initiating the procedure laid down in Article 10.

IV. *Evidence*

1. State the name, forenames and address of persons in a position to give evidence as to the facts disclosed, in particular of the persons affected by the alleged infringement or abuse.

2. Submit all documents concerning the facts disclosed or directly connected with them (for example, the texts of agreements, minutes of negotiations or meetings, conditions of transport or dealing, documents

relating to costs of transport, business letters, circulars).

3. Submit statistics or other data relating to the facts disclosed (concerning, for example, price trends, price determination, alterations in supply or demand with regard to transport services, conditions of transport or dealing, boycotting or discrimination).

4. Specify, where appropriate, any special technical features or name experts who can do so.

5. Indicate any other evidence available to establish that there has been in infringement or abuse as alleged.

V. State all the steps taken and measures adopted, before the complaint, by you or by any other person to whom the disclosed practice is prejudicial, with the object of putting a stop to the alleged infringement or abuse (proceedings before national courts or public authorities specifying in particular the reference number of the case and the results of such proceedings).

The undersigned declare that the information in this form and in its annexes has been given in all good faith.

..... dated .....

Signatures: ....

....

....

THE EUROPEAN COMMUNITIES

COMMISSION

Directorate General for Competition

Brussels, (date) .....

170 rue de la Loi

To .....

Acknowledgement of receipt

(This form will be returned to the address inserted above if completed in a single copy by the complainant)

Your complaint dated .....

with regard to the opening of proceedings for

— verification of an infringement of Article 2 or Article 8

— application of Article 4 (2)

of Regulation (EEC) No 1017/68

(a) Complainant: .....

.....

(b) Author of the infringement or abuse: .....

.....

was received on .....

and registered under No IV/TR .....

Please quote the above number in all correspondence

FORM II

This form and the supporting documents should be forwarded in eight copies together with proof in a single copy of the representative's authority to act.

If the space opposite each question is insufficient, please use extra pages, specifying to which item on the form they relate.

To the Commission of the European Communities

Directorate General for Competition

170, rue de la Loi, Brussels 4

Application pursuant to Article 12 of Council Regulation (EEC) No 1017/68 of 19 July 1968 with a view to obtaining a declaration of non-applicability of the prohibition in Article 2 to agreements, decisions and concerted practices, in accordance with Article 5 of that Regulation

I. *Information regarding parties*

1. Name, forenames and address of person submitting the application. If such person is acting as representative, state also the name and address of the undertaking or association of undertakings represented and the name, forenames and address of the proprietors or partners or, in the case of legal persons, of their legal representatives.

   Proof of representative's authority to act must be supplied.

   If the application is submitted by a number of persons or on behalf of a number of undertakings, the information must be given in respect of each person or undertaking.

2. Name and address of the undertakings which are parties to the agreement, decision or concerted practice and name, forenames and address of the proprietors or partners or, in the case of legal persons, of their legal representatives (unless this information has been given under I (1).

   If the undertakings which are parties are not all associated in submitting the application, state what steps have been taken to inform the other undertakings.

   This information is not necessary in respect of standard contracts (see Section II (2) (b) below).

3. If a firm or joint agency has been formed in pursuance of the agreement, decision or concerted practice, state the name and address of such firm or agency and the names, forenames and addresses of its legal or other representatives.

4. If a firm or joint agency is responsible for operating the agreement, decision or concerted practice state the name and address of such firm or agency and the names, forenames and addresses of its legal or other representatives.

   Attach a copy of the statutes.

5. In the case of a decision of an association of undertakings, state the name and address of the association and the names, forenames and addresses of its legal representatives.

   Attach a copy of the statutes.

6. It the undertakings are established or have their seat outside the territory of the Community (Article 227 (1) and (2) of the Treaty), state the name and address of a representative or branch established in the territory of the Community.

II. *Information regarding contents of agreement, decision or concerted practice*

1. Does the agreement, decision or concerted practice concern transport:

   — by rail

   — by road

   — by inland waterway

   or operations of providers of services ancillary to transport?

