



IMPACT OF COVID-19 NEW EXEMPTIONS UNDER ANTITRUST LAW

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GLOBAL OVERVIEW



Country	Sector	Country	Sector
EC/EFTA/ECN	General guidance: EC has dedicated mailbox for informal advice, issued a Temporary Framework Communication, and a comfort letter (medicines)	Iceland	Exemptions: transport, pharmaceutical, retail, and banking sectors
UK	General guidance: exemptions for supermarkets/retail and ferry transport to Isle of Wight	Luxembourg	General guidance
Channel Islands	General guidance	Norway	Exemptions: transport
Czech Republic	General guidance and informal advice	Romania	General guidance
Denmark	General guidance	Spain	General guidance: dedicated mailbox for informal guidance and complaints
Finland	General guidance	Switzerland	General guidance
Germany	Expected guidance: grocery retail sector		
Greece	Specific guidance: vertical restrictions, such as maximum resale prices and recommended prices		
US	General guidance and exemption for personal-protective equipment	Dominican Republic	General guidance
Australia	Exemptions: supermarkets, banking, medical equipment, transport, pharmaceuticals, telecommunications, insurance, rent relief to SME tenants, fuel products, energy, and healthcare	Egypt	General guidance and informal advice
Brazil	Reported potential exemption for airlines	Hong Kong	General guidance
Canada	General guidance	Israel	General guidance
Chile	General guidance	Mexico	General guidance
China	General guidance	New Zealand	General guidance
Colombia	Exemptions: cargo transport	South Africa	Exemptions: healthcare, banking, hotels, and retail property

IMPACT OF COVID-19 – NEW EXEMPTIONS – EUROPE



EU/EFTA/ECN – On 23 March 2020, the competition authorities in the **European Competition Network** (the European Commission, the EFTA Surveillance Authority, and the national competition authorities of the EU/EEA) [issued a Joint Statement](#) on the application of competition law during the COVID-19 crisis. The Joint Statement notes that the ECN “understands that this extraordinary situation may trigger the need for companies to cooperate in order to ensure the supply and fair distribution of scarce products to all consumers” and that “it will not actively intervene against necessary and temporary measures put in place in order to avoid a shortage of supply”. The ECN also encourage manufacturers to use the option of imposing maximum resale prices to avoid situations that could be challenged by competition authorities as excessive pricing. In addition, ECN states an intention to take action against companies taking advantage of the current situation either through cartels or abusing a dominant position.

On 30 March 2020, **the European Commission** [allocated a dedicated website](#) for companies aiming to cooperate during the COVID-19 crisis. The site states that the European Commission is ready to provide guidance on “specific cooperation initiatives with an EU dimension, that need to be swiftly implemented in order to effectively tackle the coronavirus pandemic, and where there is still uncertainty about whether such initiatives are compatible with EU competition law”. The European Commission has set up a dedicated mailbox (COMP-COVID-ANTITRUST@ec.europa.eu) for companies seeking informal guidance. In order to facilitate a swift follow-up, companies are asked to provide as much detail as possible on the initiative, including: (i) the firm(s), product(s), or service(s) concerned; (ii) the scope and set-up of the cooperation; (iii) the aspects that may raise concerns under EU antitrust law; and (iv) the benefits that the cooperation seeks to achieve, and an explanation of why the cooperation is necessary and proportionate to achieve those benefits in the current circumstances.

On 8 April 2020, the **European Commission** published a [Temporary Framework Communication](#) to provide antitrust guidance to companies cooperating in response to urgent situations related to the current coronavirus outbreak as concerns the supply of “essential products and services”, notably medicines and medical equipment. In this context, the Commission has also issued a “comfort letter” to Medicines for Europe, formerly the European Generics Medicines Association (EGA) concerning a specific cooperation project aimed at avoiding situations of shortages of critical hospital medicines. European Commissioner for Health and Food Safety, Stella Kyriakides, has also put forward [Guidelines](#) to optimise supply and availability of medicines during the coronavirus outbreak.

