



# IMPACT OF COVID-19 NEW EXEMPTIONS UNDER ANTITRUST LAW

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# GLOBAL OVERVIEW BY REGION

(Click on a country below to jump to that sector)








## EUROPE

-  [EC/EFTA/ECN](#) - General guidance: EC has dedicated mailbox for informal advice; issued a Temporary Framework Communication, and a comfort letter (medicines); and derogations for the milk, flowers, potato, and wine sectors
-  [UK](#) - General guidance: exemptions for supermarkets/retail, ferry transport to Isle of Wight, health services, and dairy
-  [France](#) - Dedicated service for informal guidance/complaints; informal advice to optician trade association; and statement for manufacture of face masks (New Caledonia)
-  [Germany](#) - Informal advice, and a comfort letter for restructurings in the automobile sector
-  [Italy](#) - General guidance; guidance in banking/medical equipment
-  [Spain](#) - General guidance: dedicated mailbox for informal guidance and complaints
-  [Czech Republic](#) - General guidance and informal advice
-  [Greece](#) - Specific guidance: vertical restrictions, such as maximum resale prices and recommended prices
-  [Jersey/Guernsey](#) - General guidance
-  [Luxembourg](#) - General guidance
-  [Netherlands](#) - Health insurance and essential medicines
-  [Portugal](#) - Individual guidance in pharmaceutical/financial sectors
-  [Romania](#) - General guidance and guidance for pharmaceutical sector and negotiations with shopping centres
-  [Switzerland](#) - General guidance
-  [Denmark](#) - General guidance
-  [Finland](#) - General guidance
-  [Iceland](#) - Exemptions: transport, pharmaceutical, retail, and banking sectors
-  [Norway](#) - Exemptions: transport
-  [Russia](#) - General guidance






## NORTH / SOUTH AMERICA

-  [US](#) - General guidance and exemptions for personal-protective equipment, medications and other healthcare supplies to treat COVID-19 patients, and hog farming
-  [Canada](#) - General guidance
-  [Brazil](#) - General guidance and exemption in food and beverages sector
-  [Chile](#) - General guidance
-  [Colombia](#) - Exemptions: cargo transport
-  [Costa Rica](#) - General guidance
-  [Dominican Republic](#) - General guidance
-  [Mexico](#) - General guidance
-  [Peru](#) - General guidance

## ASIA / PACIFIC

-  [Australia](#) - Exemptions: supermarkets, banking, medical equipment, transport, pharmaceuticals, telecommunications, insurance, rent relief and rent support, fuel products, energy, healthcare, mining, gambling, and 7-Eleven store closure/opening hours
-  [New Zealand](#) - General guidance
-  [China](#) - General guidance
-  [Hong Kong](#) - General guidance
-  [India](#) - General guidance
-  [Japan](#) - General guidance and guidance on facemask retail price ceilings
-  [Singapore](#) - General guidance

## AFRICA / MIDDLE EAST

-  [South Africa](#) - Exemptions: healthcare, banking, hotels, and retail property
-  [Egypt](#) - General guidance and informal advice
-  [Mauritius](#) - Guidance programme
-  [Nigeria](#) - General guidance
-  [Israel](#) - General guidance



**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](mailto: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. 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.



**EU/EFTA/ECN** – In the context of the EC Temporary Framework Communication, the **European Commission** published on 29 April 2020 a [“comfort letter”](#) to Medicines for Europe concerning a specific cooperation project aimed at avoiding situations of shortages of COVID-19 medicines. The cooperation envisages, with respect to COVID-19 medicines, data gathering and modelling of demand and production, adaptation or reallocation of production and stock, and potentially changes to distribution. The coordination may need to include cross-supply of APIs (active pharmaceutical ingredients), possibly including intermediates, and jointly identifying where to best switch a specific production site to a certain medicine and/or to increase capacity, so that not all firms focus on one or a few medicines, whilst others remain in under-production. The cooperation also envisages, where medicines are being under-supplied or where over-supply exists, to rebalance and adapt capacity utilisation, production and supply (including possibly distribution), on an ongoing basis.

On 15 April 2020, the **European Commission** [published](#) a Joint European Roadmap towards lifting COVID-19 containment measures. The European Commission envisages that competitor cooperation related to the supply of equipment and medicines may be necessary to lift confinement measures. It states: “Ensuring sufficient supplies of equipment and medicines for enabling the lifting of confinement measures may require a higher than normally allowed degree of cooperation between firms, including competitors, in some ecosystems. The Commission is and will be providing, as necessary, antitrust guidance and comfort for cooperation between firms in ecosystems to overcome shortages on goods and services required to enable the gradual de-escalation from containment measures. The Commission and the National Competition Authorities will, via the European Competition Network (ECN), also ensure a coherent application of this guidance in their respective enforcement actions”.



On 4 May 2020, the **European Commission** announced that it has adopted exceptional derogations from EU competition rules for the milk, live plants and flowers, and potatoes sectors as part of a package of measures to support the agri-food sector during the COVID-19 pandemic. The Commission has adopted (i) [Commission Implementing Regulation \(EU\) 2020/593](#) authorising agreements and decisions on market stabilisation measures in the potatoes sector; (ii) [Commission Implementing Regulation \(EU\) 2020/594](#) authorising agreements and decisions on market stabilisation measures in the live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage sector; and (iii) [Commission Implementing Regulation \(EU\) 2020/599](#) authorising agreements and decisions on the planning of production in the milk and milk products sector. The Regulations allow farmers, farmers' associations, associations of such associations, recognised producer organisations, associations of recognised producer organisations, and recognised interbranch organisations to conclude agreements and take common decisions concerning market withdrawals and free distribution, transformation and processing, storage, joint promotion, and temporary planning of production in the potatoes and live trees and other plants, bulbs, roots and the like, cut flowers, and ornamental foliage sectors and agreements and common decisions on planning the volume of raw milk to be produced, during a period of six months starting from the date of entry into force of the Regulation (5 May 2020). The Regulations require notification of certain agreements and decisions to competent national authorities and Member States to ensure that the agreements and decisions do not undermine the proper functioning of the internal market and strictly aim to stabilise the relevant sectors.