2. If the contents were reduced to writing, attach a copy of the full text unless (a) or (b) below provides otherwise.

   (a) Is there only an outline agreement or outline decision?

   If so, attach also copy of the full text of the individual agreements and implementing provisions.

   (b) Is there a standard contract, i.e. a contract which the undertaking submitting the application regularly concludes with particular persons or groups of persons?

   If so, only the text of the standard contract need be attached.

3. If the contents were not, or were only partially, reduced to writing, state the contents in the space opposite.

4. In all cases give the following additional information:

   (a) Date of agreement, decision or concerted practice.

   (b) Date when it came into force and, where applicable, proposed period of validity.

   (c) Subject: exact description of the transport service or services involved, or of any other subject to which the agreement, decision or concerted practice relates.

   (d) Aims of the agreement, decision or concerted practice.

   (e) Terms of adherence, termination or withdrawal.

   (f) Sanctions which may be taken against participating undertakings (penalty clause, exclusion, etc.).

III. *Means of achieving the aims of the agreement, decision or concerted practice:*

1. State whether and how far the agreement, decision or concerted practice relates to:

   — adherence to certain rates and conditions of transport or other operating conditions

   — restriction or control of the supply of transport, technical development or investment

   — sharing of transport markets

   — restrictions on freedom to conclude transport contracts with third parties (exclusive contracts)

   — application of different terms for supply of equivalent services

2. Is the agreement, decision or concerted practice concerned with transport services:

   (a) within one Member State only?

   (b) between Member States?

   (c) between a Member State and third countries?

   (d) between third countries in transit through one or more Member States?

IV. Description of the conditions to be fulfilled by the agreement, decision or concerted practice so as to be exempt from the prohibition in Article 2.

Describe to what extent:

1. The agreement, decision or concerted practice contributes towards:

   — improving the quality of transport services; or

   — promoting, in markets subject to considerable temporal fluctuations of supply and demand, greater continuity and stability in the satisfaction of transport needs; or

   — increasing the productivity of undertakings; or

   — promoting technical or economic progress;

2. takes fair account of the interests of transport users;

3. the agreement, decision or concerted practice is essential for realising the aims set out under 1 above; and

4. the agreement, decision or concerted practice does not eliminate competition in respect of a substantial part of the transport market concerned.

V. State whether you intend to produce further supporting arguments and, if so, on which points.

The undersigned declare that the information given above and in the annexes attached hereto is correct. They are aware of the provisions of Article 22 (1) (a) of Council Regulation (EEC) No 1017/68.

..... (date) .....

Signatures:

....

....

EUROPEAN COMMUNITIES
COMMISSION
Directorate General for Competition

Brussels, (date) .....
170, rue de la Loi

To

Acknowledgment of receipt

(This form will be returned to the address inserted above if completed in a single copy by the person lodging it)

Your application dated .....

(a) Parties:

1. .....

2. ..... and others

(There is no need to name the other undertakings party to the arrangement)

(b) Subject: .....

.....

.....

(brief description of the restriction on competition)

was received on .....

and registered under No IV/TR .....

Please quote the above number in all correspondence

FORM III

This form and the supporting documents should be forwarded in eight copies together with proof in a single copy of the representative's authority to act.

If the space opposite each question is insufficient, please use extra pages, specifying to which item on the form they relate.

To the Commission of the European Communities

Directorate General for Competition

170, rue de la Loi, Brussels 4

Notification of an agreement, decision or concerted practice under Article 14 (1) of Council Regulation (EEC) No 1017/68 of 19 July 1968 with a view to obtaining a declaration of non-applicability of the prohibition in Article 2, available in states of crisis, under Article 6 of that Regulation

I. *Information regarding parties*

1. Name, forenames and address of person submitting the notification. If such person is acting as representative, state also the name and address of the undertaking or association of undertakings represented and the name, forenames and address of the proprietors or partners or, in the case of legal persons, of their legal representatives.

   Proof of representative's authority to act must be supplied.

   If the notification is submitted by a number of persons or on behalf of a number of undertakings, the information must be given in respect of each person or undertaking.