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UK – On 19 March 2020, the **UK government** [announced](#) that it will adopt legislation to temporarily relax elements of UK competition law as it applies to retailers. This legislation was published on 27 March 2020: [the Competition Act 1998 \(Groceries\) \(Coronavirus\) \(Public Policy Exclusion\) Order 2020](#).

On 19 March 2020, the **CMA** [welcomed](#) the announcement from the government. In its press release, the CMA makes the following reassurance: “the CMA has no intention of taking competition law enforcement against cooperation between businesses or rationing of products to the extent that this is necessary to protect consumers – for example, by ensuring security of supplies”. However, the CMA states that it will not tolerate unscrupulous businesses exploiting the crisis as a “cover” for non-essential collusion and, to this end, it has also [announced](#) the launch of a COVID-19 taskforce. One of the tasks of the COVID-19 taskforce will be “to advise the Government on how to ensure competition law does not stand in the way of legitimate measures that protect public health and support the supply of essential goods and services. It will also advise on further policy and legislative measures to ensure markets function as well as possible in the coming months”. On 25 March 2020, the CMA followed up on these statements by [publishing guidance](#) on how it will approach cooperation between businesses during the COVID-19 pandemic, including how it will apply exemption criteria in the context of the pandemic and prioritisation principles.

On 20 March 2020, the **CMA** [published an open letter](#) for businesses in the pharmaceutical and food and drink industries. The letter warns companies that they should not capitalise on the current situation by charging unjustifiably high prices for essential goods or making misleading claims around the goods’ efficacy.

On 27 March 2020, the **Financial Conduct Authority** and the **Payment Services Regulator** [issued a short press release](#) supporting the CMA’s guidance, and saying that it would take a consistent approach with the CMA.

On 27 March 2020, the **UK government** [announced](#) that it will suspend competition law and allow competitors to secure essential ferry transport between the mainland and the Isle of Wight.

On 27 March 2020, the **UK government** [published](#) the Competition Act 1998 (Health Services for Patients in England) (Coronavirus) (Public Policy Exclusion) Order 2020. This secondary legislation relaxes temporarily the application of UK competition law to National Health Service (NHS) bodies and other independent providers of health services to the NHS.

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Jersey/Guernsey – On 6 April 2020, the **Channel islands Competition & Regulatory Authorities (CICRA)** issued a [press release](#) on the enforcement of competition law during the pandemic. It stated that the “CICRA is also very conscious of concerns that competition law enforcement could impede necessary cooperation between businesses to deal with the current crisis and ensure security of supplies of essential products and services, such as groceries. Where agreements are not covered by legal relaxation, we can offer the following reassurance: CICRA has no intention of taking competition law enforcement action against cooperation between businesses or rationing of products to the extent that this is necessary to protect consumers – for example, by ensuring security of supplies. At the same time, this is not a license for businesses to exploit the crisis as a ‘cover’ for non-essential collusion. This includes exchanging information on longer-term pricing or business strategies, where this is not necessary to meet the needs of the current situation.”



Czech Republic – On 27 March 2020, the **Czech competition authority** [issued a press release](#) stating that during the pandemic “certain above-standard cooperation of undertakings might be desirable”, but that this “cooperation should be pursued only with the target of ensuring supplies of goods and services, which are necessary in the pandemic period and [...] their supplies are threatened by the current situation.” The authority is willing to provide informal guidance on proposed cooperation initiatives.



Denmark – On 23 March 2020, the **Danish Competition and Consumer Agency** [issued a communication](#) to explain how it will apply competition law during the COVID-19 pandemic. The authority said that it would not actively pursue cases of necessary and temporary cooperation between companies to the extent they are doing this to prevent adverse effects on consumers and to maintain security of supply.



Finland – On 23 March 2020, the **Finnish Competition & Consumer Authority** [issued a press release](#) stating that it will not intervene in measures that are necessary to ensure the availability of products. However, it stated that, even during the state of emergency, it would resolutely intervene in cartels and in any abuse of dominance.



