

COMMUNICATION FROM THE COMMISSION**Withdrawal of Temporary Framework for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak**

(2022/C 381/03)

- (1) On 8 April 2020, the European Commission ('Commission') adopted a Temporary Framework Communication ⁽¹⁾ ('Temporary Framework'), setting out the main criteria that the Commission would follow when assessing cooperation projects aimed at addressing a shortage of supply of essential products and services during the COVID-19 outbreak. This covered possible forms of cooperation between undertakings in order to ensure the supply and adequate distribution of essential scarce products and services. The Temporary Framework also introduced the possibility for the Commission to provide undertakings with written comfort (via ad hoc 'comfort letters') on specific and well-defined cooperation projects falling within the scope of the Temporary Framework, in order to facilitate initiatives that needed to be swiftly implemented to effectively tackle the COVID-19 outbreak.
- (2) The Temporary Framework did not contain a specific end date for its application but stated that it would remain applicable until the Commission withdraws it, once it considers that the underlying exceptional circumstances are no longer present ⁽²⁾.
- (3) Two and a half years after the onset of the COVID-19 outbreak, the Commission notes the overall improvement of the sanitary crisis in Europe, with the relaxation of the related restrictive measures and relatively high vaccination rates. Supplies of essential products and services for the prevention and treatment of COVID-19 do not appear to be problematic any longer.
- (4) In addition, the Commission has on 3 October 2022 adopted a revised Notice on informal guidance ⁽³⁾ (the 'Notice'), which allows the Commission to provide informal guidance on novel or unresolved questions concerning the application of Articles 101 or 102 of the Treaty on the Functioning of the European Union that arise in individual cases. The revised Notice creates increased scope for undertakings to obtain guidance on the application of competition rules. Undertakings can request guidance under the revised Notice also in the context of a sudden and unexpected deterioration of the sanitary situation and related supply disruptions of essential products and services. The Commission may provide such guidance subject to the conditions set out in the revised Notice.
- (5) In view of the above, the Commission considers it appropriate to withdraw the Temporary Framework, as the exceptional circumstances related to its adoption are no longer present.
- (6) As regards the individual comfort letters that have been issued under the Temporary Framework, their validity is governed by the specific conditions and duration set out in each comfort letter.

⁽¹⁾ Temporary Framework for assessing antitrust issues related to business cooperation in response to situations of urgency stemming from the current COVID-19 outbreak (OJ C 1161, 8.4.2020, p. 7).

⁽²⁾ See paragraph 21.

⁽³⁾ Commission Notice on informal guidance relating to novel or unresolved questions concerning Articles 101 and 102 of the Treaty on the Functioning of the European Union that arise in individual cases (guidance letters).