On 7 July 2020, the **European Commission** announced its adoption of a temporary derogation from the EU competition rules for the wine sector. The Commission has adopted [Implementing Regulation \(EU\) 2020/975](#), which allows operators to self-organise and implement market measures at their level to stabilise their sector for a maximum period of six months. For example, operators will be allowed to plan joint promotional activities, organise storage by private operators, and to commonly plan production.



**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.



**UK** – On 17 April 2020, the **UK government** [announced](#) that it would relax temporarily UK competition rules to allow the dairy industry to address current market challenges, thereby avoiding waste and maintaining productive capacity to meet future demand. On 1 May 2020, the UK Parliament adopted the Dairy Produce Order which excluded (until 2 August 2020) the application of the UK competition rules to specific types of cooperation in the dairy sector, including collecting and sharing information on limited matters, such as surplus milk quantities and stock levels to address supply chain issues caused by the COVID-19 pandemic. The order set out an exhaustive list of permitted cooperative behaviour for producers of dairy products and dairy logistics providers separately. In order to benefit from the exemption, the relevant agreements had to be notified to the Secretary of State. According to the register of the UK Department for Business, Energy and Industrial Strategy, Dairy UK, a UK trade association for operators in the dairy processing sector, notified two agreements. These agreements related to surveys on forecast milk disposals and spare capacity used to monitor industry progress and observe potential unused industry capacity to absorb milk from the “out of home” segment, where demand fell during the temporary closure of cafes, restaurants, and pubs.



**France** – On 23 March 2020, the **French competition authority** [posted on its own website](#) the EU/EFTA/ECN Joint Statement. The FCA has set up a COVID-19 emergency monitoring network, which provides informal guidance to companies seeking to ensure that their cooperation initiatives comply with competition law.

On 22 April 2020, the FCA [issued a press release](#) outlining the informal advice that it has provided to a professional association representing opticians (Rassemblement des Opticiens de France, hereafter ROF), which was seeking to aid its members (opticians whose business has been brought to a standstill by the health emergency) in their dealings with lessors concerning commercial rents. The FCA concluded that the ROF's proposed initiative did not raise competition law issues as it remained within the legitimate scope of the association's mission. It noted that ROF had indicated that it offers only general recommendations and legal and factual arguments in support of its members' requests, that it does not determine the behaviour that its members adopt, and that its action is aimed at preventing the risk of business failures due to the prolonged closure of various sales outlets, and does not enable any appreciable coordination of the costs of the stakeholders concerned.

On 3 July 2020, the **Competition Authority of New Caledonia** (CANC) issued a [statement](#) outlining the conditions under which competitors may be allowed to cooperate during the COVID-19 pandemic in the manufacturing of masks. At the end of June 2020, the Department of Purchases, Heritage and Resources (DAPM) contacted CANC regarding cooperation between Caledonian companies for the manufacture of cloth masks for the services of the New Caledonian Government. The government had commissioned the DAPM for the local production of face masks within a tight deadline, as external supply was compromised. The various exchanges conducted by the DAPM with the FINC (a national trade association), the consular chambers, and the companies likely to respond to the request, aimed to define a local reference document to know the manufacturing processes, but also to estimate a reasonable price for the tender. These exchanges culminated in a public call for tenders, to which two manufacturers responded in a joint bid as they were not able to respond to the tender individually. CANC held that the cooperation implemented by the DAPM did not infringe competition law as applicable in New Caledonia. CANC considered that the cooperation initiated by DAPM clearly met "an objective of public health or safety", brought "a benefit to users", and included "restrictions on competition (...) proportionate to the pursued objective". CANC also noted that all of the operators able to contribute to the production of the masks were invited to participate in the discussions so each operator was equally informed, and that the exchange of information on prices only concerned "potential prices" of a good not yet marketed.





**Germany** – Andreas Mundt has stated that the **BKartA** has been providing rolling guidance to companies to let them cooperate and exchange information throughout the COVID-19 crisis, as long as this cooperation is “necessary” and does not “overshoot”. The German government has been in contact with the BKartA to discuss the possibility of allowing cooperation in the grocery retail sector. According to press reports of 29 April 2020, Andreas Mundt considers that it is “too early” to say whether the BKartA will issue formal guidelines on the application of competition law during the COVID-19 crisis.

On 9 June 2020, the head of the **BKartA’s 4<sup>th</sup> decision division**, responsible for the automotive industry, sent a [comfort letter](#) to the German Association of the Automotive Industry (VDA). The comfort letter is a reply to measures the VDA presented to the FCO with a view to overcoming certain challenges caused by the COVID-19 pandemic in the automotive industry. The measures now endorsed by the comfort letter include a model process for individual restructurings and conditions for coordinated production restarts. The model restructuring process aims at facilitating swift restructurings of firms that are in financial distress due to the COVID-19 pandemic. To that effect, financially distressed firms may establish groups of stakeholders (such as shareholders, customers, creditors, employees, and public authorities) that would be able to exchange relevant information on topics such as solvency, credits, aid measures, or operational problems — with the aim of developing effective restructuring measures quickly and jointly. For a coordinated production restart, the VDA will issue a best practice guide explaining ways to avoid a misallocation of resources at a time when capacities are scarce. The comfort letter provides non-exhaustive guidance on how to ensure antitrust law compliance.