France – On 23 March 2020, the **French competition authority** [posted on its own website](#) the EU/EFTA/ECN Joint Statement. The authority stresses that it remains willing to engage with market players on possible cooperation initiatives and answer any questions that companies may have in this respect.

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Germany – Andreas Mundt stated that the **BKartA** is open to dialogue with companies to let them cooperate and exchange information due to COVID-19. The German government has been in contact with the BKartA to discuss the possibility of allowing cooperation in the grocery retail sector.



Greece – On 16 March 2020, the **Greek competition authority** [issued a press release](#) confirming that it will not take action against certain maximum resale prices or recommended prices in vertical supply contracts and distribution agreements (for example, personal hygiene products and food distribution networks).



Iceland – The **Icelandic competition authority** [stated](#) that it is willing to process applications for exemptions concerning COVID-19 in less than 48 hours from the receipt of the application. It has issued the following exemptions:

- a. Cooperation between travel agencies that aims to facilitate the safe return of tourists abroad and in Iceland, as well as responding to the economic damage caused by COVID-19.
- b. Dialogue between travel services in any area to assess further responses to the economic damage caused by COVID-19.
- c. Cooperation within The Icelandic Association of Travel Services, aimed at facilitating the COVID-19 response among different travel services, such as offering more flexible terms for customers (Decision 9/2020).
- d. Cooperation between importers and distributors of pharmaceuticals, aimed at securing necessary access to important pharmaceuticals (Decision 11/2020). The exemption is subject to the condition that the Icelandic Medicines Agency deems the cooperation necessary and has access to and monitors the cooperation.
- e. The Icelandic Directorate of Health has been given full autonomy to initiate dialogue with companies across markets to ensure continuous operations and secure access to supplies.
- f. Cooperation between financial undertakings within the Icelandic Financial Services Association in order to prepare uniform measures, in cooperation with the government, including a standstill on loan payments etc., in order to address liquidity problems and financial distress of companies. The exemption is subject to the monitoring of the Central Bank of Iceland and an ad hoc expert in competition law.

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Luxembourg – On 1 April 2020, **Luxembourg’s Competition Authority** [published an orientation document](#) concerning the COVID-19 crisis. The document highlights the authority’s priorities during the crisis and details how the authority interprets the exemption criteria.



Norway – The **Norwegian Competition Authority** [provided a three-month exemption](#) to SAS and Norwegian Airlines, allowing them to coordinate routes served and schedules in order to maintain minimum transport services for citizens and cargo. Following this, the Norwegian government [issued wider regulation](#) granting a limited, but broadly worded, exemption from Section 10 Competition Act (art 101 TFEU equivalent) for agreements in the transport sector “that are necessary to ensure the maintenance of socially critical functions in connection with the COVID-19 pandemic”. Any such cooperation must: (i) not go beyond what is strictly necessary to fulfill the purpose of the exemption; (ii) ensure, as far as possible, the effective use of resources and consideration of consumer interests; and (iii) be reported to the Norwegian Competition Authority without undue delay (the notification shall briefly indicate the parties involved and the purpose of the cooperation). The exemption covers, in principle, all transport, so long as the cooperation is linked to the maintenance of “socially critical functions”. To this end, it is relevant to note that the government [published](#) a list of “socially critical functions” that can — and likely will — be updated. The functions covered include: government and crisis management; defense, law, and order; health and care services (including pharmacies); rescue services; IT security in the civilian sector; nature and environment; security of supply; water and wastewater; financial services; power supply; electronic communication services; transport (including production of oil and gas); satellite-based services; and maintenance of critical functions on the Norwegian Continental Shelf.



Romania – On 23 March 2020, the **Romanian Competition Council** [issued a press release](#) announcing that companies may cooperate to avoid disruption to the availability of basic products and to secure their balanced distribution during the pandemic.

