



Ministerie van Economische Zaken

Private Enforcement of Competition Law

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Proposal of the Commission (June 2013)

Two main objectives:

- Optimising the interaction between the public and private enforcement of competition law
- Ensuring that victims of infringements of the EU competition rules can obtain full compensation for the harm they suffered.



First objective

Optimising the interaction between the public and private enforcement of competition law

- Proposal harmonises disclosure of leniency documents
- Directive initiated after Pfleiderer judgement (ECJ)
- Netherlands supports objective and the text of the proposal



Second objective

Ensuring that victims of infringements of the EU competition rules can obtain full compensation for the harm they suffered.

- Rules on disclosure of evidence
- Sanctions
- Binding effect of national decisions
- Limitation periods
- Joint and several liability
- Passing-on defence
- Indirect purchasers
- Quantification of harm
- Consensual dispute resolution



The effects of the proposal on leniency

Joint liability

- Member states shall ensure that undertakings are joint and several liable for the harm caused by the infringement
- Immunity recipient shall be liable to its direct or indirect purchasers or providers

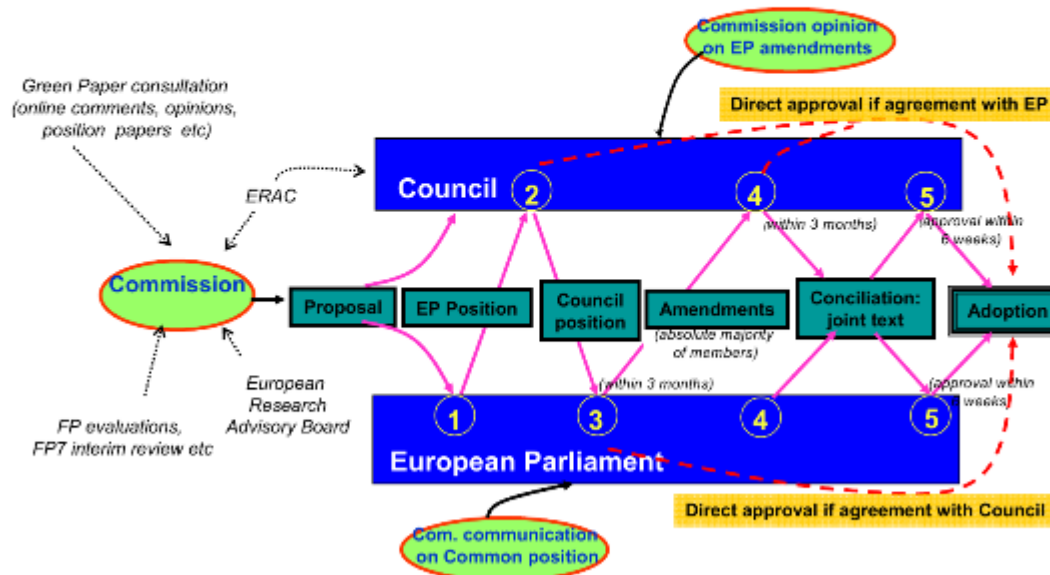
Why?

- Immunity recipient will become primary target
- Leniency instrument will be less effective
- Public enforcement will be less effective



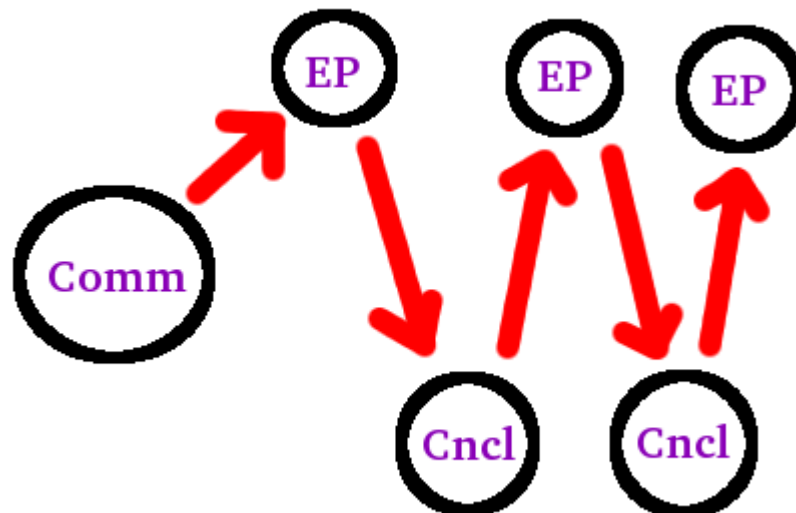
How EU directives are made

The “Ordinary legislative procedure” (ex “co-decision”)





Or...





Current situation of the proposal

The “Ordinary legislative procedure” (ex “co-decision”)