**Italy** – On 24 April 2020, the **Italian Competition Authority (ICA)** [issued a communication](#) containing guidelines on business cooperation agreements during the COVID-19 pandemic that relate to the scarcity, distribution, and transport of essential goods and services — particularly in the pharmaceutical and agri-food sectors. The authority states that it does not intend to intervene against necessary, temporary, and proportionate measures adopted to avert the shortage of supplies, in line with the provisions of the European Commission’s Temporary Framework Communication of 8 April 2020 (referred to on p. 3). The authority considers that competition law issues should not arise in the health and agri-food sectors if trade associations or independent third parties coordinate the transport and distribution of raw materials; identify shortages in drugs, medical devices, or food; or provide aggregate information on production and available capacity. The authority states that it may be prepared to evaluate cooperation agreements between competitors more flexibly if they are needed to facilitate the production of drugs or medical devices that tackle COVID-19, or production of essential services or goods (such as food). The authority emphasises that the competition law rules allow companies to set maximum prices, which could help limit unjustified price increases at the distribution level. Effective 24 April 2020, the authority has set up a dedicated procedure to offer informal guidance to companies that wish to enter into cooperative arrangements with competitors to tackle the COVID-19 pandemic, including through comfort letters in which the authority will provide promptly its prior assessment concerning the antitrust compatibility of specific cooperation agreements. The authority has emphasised that the guidance received does not set a precedent.

On 1 June 2020, the **ICA** [announced](#) that there are currently no elements that justify a preliminary investigation of a cooperation project for distributing disposable surgical masks through pharmacies and parapharmacies. The two main Italian associations of pharmaceutical distributors (Association of Pharmaceutical Distributors and Federfarma) voluntarily submitted this proposed cooperation to the authority for review. The agreement, entered into by ADF, Federfarma, and all associations of pharmacists and parapharmacies owned by pharmacists registered with the COVID-19 Extraordinary Commissioner for Emergency, includes a joint purchase procedure and a subsequent pro-quota distribution of surgical masks among distributors at the unit purchase price negotiated with suppliers until 30 June 2020. Since the cooperation project falls within the scope of EU law, the Authority consulted with the European Commission within the framework of the European competition network.

On 1 June 2020, the **ICA** [announced](#) that no elements justify its intervention in relation to the agreement reached by the trade association ASSOFIN to adopt a common moratorium scheme aimed at postponing payback obligations for credit holders. The scheme takes into account the Bank of Italy’s recommendations to support businesses and consumers not covered by government measures during the COVID-19 pandemic. The ICA has stressed that the moratorium must not involve the direct or indirect exchange of sensitive information between companies and that ASSOFIM must track information exchange that is necessary and proportionate to the purposes of the agreement, so it can provide the data on request.



**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.

On 2 June 2020, the **CNMC** [issued a press release](#) stating that, since the mailbox has been launched, individuals and companies have submitted more than 500 inquiries and complaints. The authority notes that the majority of enquiries concern cooperation agreements in the financial, insurance, and health sectors.



**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.



**Greece** – On 16 March 2020, the **HCC** [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). In parallel, the HCC set up a COVID-19 [taskforce](#) to address possible distortions of competition due to the COVID-19 pandemic.



**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.”



**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.



**Netherlands** – On 21 April 2020, the **Authority for Consumers & Markets (ACM)** [announced](#) that health insurers are permitted to make collective arrangements to provide financial support to healthcare providers during the COVID-19 crisis. More specifically, these arrangements concern continuity contributions and advances on payments to healthcare providers that are not directly involved in helping COVID-19 patients. With these arrangements, providers that currently have less work or no work due to the COVID-19 crisis — such as physical therapists, maternity support workers, and district-nursing providers — can receive financial support.

On 26 May 2020, the **ACM** [announced](#) that hospitals, hospital pharmacies, and pharmaceutical wholesalers are allowed to cooperate intensively during the COVID-19 crisis to prevent or reduce potential shortages of essential medicines. This announcement follows a request for guidance from the National Medicines Coordination Center (LCG). The LCG makes an inventory of the supply and demand for 14 essential medicines and coordinates distribution to hospitals. The medicines are needed in intensive care and for emergency operations, and demand has increased significantly as a result of the COVID-19 crisis. The ACM states that this collaboration does not raise any risk of competition law infringement, since the cooperation is transparent, temporary, and necessary to prevent shortages. The ACM also notes that measures have been taken to ensure that wholesalers do not exchange information about prices or stocks.



**Portugal** – On 21 May 2020, the **Portuguese competition authority (AdC)** [announced](#) that it has issued guidance to three business associations in the pharmaceutical and financial sectors (Portuguese Banking Association (APB); Association of Specialized Credit Institutions (ASFAC); and National Association of Pharmacies (ANF)). The AdC guidance addressed to APB and ASFAC concerns the adoption of moratoria to protect credit agreements in the context of the pandemic. The AdC stresses that associations should refrain from exchanges of information between members that are not strictly essential, adequate, and proportionate to the definition of the credit moratorium regime, which is temporary and founded in response to the COVID-19 crisis. The eventual cooperation between credit institutions for the implementation of a private moratorium regime should not prevent each institution from creating more beneficial conditions for consumers, if it so chooses. The guidance addressed to ANF concerns a proposal regarding the maximum margin to be applied to the sale of personal protection products that will later be subject to legislative intervention. The AdC states that it is available to provide informal guidance to companies individually, “so as not to discourage them from adopting forms of cooperation aimed at benefiting consumers and the economy, provided that they are temporary and objectively necessary to address situations of shortage of supply”.