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Spain – On 31 March 2020, the **Spanish competition authority (CNMC)** [announced the launch](#) of a dedicated mailbox that is available to companies that wish to consult with the authority about the compatibility with the competition rules of possible transitional agreements that they are evaluating to face the effects of the pandemic. The authority states that “it will be assessed whether the measures are adopted with the sole purpose of solving the difficulties that have arisen from the current health crisis in the public interest, without going beyond what is strictly necessary for this purpose, in line with what was agreed among all the competition authorities that are part of the European Competition Network (ECN)”. The authority warns that the “CNMC will pursue any behaviour that seeks to take advantage of the current crisis to the detriment of consumers and, for this reason, it is closely following the evolution of the affected markets and, in particular, the formation of prices”. The dedicated mailbox can also be used to address complaints.



Switzerland – On 26 March 2020, the **Swiss Competition Commission** [issued a press release](#) on how antitrust law applies during the COVID-19 crisis. The authority states that it is “looking for a discussion with associations, companies and other authorities on the design of measures to combat the corona crisis in accordance with antitrust law”. However, it warns that “private companies still have to observe antitrust law, even if the crisis can lead to an increased need for cooperation”, and that “the overall economic situation must not be misused to form cartels and to agree prices”.

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US – On 24 March 2020, the **DOJ** and **FTC** issued a joint statement detailing an expedited antitrust procedure and providing guidance for collaborations of businesses working to protect the health and safety of Americans during the pandemic. The agencies will respond expeditiously to all COVID-19 related requests, and have committed to resolving requests addressing public health and safety within seven calendar days of receiving all information necessary to vet a proposal. The statement lists several types of collaborative activities designed to improve the health and safety response to the pandemic that would likely be consistent with the antitrust laws. At the same time, [the agencies stress](#) that they will not hesitate to hold accountable those who try to use the pandemic to engage in antitrust violations.

On 4 April 2020, the **DOJ** [announced](#) that it will not challenge collaborative efforts of McKesson Corporation, Owens & Minor Inc., Cardinal Health Inc., Medline Industries Inc., and Henry Schein Inc. to expedite and increase manufacturing, sourcing, and distribution of personal-protective equipment (PPE) and COVID-19-treatment-related medication. These collaborative efforts are part of an emergency response developed and led by the Federal Emergency Management Agency (FEMA) and the US Department of Health and Human Services (HHS) to address supply needs arising from the COVID-19 pandemic. The distributors submitted their business review request pursuant to the expedited, temporary review procedure detailed in the joint DOJ/FTC Antitrust Statement Regarding COVID-19 (outlined above).

On 13 April 2020, the **DOJ** and **FTC** [issued a joint statement](#) announcing that they will seek to protect workers on the front lines of COVID-19 (including doctors, nurses, first responders, and those who work in grocery stores, pharmacies, and warehouses, among other essential providers) by using various antitrust laws against those who seek to exploit the current circumstances to engage in anticompetitive conduct in the labour market. The agencies said they are on alert for employers, staffing companies, and recruiters, among others, who might engage in collusion or other anticompetitive conduct in labour markets, such as agreements to lower wages or to reduce salaries or hours worked.

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China – On 4 April 2020, the **State Administration for Market Regulation (SAMR)** [announced](#) that it will, in accordance with the Anti-Monopoly Law, exempt certain types of cooperation agreements that are beneficial to technological progress, improvements in efficiency, and the pursuit of public interest and consumer interest. Companies that want to apply for such exemption should file applications to SAMR, and SAMR will reply within two working days.

Examples of such agreements include:

- Agreements improving technologies and developing new products in the fields of medicines, vaccines testing, medical devices, and protective equipment
- Agreements to unify product specifications and standards and to implement specialised division of labour with the aim of improving the quality of antivirus products, reduce cost, and increase efficiency
- Agreements relating to public benefits such as disaster relief, and improving the operating efficiency and competitiveness of SMEs

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Australia – On 23 March 2020, the **ACCC** granted an interim authorisation (see [here](#) and [here](#)) to supermarket operators to work with manufacturers, suppliers, and transport and logistics providers to ensure supply and distribution.

On 20 March 2020, the **ACCC** [granted interim authorisation](#) to allow the Australian Banking Association and banks to work together to implement a small business relief package. The package will allow the deferral of principal and interest repayments for loans to small businesses, in all sectors, impacted by COVID-19.

