



COMMON MARKET • EURATOM • COAL & STEEL COMMUNITY

FOR IMMEDIATE RELEASE

December 19, 1961

COMMON MARKET APPROVES

ANTITRUST REGULATIONS

Commission Votes Unanimously in Favor of Uniform Law

WASHINGTON, D.C., Dec. 19 -- The Common Market Commission today approved anti-trust regulations to be applied uniformly throughout the six member countries of the Community. The vote of the Commission, which was unanimous, was announced by the Common Market headquarters in Brussels.

Approval of the over-all policies relating to Article 87 of the Treaty of Rome is contingent upon a decision by the Community before December 21 to advance formally into the second stage of the three-stage transition period leading to the full Common Market. If this decision is taken, the antitrust regulations will go into effect January 1, 1962.

The regulations cover registration by cartels, publication of information, and the authority for the Community to enforce its directives through fines and other penalties. Although according to the Treaty the proposals could have been adopted by majority vote, Common Market officials stress the importance of unanimity to insure wholehearted cooperation on the part of the member governments. They point out that this action marks "the beginning of the transition from a customs union to a genuine economic union."

The proposals have been under study since the fall of 1960 when the first draft was submitted to the Council by Commissioner Hans von der Groeben. Various amendments have been added by both the Economic and Social Committee and the European Parliament.

The antitrust policy covers the following main points:

1. It confers on the Commission all the powers required to insure observance of the Treaty provisions concerning agreements incompatible with the Common Market and the prohibition of the misuse of a dominant economic position. Firms will be obliged to provide any information needed. The Commission can, in certain circumstances in addition to individual cases, inquire into certain economic sectors in order to ascertain whether there are violations of the Treaty's rules on competition. Firms infringing the Treaty provisions can be ordered to pay fines, and penalties may be used to put a stop to infringements. Firms can obtain a confirmation from the Commission that the latter sees no reason to take action under Article 85(1) or Article 86 (negative test). In this way they can make certain that no sanctions will be applied against them.

2. The regulation gives exclusive competence to the Commission to make a statement under Article 85(3). This will insure uniform application of this provision, which is of particular importance to trade and industry. However, this privilege can only be claimed if the agreement, decision or practice has been registered. But, for the time being, a simpler procedure has been laid down for a category of agreements, decisions and practices showing particular criteria by which they seem to have a less impairing effect on trade among member states (e.g., purely domestic cartels which do not affect international trade). In these cases a voluntary application may be made under Article 85(3), but there is no compulsory registration.

3. A group of provisions important for competition policy deals with those agreements, decisions and concerted practices (known as "old cartels") which already exist and which fall under the prohibition of Article 85(1). These must be registered by August 1, 1962. A temporary exception has, however, been made in favor of the type of agreements referred to in paragraph 2 above.

4. The question of retroactivity has been uniformly settled in the draft for old and new cartels. It says that a decision taken by the Commission under Article 85(3) shall take effect from the date stated in it. This date cannot be earlier than that of registrations. The Commission's decision can take retroactive effect only for the agreements referred to in paragraph 2 above.

5. Where old cartels do not meet the requirements of Article 85(3) and where they thereupon cease their activities or so adapt them as to make a declaration under Article 85(3) possible, the Commission can determine the period for which the prohibition under Article 85(1) shall be applicable. This is conditional upon such old cartels having registered within a certain period (in principle by July 1, 1962, and by February 1, 1964, in the case of those agreements referred to in paragraph 2 above).

6. The regulation's provisions on publication insure that the Commission's decision will be made public. Moreover, the publication of application under Article 85(3) and of applications for a "negative test" give all concerned an opportunity to make their views known.

7. The regulation does not deal with "sector exemptions." This issue still requires detailed consideration. The right to refuse information has also been set aside for later settlement.

8. All proceedings are to be carried out in close and constant contact with the competent authorities of the member states through a consultative committee composed of representatives from each member state. This committee will be heard before the Commission takes any decision.