**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.

On 13 April 2020, the **Romanian Competition Council** [issued a press release](#) stating that it would introduce flexibility for the pharmaceutical sector to secure a sufficient supply of medicines. It stated that “companies may need to coordinate in terms of production, stock management and possibly medicines distribution, so that not all to focus on one or more medicines, thus neglecting other medicines that would remain below the optimum level of production. Such coordination would be contrary to competition rules under normal conditions, but in the context of the coronavirus pandemic, it can bring significant benefits to citizens.”

On 16 June 2020, the **Romanian Competition Council** [issued a press release](#) stating that small enterprises that have been affected by the COVID-19 pandemic may use a mediator, trade association, or other third party to represent their interests with shopping centres and administrators, although they must comply with the competition rules. The Competition Council recommends that companies consult with it on the compatibility of their initiatives with competition law. Several companies have announced that they are not going to reopen their stores in shopping centres that have continued to request unjustified full payment of rent in the last months, given that the activity of these retailers has been stopped. The Competition Council recommends that companies which have rented commercial spaces in shopping centres independently negotiate their contractual conditions with the owners/administrators of the centres, but warns that they must not engage in price coordination.



**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”.



**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.



**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 ([Decision 12/2020](#)).
- b. Dialogue between travel services in any area to assess further responses to the economic damage caused by COVID-19 ([Decision 9/2020](#)).
- 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 ([Decision 13/2020](#)). The exemption is subject to the monitoring of the Central Bank of Iceland and an ad hoc expert in competition law.
- g. Cooperation between two main competitors providing airport services between Keflavik Airport and Reykjavik ([Decision 26/20](#)).
- h. Cooperation of lenders relating to temporary suspension of payments on loans owed by individuals who experience temporary payment problems due to a fall in income attributable to the COVID-19 epidemic ([Decision 27/2020](#)).



**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.



**Russia** – On 17 April 2020, Igor Artemiev, the head of the **Federal Antimonopoly Service of the Russian Federation** (FAS), [issued a statement](#) noting that the FAS has “introduced temporary resolution of certain types of agreements between competitors, which help to prevent a shortage of goods and lead to consumer benefits that outweigh the likely damage to competition”. Artemiev also noted that the FAS is currently following the experience of other countries in adapting antimonopoly responses to deal with the COVID-19 pandemic, and that it will try to “harmonize its activities in accordance with best international practices”. The statement indicates that the FAS is closely monitoring prices of essential goods and prices in other markets affected by the pandemic, and is undertaking general monitoring of the air transport, telecommunications, delivery services, gasoline, and construction materials sectors. The FAS has created a hotline for complaints.





**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.



**US** – On 20 April 2020, the **DOJ** [announced](#) that it will not challenge the collaborative efforts of AmerisourceBergen Corporation with other competing distributors to identify global supply opportunities, ensure product quality, and facilitate product distribution of medications and other healthcare supplies to treat COVID-19 patients. AmerisourceBergen’s collaborative effort forms part of the emergency response developed and led by the Federal Emergency Management Agency (FEMA) and the Department of Health and Human Services (HHS) to address urgent supply needs across the nation arising from the COVID-19 pandemic. AmerisourceBergen 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 15 May 2020, the **DOJ** [announced](#) that it will not challenge the proposed collaborative efforts of the National Pork Producers Council (NPPC) to work with the U.S. Department of Agriculture (USDA) to address certain hardships facing hog farmers as a result of the COVID-19 pandemic. The letter determines that the NPPC and its members may work at the direction of the USDA and state agriculture agencies to achieve humane and efficient euthanization of hogs that have grown too large to be processed and are thus unmarketable. The NPPC may also share general information with its members about best practices for depopulating unmarketable hogs. The NPPC submitted its business review request pursuant to the expedited, temporary review procedure detailed in the joint DOJ/FTC Antitrust Statement Regarding COVID-19 (outlined above).

On 23 July 2020, the **DOJ** [announced](#) that it will not challenge proposed efforts by Eli Lilly and Company, AbCellera Biologics, Amgen, AstraZeneca, Genentech, and GlaxoSmithKline to share information about manufacturing facilities and other topics that could enable them to expedite the production of monoclonal antibody treatments that are determined to be safe and effective to treat COVID-19. The companies have committed that they will not exchange information related to the prices of those treatments or the costs of inputs for or production of those treatments.



**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.



**Brazil** – On 6 April 2020, it was reported that the **Federal Prosecutor’s Office**, the **Civil Aviation Agency (Anac)**, and **CADE** discussed a potential measure that would authorise the sharing of aircraft and routes by Brazilian airlines, but this initiative was abandoned after facing opposition from the authorities who considered that it risked harm to competition.

On 14 May 2020, it was reported that competitors are in talks with **CADE** about temporary cooperation agreements to address COVID-19 issues. Through an ad hoc procedure, **CADE** is prepared to analyse cooperation arrangements quickly and provide companies with legal certainty to proceed. Under this procedure, **CADE** analyses the proposed arrangements and presents any concerns to the companies. The companies then submit a formal proposal to **CADE** that is analysed by the Superintendence, which issues an opinion that is sent to the Tribunal for a final decision.