On 25 March 2020, the **ACCC** [granted interim authorisation](#) to the Medical Technology Association of Australia to allow its members and other groups, such as suppliers or distributors of medical equipment, to share information, coordinate orders and supply requests, prioritise requests, and jointly tender to supply COVID-19 medical equipment.

On 26 March 2020, the **ACCC** [granted interim authorisation](#) to Regional Express (Rex) allowing it to coordinate flight schedules and enter into agreements to share revenue with Virgin and Qantas Airways on 10 regional flight routes. The authorisation is conditional on the airlines charging fares to no higher than those in place on 1 February 2020.

On 30 March 2020, the **ACCC** [granted interim authorisation](#) to the Australian Banking Association (ABA) and its current and future member banks. The authorisation allows the parties to discuss, agree, and give effect to any contract, arrangement, or understanding for the benefit of their customers, with the broad purpose of providing financial relief and assistance to customers in any sector of the economy or customer segment and supporting government initiatives. The authorisation is subject to conditions that broadly require (i) the ABA seek the approval of the ACCC when the coordination by Member Banks involves agents or suppliers that Member Banks compete with, and (ii) the ABA notify the ACCC of any financial relief programme or other arrangement arising from the Proposed Conduct, prior to its implementation.

On 2 April 2020, the **ACCC** [granted interim authorisation](#) to Suncorp Group Limited, Allianz Australia Limited, QBE Insurance Australia Limited, and other insurers and brokers to implement certain relief measures in the insurance sector. The authorisation allows the parties to coordinate and implement relief measures for small- and medium-sized businesses (SME policyholders) suffering hardship due to the COVID-19 pandemic.

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Australia – On 31 March 2020, the **ACCC** [granted interim authorisation](#) to the current and future members of the National Pharmaceutical Services Association (representing pharmaceutical wholesalers distributing to all pharmacies and major hospitals in Australia) and other Community Service Obligation Distributors. This authorisation allows these entities to enter into discussions/arrangements for the purpose of facilitating the supply of, and access to, medicines and pharmacy products. This includes activities relating to sustainable coordinated stock acquisition, coordinating inventory management strategies, and facilitating coordinated logistical arrangements to assist in the equitable distribution of medicines and pharmacy products. No price coordination behaviour is permitted.

On 31 March 2020, the **ACCC** [granted interim authorisation](#) to NBN Co Limited (NBN Co) on behalf of NBN Co and five retail communications service providers to discuss, agree, and implement: (i) economic stress alleviation measures, such as a coordinated industry approach to support for businesses (especially small businesses) and vulnerable or other consumers adversely impacted by the COVID-19 pandemic (hardship measures); and (ii) a series of capacity optimisation strategies to help ensure the continued operation and optimisation of Australia's telecommunications networks during the COVID-19 pandemic (capacity optimisation strategies). The authorisation is subject to NBN Co complying with certain reporting obligations.

On 3 April 2020, the **ACCC** [granted interim authorisation](#) to Medicines Australia and the Generic and Biosimilar Medicines Association and their respective members and potential future members. The authorisation permits the implementation of a coordinated strategy in relation to the supply of essential medicines and related supplies in response to the current COVID-19 pandemic. The authorisation is subject to certain reporting requirements to the ACCC.

On 3 April 2020, the **ACCC** [granted interim authorisation](#) to Scentre Group and the Shopping Centre Council of Australia (SCCA) to discuss, share information, and agree and give effect to contracts, arrangements, or understandings to benefit their SME tenants, which provide rent relief to SME tenants, including through the deferment or amelioration of the payments or rent and other payments that tenants might otherwise be obliged to pay to SCCA members. A condition for the authorisation requires the parties to notify the ACCC of any proposed rent relief measures no less than 24 hours before the measure is implemented.

