

# National competition authorities soon to be empowered

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The European Commission recently published a draft directive to grant greater enforcement powers to national competition authorities (NCAs). NCAs and courts apply the EU competition rules within their jurisdictions on the basis of [Regulation 1/2003](#). To ensure the consistent application of these rules, the European Commission and the 28 national competition authorities of the EU work together in the [European Competition Network](#). However, not all NCAs currently have the same enforcement powers. The draft directive aims to address this problem. Companies should therefore be prepared for an increase in competition enforcement by NCAs, including a more extensive enforcement toolbox, a uniform maximum fine level for EU competition law infringements, and a common set of leniency conditions.

The draft [directive](#) imposes an obligation on EU member states to ensure that, when enforcing EU competition law, their NCAs:

- can perform their duties independently, without any political or other external interference;
- have sufficient human, financial and technical resources available for the performance of their tasks;
- have an effective enforcement toolbox, including powers to conduct dawn raids at company premises and staff members' homes, and to examine evidence in physical and digital form;
- can impose deterrent fines. The proposed Directive seeks to ensure that the maximum amount of an NCA-imposed fine is not set at a level below 10% of a company's total worldwide turnover. In addition, rules should be in place with regard to parental liability and legal and economic succession so as to prevent companies from circumventing fines by corporate restructuring;
- have leniency programmes in place enabling NCAs to grant companies immunity from fines or reduction of fines in exchange for evidence of an alleged secret cartel. The proposed directive sets out a common set of leniency conditions to remove the currently diverging leniency outcomes across different member states, providing companies with more certainty when applying for leniency in multiple member states;
- can assist other NCAs, at their request, in enforcing decisions to impose fines or periodic penalty payments, if addressed to a company with no legal presence in the member state of the requesting NCA.

The proposed directive will now be transmitted to the European Parliament and Council for adoption. Once adopted, EU member states will need to transpose the directive into their national laws by a set deadline.