On 28 May 2020, **CADE** [approved](#) cooperative arrangements among a group of competing companies in the food and beverages sectors to minimise the effects of the COVID-19 pandemic. These arrangements aim to invest BRL370 million to help small retailers reopen by providing them with protection equipment (e.g., masks and alcohol-based hand sanitisers), as well as advice and training on COVID-19-related health protocols. For replenishing stocks, the group will offer special conditions such as discounts for purchases (to be passed on to consumers), longer payment terms, digital credit, and payroll loans. The arrangements are expected to be in force until 31 October 2020 (although they may be extended if the effects of the pandemic grow) and do not include the coordination of commercial initiatives or the exchange of competitively sensitive information between the parties (such as customer databases). In addition the parties have adopted protocols to prevent antitrust risks arising in meetings of committees and subcommittees that discuss the joint initiatives.

On 10 June 2020, the **Brazilian President** signed a [bill](#) into law that allows agreements involving joint ventures, consortia, and associative contracts (signed as of 20 March 2020) not to be notified to **CADE** for approval until 31 October 2020, or for the duration of the country’s COVID-19 state of emergency. **CADE** can, however, review those deals within one year from their implementation. The bill also suspends the following two prohibitions in Brazilian antitrust law: (i) sales of products or services below their cost (predatory pricing), and (ii) the interruption of economic activities without a just cause.

On 6 July 2020, **CADE** published a non-binding [temporary information note](#) to provide guidance on the parameters recommended in the elaboration of strategies to combat the pandemic. The note also outlines procedures that are available for companies to request an opinion from CADE on proposed cooperation strategies.



**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.



**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.



**Costa Rica** – Effective from 7 July 2020, the Costa Rican antitrust authority (COPROCOM) has issued temporary [guidelines](#) concerning instances in which cooperation between competing companies may not constitute punishable conduct. The guidelines state that the following actions will not be sanctioned (provided they meet certain conditions): (i) collaboration between competing companies to make joint purchases, and ensure the supply and distribution to consumers, either private or public, of essential products, and (ii) joint offers between competitors to supply needs of the public sector. COPROCOM is available to provide guidance to companies on the guidelines’ application to cooperative initiatives.



**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.



**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.



**Peru** – On 22 April 2020, the **Peruvian competition authority (Indecopi)** [issued a press release](#) stating that collaboration agreements between competitors that ensure the supply of products during the COVID-19 pandemic are lawful. It noted that companies that participate in the various essential economic sectors (food, health, transportation, logistics services, among other sectors) can reach agreements to ensure access to basic necessities for the population. Indecopi highlighted in particular agreements that add productive assets, share distribution channels, and facilitate access to technologies and intellectual property rights. However, the authority warned that it still remains vigilant over cartels and other anticompetitive practices. Indecopi states that it is fully available to provide companies with guidance regarding the scope of competition law.



**Australia** – 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 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 26 March 2020, the ACCC revoked the interim authorisation granted on 23 March 2020, and substituted it with a [conditional interim authorisation](#), in order to clarify the process for other grocery retailers to be covered by the above interim authorization. On 9 June 2020, the ACCC narrowed the scope of the authorised conduct by revoking the conditional interim authorisation granted on 26 March 2020, and substituting it with another [conditional interim authorisation](#). This conditional interim authorisation limits interim authorisation to conduct related to the Department of Home Affairs' Supermarkets Taskforce and its working groups, and the National Indigenous Australians Agency's COVID-19 working groups. The ACCC may also approve the extension of the protection of the interim authorisation to other taskforces or working groups. On 15 July 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation on broadly the same terms as the interim authorisations granted in March and June until 31 March 2021. The ACCC is now seeking submissions on the draft determination.

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 not higher than those in place on 1 February 2020. The ACCC [proposed](#) on 30 July 2020 to allow Rex to continue coordinating flight schedules with Qantas and Virgin Australia on those 10 regional routes in response to the pandemic. The proposed authorisation of the ACCC includes broadly the same terms as the interim authorisation granted in March. The authorisation will extend until 30 June 2021. The ACCC is now seeking submissions in relation to the draft determination.



**Australia** – 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 1 July 2020, the ACCC issued [issued a draft determination](#) proposing to grant conditional authorisation to the ABA for 12 months from the date on which final authorisation is granted. On 14 August 2020, the **ACCC** granted [conditional authorisation](#) to the ABA until 14 August 2021. Authorisation is subject to two conditions that broadly require (i) the ABA notify the ACCC if coordination by Member Banks involves the banks' suppliers or agents that compete with each other or with Member Banks, and (ii) the ABA notify the ACCC of any arrangement arising from the authorised conduct, prior to its implementation.

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 was subject to NBN Co complying with certain reporting obligations. On 23 July 2020, the ACCC revoked the interim authorisation dated 31 March and replaced it with a [narrower interim authorisation](#) that limits authorisation to a smaller set of conduct related to the Special Working Group that was formed at the request of the Minister for Communications, and to conduct related to the NBN Co only. The new interim authorisation is granted subject to NBN Co complying with certain (broader) reporting obligations to provide sufficient transparency over the various agreements reached, strategies implemented, and information shared. On 5 August 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation on the same terms as the replacement interim authorisation of 23 July 2020. Authorisation is proposed until 31 January 2021. The ACCC is now seeking submissions in relation to the draft determination.





**Australia** – 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. Examples of the relief measures include offering eligible policyholders the opportunity to defer their insurance premium payments for up to six months and providing refunds on unused premiums for any cancelled insurance policies without administration or cancellation fees. On 10 June 2020, the ACCC [announced](#) that it is proposing to grant authorisation allowing the parties to continue coordinating relief measures until 30 June 2020, and to keep these relief measures in place until 31 December 2020.