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Australia – On 3 April 2020, the **ACCC** [granted interim authorisation](#) to the Australian Institute of Petroleum (AIP), its four major oil refiner and petroleum marketer members, and any other future party proposed by the AIP for certain conduct designed to deal with the effects of COVID-19 on Australia’s fuel products (liquid fuel, such as petrol, diesel, and jet fuel). The authorisation enables the parties to discuss, enter into, or give effect to, any contract, arrangement, or understanding between them (including with customers for wholesale fuel, suppliers of crude oil and finished fuel products, suppliers of import and storage facilities, and suppliers of trucking and delivery services) with the broad purpose of ensuring the security of supply of fuel products and facilitating the efficient use of refining capacity and fuel storage capacity in Australia during and after the COVID-19 pandemic. The authorisation does not include price agreements. The authorisation is subject to conditions that broadly require that (i) AIP must notify the ACCC of any material arrangements; (ii) the ACCC may request information from the AIP, and (iii) any other parties wishing to obtain the protection of interim authorisation must be approved by the ACCC.

On 3 April 2020, the **ACCC** [granted interim authorisation](#) to the Australian Energy Market operators (AEMO), a number of AEMO industry participants, and other future approved participants to have discussions or enter into arrangements regarding the following conduct: (i) Coordinating repairs and maintenance (planning for and/or minimising any disruptions to energy supply, for example, by coordinating scheduling of any repairs, maintenance, and other works requiring outages); (ii) Sharing essential personnel (sharing information and/or entering into common arrangements in relation to essential employees and contractors, to ensure sufficient personnel to maintain and operate energy infrastructure); (iii) Sharing essential inputs (sharing information about the availability of, and/or entering into arrangements to share, essential inputs for energy production, generation, transmission, distribution, and supply systems and infrastructure, such as fuel for thermal electricity generators, parts, equipment, or specialised resources necessary for essential maintenance, as well as other consumable materials necessary for the operation of AEMO industry participant facilities); (iv) Deferring non-essential works (sharing information, and/or entering into arrangements, to defer activities and/or projects not essential to maintaining the safe, secure, and/or reliable operation of energy markets during the COVID-19 pandemic); (v) Managing system stability (sharing information and/or entering into common arrangements to manage system stability from a technical perspective as a result of changes in system supply and/or demand, including, for example, managing generation profiles). The authorisation is subject to certain reporting requirements to the ACCC.

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Australia – On 7 April 2020, the **ACCC** granted interim authorisations to the [Victorian Department of Health and Human Services](#) (the DHHS) and [Queensland Health](#), which are owners of private healthcare facilities and public hospitals/healthcare facilities. The authorisations allow these entities to discuss, enter, and give effect to contracts, arrangements, or understandings which have the broad purpose of maximising healthcare capacity and ensuring the State-wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare during the period of the COVID-19 pandemic. The authorisations are subject to conditions that require the DHHS and Queensland Health to provide regular updates to the ACCC, and notify the ACCC of any other private healthcare providers who are to engage in the proposed conduct.

On 8 April 2020, the **ACCC** [granted interim authorisation](#) to the Australian Securitisation Forum (ASF) and its current and future members, which allows them to work together to maintain liquidity and issue loans to consumers and small businesses during the COVID-19 pandemic. The authorisation allows these entities to discuss, exchange information, and develop a coordinated industry response to the implementation of the federal government’s Structured Finance Support Fund.

On 8 April 2020, the **ACCC** [granted interim authorisation](#) to Private Healthcare Australia Limited, its members, and Members Health Fund Alliance, and its members. The authorisation allows these entities to make and give effect to arrangements, and to discuss and share information with each other in relation to: broadening private health insurance coverage to include COVID-19 treatments and modes of treatment that substitute for face-to-face interaction or admission to hospital, providing financial relief regarding insurance premiums, and other measures as notified to the ACCC to respond to the COVID-19 pandemic. The authorisation is subject to notification requirements to the ACCC, and the conduct must not have the effect of increasing health insurance premiums to consumers.

On 9 April 2020, the **ACCC** [granted interim authorisation](#) to the Financial Services Council (FSC), and its current and future members. The authorisation allows these entities to give effect to a commitment to ensure that frontline healthcare workers are not denied life insurance, will not be charged higher premiums, and will not have benefits excluded purely due to exposure, or potential exposure, to COVID-19.

