

QUESTION A: Should small and medium-sized enterprises (“SMEs”) be subject to other or specific competition rules?

RESOLUTION

The League recognizes the importance of small and medium-sized enterprises, especially micro-enterprises, in the world economy and society. The LIDC believes that enforcement processes of competition law needs to be adjusted to recognize the realities of SMEs, e.g. the asymmetry of information and resources. From a substantive competition law perspective, however, the LIDC underlines the importance of an approach mainly irrespective of the size.

In the light of the above, the League recommends that:

- **There is no need for a sector specific legal definition of SMEs in the field of competition law.** Soft law tools, such as guidelines, may suffice in order to provide a common and simplified definition of SMEs based on market realities.
- **There should be more competition law culture and compliance programs specifically addressed to SMEs:** Antitrust Authorities should pay particular attention to, and further, the **awareness** and **knowledge** of competition law by SMEs (e.g. help desk, web site, standard compliance models, etc.).

- **Anonymity should be organized for SMEs that denounce competition law infringements in a way that is consistent with the rights of defence:** Antitrust Authorities should guarantee the anonymity of complainants during investigations if SMEs ask for this special protection.
- **SMEs should be given more incentives to access leniency programmes.**
- **Fining methodology should take into account in assessing mitigating circumstances and ability to pay:** size, finances, and market position.
- If collective redress mechanisms were adopted, **countries should further consider appropriate means to lower financial and organisational hurdles faced by SMEs in bringing a damage action.**
- A **rebuttable presumption on suffered damages** should be considered as an option especially to SMEs (e.g. in hard-core violations).
- **Legal aid tools** in reducing litigation costs should be made available to SMEs.