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. On 19 May 2020, the ACCC [revoked](#) the interim authorisation as Scentre Group and SCCA have submitted that SCCA is unlikely to develop a coordinated response to SME rental relief under the interim authorisation.

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.



**Australia** – On 3 April 2020, the **ACCC** [granted interim authorisation](#) and then on 17 April [expanded](#) the range of measures covered for the Australian Energy Market operators (AEMO) to have discussions or enter into arrangements regarding: (i) Coordinating repairs and maintenance (planning for and/or minimising disruptions to energy supply, e.g., by coordinating scheduling of repairs, maintenance etc. requiring outages); (ii) Sharing essential personnel (sharing information and/or entering into arrangements regarding 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 essential consumable materials); (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); (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 April 2020 expansion included sharing information about the operation of critical facilities and risks to their continued operation.

On 16 July 2020, AEMO further [narrowed](#) the scope of the proposed coordination between AEMO and energy industry participants to the categories: (i) sharing information regarding ongoing operation at their facilities; (ii) co-coordinating repairs and maintenance; (iii) sharing essential personnel, and (iv) sharing essential inputs. On 24 July 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation until 31 March 2021. Coinciding with the release of the draft determination, the ACCC revoked the 17 April 2020 interim authorisation and issued a new interim authorisation permitting the narrowed range of conduct that AEMO proposed on 16 July 2020. Every interim authorisation has been subject to conditions imposing a reporting obligation, a requirement that industry participants continue to comply with reporting obligations for LNG facilities that were the subject of other authorisations, and a requirement that any agreements made under the authorisation cease when authorisation expires or is revoked. These conditions are also proposed in the draft determination. The ACCC is now seeking submissions in relation to the draft determination.



**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. Similarly, on 17 April 2020, the **ACCC** granted interim authorisations to [private hospitals and health agencies in the Northern Territory and South Australia](#). The ACCC also granted similar interim authorisations to the [Department for Health of the State of Western Australia](#) (29 April 2020), [State of New South Wales](#) (1 May 2020), and [State of Tasmania](#) (1 May 2020). On 13 August 2020, the **ACCC** issued [final determinations](#) granting conditional authorisation to enable private and public hospital operators, along with government health authorities in each Australian state and territory, to work with each other during the COVID-19 health crisis by, for example, discussing expected capacity and demand for services, jointly procuring and distributing medical equipment and supplies, and sharing staff. The ACCC has granted conditional authorisation until 30 September 2021. The authorisation is subject to certain reporting requirements to the ACCC.

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.



**Australia** – On 8 April 2020, the **ACCC** [granted interim authorisation](#) to Private Healthcare Australia Limited (PHA) and its members and to Members Health Fund Alliance and its members. The authorisation allowed these entities to make and give effect to arrangements and to discuss and share information about: broadening private health insurance coverage to include COVID-19 treatments and modes of treatment that substitute face-to-face interaction or admission to hospital, providing financial relief regarding insurance premiums, and other measures in response to the pandemic, as notified to the ACCC. The authorisation was subject to notification requirements to the ACCC, and the conduct could not have the effect of increasing health insurance premiums to consumers. On 2 June 2020, the ACCC revoked the 8 April interim authorisation, and [issued a new conditional interim authorisation](#) strengthening the reporting conditions under the interim authorisation to ensure appropriate transparency of activities occurring pursuant to the interim authorisation. The strengthened reporting obligations include a requirement on PHA to provide detailed fortnightly reports to the ACCC regarding any meetings, discussions, developments and decisions in relation to the proposed conduct (including minutes of meetings and a non-confidential version of its fortnightly report for publication on the ACCC’s authorisations public register). On 15 July 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation to the Participating Parties for six months from the date on which final authorisation is granted. The ACCC is now seeking submissions in relation to the draft determination.

On 9 April 2020, **Virgin Australia Airlines Pty Ltd** (Virgin Australia) applied for authorisation and interim authorisation from the ACCC to coordinate flight schedules and share revenue with other Australian-based airlines on Australian domestic routes, routes between Australia and New Zealand, and international routes between Australia and the Pacific Islands, as a result of the COVID-19 pandemic. On 25 May 2020, Virgin Australia [withdrew](#) its application for authorisation on the grounds that “market conditions have changed significantly”, in particular because it had been placed in voluntary administration on 21 April 2020.



**Australia** – On 22 April 2020, the **ACCC** [granted interim authorisation](#) to the current and future members of the Australian Retailers Association (ARA). The authorisation allows members who have been adversely financially impacted by the COVID-19 pandemic to discuss and exchange information and collectively negotiate the terms of support with landlords, including sharing information for the purpose of the collective negotiations. Similarly, on 19 May 2020, the **ACCC** [granted interim authorisation](#) to National Retail Association Limited (NRA), Australian Hotels Association, Franchise Council of Australia Limited, The Pharmacy Guild of Australia, Australian Newsagents' Federation Limited, and Australian Federation of Travel Agents Limited. The authorisation allows the parties to enable their tenant members — who have been adversely affected by the COVID-19 pandemic — to discuss, share information, and collectively negotiate with landlords regarding the support to be provided to tenants by landlords, including in terms of rent relief. The authorisation also allows said parties to enable their landlord members to discuss and share information, and make and give effect to agreements as to the nature of the relief to be offered to small and medium-sized enterprise tenants, or classes of such tenants, by landlords. On 6 August, the **ACCC** issued [two final determinations](#) granting conditional authorisation to the ARA, the NRA, and other participating industry associations. Neither authorisation permits the sharing of sensitive rent information. Both authorisations are also subject to record keeping and reporting conditions. The ACCC has granted authorisation until 1 September 2021 for both applications.