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Brazil – On 6 April 2020, it was reported that **Brazilian agencies**, including the Federal Prosecutor’s Office, Civil Aviation Agency (Anac), and competition authority (CADE) are discussing a potential measure that will authorize the sharing of aircraft and routes by Brazilian airlines.



Canada – On 8 April 2020, **Canada’s Competition Bureau** issued [a statement](#) on competitor collaborations during the COVID-19 pandemic for “critical goods”. The Bureau notes that “where firms are acting in good faith, and motivated by a desire to contribute to the crisis response rather than achieve competitive advantage, the Bureau does not wish to see specific elements of competition law enforcement potentially chill what may be required to help Canadians”. The Bureau signals that “in circumstances where there is a clear imperative for companies to be collaborating in the short-term to respond to the crisis, where those collaborations are undertaken and executed in good faith and do not go further than what is needed, it will generally refrain from exercising scrutiny”. However, the Bureau warns that it has zero tolerance for any attempts to abuse this flexibility as cover for unnecessary conduct. The Bureau has created a dedicated team to deal with requests from companies for guidance on proposed collaborations to support the crisis response efforts.



Chile – On 3 April 2020, the **Chilean antitrust agency (FNE)** [issued a short press release](#) stating that “in circumstances like this current pandemic, the production and distribution of goods, as well as the provision of services, may no longer be possible without a certain degree of collaboration between competitors. In these cases, collaboration agreements between competitors would in principle be efficient because they would allow the supply of products or services to consumers, without such objectives being fully or partially fulfilled by each economic agent acting individually during the current crisis”. However, the FNE notes the above competitor collaboration needs to be “analyzed, evaluated, and designed with caution”, and that it will continue to investigate and prosecute cartel and anti-competitive allegations during the crisis.

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Colombia – On 26 March 2020, the **President of the Republic and the Ministry of Transport** [published Decree 482 of 2020](#). This provides an exemption from the competition rules for agreements between competitors in the transport of cargo, which, despite limiting competition, aim to defend the stability of the production of essential goods or provision of services of benefit to the general economy.



Dominican Republic – On 20 March 2020, the **Dominican Republic’s competition authority ProCompetencia** [issued a press release](#) stating that it has no intention of acting against cooperation or coordination between companies to the extent needed to protect consumers and ensure supply. However, ProCompetencia stated that it will not tolerate abusive conditions or collusion, nor the long-term exchange of information that could have an impact on individual business strategies or pricing.



Egypt – On 9 April 2020, the **Egyptian Competition Authority** [issued a press release](#) announcing that it is “fully aware of the importance of facilitating and enabling innovation and necessary technologies. This can be via collaborating innovative efforts by and between competitors and fostering the necessary coordination among them to reach more efficient production of scarce or fundamental products necessary to combat the spread of the virus, especially in the medical supplies sector or the pharmaceutical and health care sectors”. The authority has launched a new initiative through which it will provide free and informal advice to companies and their legal advisors concerning whether proposed cooperation initiatives can benefit from an exemption.



Hong Kong – On 27 March 2020, the **Hong Kong Competition Commission** [issued a statement](#) commenting that it will take a “pragmatic approach” to the enforcement of competition law “in respect of temporary measures which are genuinely necessitated by the COVID-19 outbreak.” However, it emphasized that it will remain vigilant against companies seeking to “take advantage” of the situation.

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Israel – The **Israeli Competition Authority** [issued a statement](#) entitled “Clarifications by the Competition Commissioner in Light of Israel’s handling of COVID-19”. The ICA emphasises that the terms of the block exemption for collaborations, which include the demonstration of economic necessity and a competitive analysis showing lack of significant harm to competition, continue to apply. However, the authority notes that one of the considerations to be taken in the framework of the competitive assessment is the continued existence of effective competition in the long run, whereby business entities are currently unable to operate regularly. Thus, collaborations that allow such struggling competitors to continue to exist will not be seen by the ICA as collaborations “whose objective is to reduce or prevent competition”, and will not be deemed illegal for that reason alone. The authority also recognises that, in this time of crisis, more collaboration may fall within the framework of the collaboration block exemption than would normally be the case