2. Name and address of the undertakings which are parties to the agreement, decision or concerted practice and name, forenames and address of the proprietors or partners or, in the case of legal persons, name, forenames and address of their legal representatives (unless this information has been given under I (1)).

   If the undertakings which are parties are not all associated in submitting the notification, state what steps have been taken to inform the other undertakings.

   This information is not necessary in respect of standard contracts (see Section II (2) (b) below).

3. If a firm or joint agency has been formed in pursuance of the agreement, decision or concerted practice, state the name and address of such firm or agency and the names, forenames and addresses of its legal or other represenatives.

4. If a firm or joint agency is responsible for operating the agreement, decision or concerted practice, state the name and address of such firm or agency and the names, forenames and addresses of its legal or other representatives.

   Attach a copy of the statutes.

5. In the case of a decision of an association of undertakings, state the name and address of the association and the names, forenames and addresses of its legal representatives.

   Attach a copy of the statutes.

6. If the undertakings are established or have their seat outside the territory of the Community (Article 227 (1) and (2) of the EEC Treaty), state the name and address of a representative or branch established in the territory of the Community.

II. *Information regarding contents of agreement, decision or concerted practice:*

1. Does the agreement, decision or concerted practice concern transport:

   — by rail

   — by road

   — by inland waterway

   or operations of providers of services auxiliary to transport?

2. If the contents were reduced to writing, attach a copy of the full text unless (a) or (b) below provides otherwise.

   (a) Is there only an outline agreement or outline decision?

   If so, attach also copy of the full text of the individual agreements and implementing provisions.

(b) Is there a standard contract, i.e. a contract which the undertaking submitting the notification regularly concludes with particular persons or groups of persons?

If so, only the text of the standard contract need be attached.

3. If the contents were not, or were only partially, reduced to writing, state the contents in the space opposite.

4. In all cases give the following additional information:

(a) Date of agreement, decision or concerted practice.

(b) Date when it came into force and, where applicable, proposed period of validity.

(c) Subject; exact description of the transport service or services involved, or of any other subject to which the agreement, decision or concerted practice relates.

(d) Aims of the agreement, decision or concerted practice.

(e) Terms of adherence, termination or withdrawal.

(f) Sanctions which may be taken against participating undertakings (penalty clause, expulsion, etc.).

III. Means of achieving the aims of the agreement, decision or concerted practice:

1. State whether and how far the agreement, decision or concerted practice relates to:

— adherence to certain rates and conditions of transport or other operating conditions

— restriction or control of the supply of transport, technical development or investment

— sharing of transport markets

— restrictions on freedom to conclude transport contracts with third parties (exclusive contracts)

— application of different terms for supply of equivalent services

2. Is the agreement, decision or concerted practice concerned with transport services:

(a) within one Member State only?

(b) between Member States?

(c) between a Member State and third countries?

(d) between third countries in transit through one or more Member States?

IV. *Description of the conditions to be fulfilled by the agreement, decision or concerted practice so as to be exempt from the prohibition in Article 2*

Describe to what extent:

1. the transport market is disturbed,

2. the agreement, decision or concerted practice is essential for reducing that disturbance,

3. the agreement, decision or concerted practice does not eliminate competition in respect of a substantial part of the transport market concerned.

V. State whether you intend to produce further supporting arguments and, if so, on which points.

The undersigned declare that the information given above and in the annexes attached hereto is correct. They are aware of the provisions of Article 22 (1) (a) of Council Regulation (EEC) No 1017/68.

..... (date) .....

Signatures:

....

....

....

EUROPEAN COMMUNITIES
COMMISSION
Directorate General for Competition

Brussels, (date) .....
170, rue de la Loi

To

Acknowledgment of receipt

(This form will be returned to the address inserted above if completed in a single copy by the person lodging it).

Your notification dated .....

(a) Parties:

1. .....

2. ..... and others

(There is no need to name the other undertakings party to the arrangement)

(b) Subject: .....

.....

.....

(brief description of the restriction on competition)

was received on .....

and registered under No /IV TR .....

Please quote the above number in all correspondence