On 24 April 2020, the **ACCC** [granted interim authorisation](#) to the Minerals Council of Australia and seven other mining industry associations (including their members, and any other entities participating in the Australian mining industry, provided the ACCC is notified in advance). The authorisation allows the entities to discuss, enter into or give effect to any contract, arrangement or understanding that has the purpose of collaborating to share inventories of, or rationalising demand for, critical mining supplies and services; coordinating scheduling and supply chain activities of those supplies and services; or sharing details of potential suppliers of personal protective equipment (PPE). The authorisation is subject to conditions which require the Minerals Council of Australia to report material arrangements to the ACCC and provide any further information the ACCC requests, and the entities to provide regular updates more generally. On 5 August 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation until 30 June 2021. The proposed authorisation is for the sole purpose of dealing with pandemic-related risks to the supply of critical mining services and supplies. The ACCC is now seeking submissions in relation to the draft determination.



**Australia** – On 24 April 2020, the **ACCC** [granted interim authorisation](#) to 7-Eleven Stores Pty Limited (7-Eleven). The authorisation allows 7-Eleven to approach some of its franchisees (who form part of 7-Eleven’s network in Australia) and to enter into arrangements with those franchisees, should the franchisees be willing, temporarily, to close or reduce the trading hours of stores either operated by some of the franchisees or by 7-Eleven (or its sister entity, Convenience Holdings Pty Limited). As part of the authorised conduct, 7-Eleven and the franchisees will direct customers from a closed store to nearby stores and provide information to customers about changes to the operating hours of the relevant stores. On 29 July 2020, the ACCC issued a [final determination](#) granting conditional authorisation to enable 7-Eleven to approach certain stores in its network and enter into arrangements that will provide for temporary closure or reduced trading hours. These stores have experienced substantially reduced demand during the COVID-19 pandemic. The ACCC has decided to grant conditional authorisation until 31 March 2021.

On 1 May 2020, the **ACCC** [granted interim authorisation](#) to the Australian Energy Council (AEC), its member energy retailers, and other energy retailers in Australia. The authorisation enables these entities to discuss, share information, and enter into arrangements to provide financial and other relief to energy users who may be impacted financially by the COVID-19 pandemic. This relief may include residential customers, as well as business customers of all sizes. On 5 August 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation until 30 June 2021. Coinciding with the release of the draft determination, the ACCC revoked the 1 May 2020 interim authorisation, and issued a new interim authorisation with a narrowed range of conducts. The ACCC is now seeking submissions in relation to the draft determination.

On 8 May 2020, the **ACCC** [granted interim authorisation](#) to the Australian Medical Association (AMA) and participating visiting medical officers (VMOs). VMOs are medical practitioners who work as independent contractors in public hospitals, in addition to working in private practice. VMOs are providing services to patients who have been transferred from public hospitals to private facilities in response to the COVID-19 pandemic. The authorisation allows the parties to collectively negotiate with specified private hospital operators concerning the terms and conditions upon which medical practitioners will be engaged as VMOs to provide medical services to public patients in the private hospital system during the COVID-19 pandemic. On 5 August 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation until 30 September 2021. The authorisation is for the sole purpose of allowing the AMA to respond to the pandemic. The ACCC is now seeking submissions in relation to the draft determination.



**Australia** – On 19 May 2020, the **ACCC** [granted interim authorisation](#) to the Australian Capital Territory (ACT) and specified public hospitals and private hospitals and healthcare facilities in the ACT. The authorisation allows the parties to discuss, enter into, and give effect to contracts, arrangements, or understandings which have the broad purpose of maximising healthcare capacity and ensuring the Territory-wide coordination of healthcare services to facilitate the most efficient and effective allocation of healthcare during the period of the COVID-19 pandemic. On 9 July 2020, the ACCC issued a [draft determination](#) proposing to grant conditional authorisation until 30 September 2021. The ACCC is now seeking submissions in relation to the draft determination.

On 24 July 2020, the **ACCC** issued a [draft determination](#) proposing to grant conditional authorisation to the National Pharmaceutical Services Association (NPSA) to coordinate activities necessary for the purpose of providing continued and equitable access to medicines and pharmacy products for all Australians during supply shortages that may arise from the COVID-19 pandemic. The ACCC proposes to specify a reporting condition, which would require the NPSA to regularly update the ACCC on activities occurring under the authorisation, if granted. The ACCC proposes to grant conditional authorisation until 27 September 2021. The ACCC is now seeking submissions in relation to the draft determination.

On 10 August 2020, the **ACCC** allowed chicken processors to work together to reduce the impact of the COVID-19 pandemic in the Victorian region. The [conditional interim authorisation](#) allows for cooperation on a range of measures relating to the processors' plants, aimed at ensuring sufficient supply of chickens and chicken meat, reducing the extent of any job losses, and managing the impact of the stage four COVID-19 restrictions in Victoria on chicken processors, and other parts of the supply chain. For example, the authorisation allows sharing or coordinating the use of processing capacity, essential staff, facilities, and products. The authorised conduct does not extend to agreements about the price of goods or services supplied or acquired by chicken processors, and participation is voluntary. The interim authorisation is also subject to certain reporting requirements to the ACCC.



**New Zealand** – On 22 March 2020, the **New Zealand government** issued a policy statement outlining that it would not take enforcement action under the Commerce Act against businesses cooperating to ensure a continued supply of essential goods and services for New Zealanders. 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.