Mexico – On 27 March 2020, **COFECE** [issued a press release](#) stating that any collaboration with competitors that in the current health emergency is necessary to maintain or increase supply, satisfy demand, protect supply chains, avoid shortages or hoarding of goods, and that does not have for its purpose the displacement of other competitors that also supply the market, will not be subject to prosecution. However, COFECE also issued the following enforcement warnings:

- (i) Any price increase must obey individual and independent decisions of the companies and must not be induced, encouraged, or recommended by Associations, Confederations, or Chambers to their participants.
- (ii) Any agreement between competitors to manipulate prices, restrict the supply of goods, and/or services, segment markets, as well as coordinate bids or refrain from making them in tenders, is particularly serious, and will be prosecuted and sanctioned.
- (iii) COFECE will monitor sensitive markets where indiscriminate increases in prices are observed to evaluate and, if appropriate, rule out the existence of undue barriers or agreements between competitors as the cause of these increases, which would warrant a formal investigation.



New Zealand – On 22 March 2020, the **government** made a policy statement outlining that it would not take enforcement action under the Commerce Act against businesses cooperating to ensure that New Zealanders continue to be supplied with essential goods and services. The **New Zealand Competition Commission** specifically approved of competitors “shar[ing] staff or distribution networks or tak[ing] other measures to ensure security of supply” but warned against sharing information on pricing or business strategy unrelated to the current crisis (see [here](#)).

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South Africa – The **Minister of Trade, Industry, and Competition** issued the following temporary exemptions:

- Effective as of 19 March 2020, the [COVID-19 Block Exemption for the Healthcare Sector Regulations](#). It is envisaged that the exemption will assist in ensuring that private and public healthcare service providers cooperate and provide the necessary care to citizens without fear of falling foul of the Competition Act. The cooperation envisaged between competitors in the healthcare sector should not extend to communication and agreements in respect of prices charged to the public (*i.e.*, price-fixing), and cooperation will take place at the request of and in coordination with the Department of Health.
- Effective as of 19 March 2020, the [Consumer and Customer Protection and National Disaster Management Regulations and Directions](#). These regulations apply to excessive pricing by dominant firms. The regulations suggest that there will be scrutiny of material increases in price for certain goods or services, particularly if the increase does not correspond to, or is not equivalent to, the increase in the cost of providing that good or service; or the increase inflates the net margin or mark-up on that good or service above the average margin or mark-up of that good or service in the three-month period prior to 1 March 2020. A variety of products are included, such as toilet paper, surgical masks, baby formula, essential food (such as pasta and milk/water), and private medical services related to testing and treatment of COVID-19.
- Effective as of 23 March 2020, the [COVID-19 Block Exemption for the Banking Sector](#). The exemption is designed to allow commercial banks to develop common approaches to debt relief and other necessary measures during the crisis. Cooperation should not extend to communication and agreements in respect of prices (*i.e.*, price-fixing). The exemption covers payment systems and debtor and credit management.

IMPACT OF COVID-19 – NEW EXEMPTIONS – ROW



- Effective as of 24 March 2020, the [COVID-19 Block Exemption for the Retail Property Sector](#). The Regulations exempt a category of agreements/concerted practices between designated retail tenants and retail property landlords. The exemption applies to agreements/concerted practices in respect of payment holidays and/or retail discounts for tenants; limitation on the eviction of tenants; and the suspension or adjustment to lease agreement clauses that restrict the designated retail tenants from undertaking reasonable measures required to protect viability. The designated retail tenants are identifiable by trading lines (clothing, footwear and home textile retailers, personal care services, and restaurants). Conduct should not extend to communication and agreements in respect of price.
- Effective as of 27 March 2020, the [COVID-19 Block Exemption for the Hotel Industry](#). This exempts certain agreements including cost reductions and price coordination in relation to persons placed under quarantine as well as the exchange of information in relation to cost and availability