On 1 May 2020, the **Commerce Commission** [issued guidance](#) on how it is assessing business collaborations entered into in response to COVID-19. The Commission’s guidance sets out the factors it will take into account when considering whether collaboration between businesses relates to providing essential goods or services or facilitating the supply of such goods or services. These factors will inform the Commission’s discretion as to whether it investigates or takes enforcement action in relation to such conduct. The guidance also provides advice to businesses affected by the COVID-19 pandemic that may be considering the possibility of collaborating to supply non-essential goods and services to consumers. On 27 May 2020, the **Commerce Commission** [issued guidelines](#) on its approach to authorisation applications made during the pandemic. The guidelines include information on when the Commission will authorise collaborations and their process for determining the authorisation applications.





**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



**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.



**India** – On 19 April 2020, the **CCI** published an [advisory note](#) according to which collaboration that is necessary and proportionate to address concerns arising from the COVID-19 pandemic may be exempted from antitrust scrutiny. For example, coordination of certain activities, by way of sharing data on stock levels, sharing of distribution network and infrastructure, and transport logistics to ensure continued supply and fair distribution of products (e.g., medical and healthcare products such as ventilators, face masks, gloves, vaccines, etc., and essential commodities) and services (e.g., logistics, testing, etc.) may not fall foul of competition laws.



**Japan** – On 23 April 2020, the **Japanese Fair Trade Commission** posted on its website its [view](#) on face mask and personal sanitation product retail pricing ceilings during the COVID-19 pandemic, in response to questions from consumers. The Commission stated that face mask and personal sanitation product manufacturers that are placing a ceiling on the retail price of these products during the COVID-19 pandemic are not violating Japanese competition law.

On 28 April 2020, the **Japanese Fair Trade Commission** [issued a press release](#) stating that “necessary and temporary” coordination between competitors will “not pose a problem under the Antimonopoly Act” if such coordination is necessary to ensure the smooth and fair distribution of products whose supply is insufficient. The authority advises businesses to refer to a compilation of potential initiatives during emergencies (including earthquakes) that was [published](#) in March 2012. It refers to the [statement](#) made by the steering committee of the International Competition Network on key considerations related to competition law enforcement during and after the COVID-19 pandemic. The statement explains that it may be appropriate for competition agencies to accommodate temporary collaboration between competitors to ensure the supply and distribution of scarce products and services that protect the health and safety of all consumers. The authority states that it is available to respond to consultation questions from businesses relating to the compatibility of proposed cooperation initiatives with antitrust law.



**Singapore** – On 20 July 2020, the Competition and Consumer Commission of Singapore (CCCS) issued a [COVID-19 Guidance Note](#) to provide businesses with more clarity on collaborations between competitors in relation to the supply of essential goods or services in Singapore. The Guidance Note states that “for a temporary period, CCCS will assume that collaborations that sustain or improve the supply of essential goods or services in Singapore, which are limited in scope and time as set out in the COVID-19 Guidance Note, and which do not involve price-fixing, bid-rigging, market sharing or output limitation, are likely to generate net economic benefits and, therefore, are unlikely to infringe the Competition Act (Cap. 50B)”. The list of essential goods and services has been annexed to the Guidance Note, and includes health and social services; food; energy; water, waste, environment; information and communication; defence and security; construction, facilities management and critical public infrastructure; manufacturing and distribution; banking and finance; and legal services.

The Guidance Note applies to collaborations put in place after 1 February 2020, and which will expire by 31 July 2021. For collaborations that only end after the COVID-19 Guidance Note expires, CCCS will evaluate using the criteria applicable under normal circumstances. Businesses are encouraged to perform their own assessment first to determine whether their collaboration falls within the framework set out in the Guidance Note. Businesses that wish to undertake collaboration on essential goods or services but have queries about the framework in the Guidance Note may contact CCCS for clarification at [cccs\\_feedback@cccs.gov.sg](mailto:cccs_feedback@cccs.gov.sg). The option of notifying CCCS for guidance or a decision on the application of the Act to an agreement remains available.



**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.
- 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.



**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.



**Mauritius** – On 8 July 2020, the Competition Commission (CC) of Mauritius [announced](#) that it is running a temporary ‘guidance programme’ for businesses until 11 December 2020. Through the programme, the CC will be able to review and provide recommendations on collaborations to address market failures or disruptions triggered by the COVID-19 pandemic. Under the [programme](#), the Executive Director will provide non-binding guidance within 21 working days on whether the proposed collaboration may be pursued or whether it is likely to be contrary to the prohibition on cartels. The main conditions of the programme are that the collaboration must be in response to the COVID-19 pandemic and the collaboration must be at proposal stage and not yet been implemented. Any collaboration should not lead to agreements or understandings or exchange of information between enterprises on their respective selling prices, level of production or supply, or on their customer base or territories.



**Nigeria** – In April 2020, the Federal Competition and Consumer Protection Commission (FCCPC) issued [guidance](#) on business cooperation relating to COVID-19. The guidance establishes a framework to exempt a limited category of agreements between businesses from the application of Nigeria’s antitrust laws. Permitted activity includes cooperation for the purpose of supply and distribution of essential products and services; cooperation in the health and relief sectors facilitated by trade associations; putting in place temporary and proportionate measures which are encouraged and/or coordinated by a public authority to adapt production, stock management, and distribution in the health sector; joint purchasing agreements among healthcare providers and other critical service/goods providers such as those designed to increase the efficiency of procurement and reduce transaction costs; and collaborations that involve agreements to engage in joint R&D that might involve sharing information on technical knowhow.



**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.