



Comisión Nacional de Defensa de la Competencia
Secretaría de Comercio | Ministerio de Economía

REGULATION FOR THE LENIENCY PROGRAMME IMPLEMENTATION SECTION 60 OF ACT No. 27.442

CHAPTER I PURPOSE, SCOPE, DEFINITIONS AND PRINCIPLES

Section 1 — Purpose

This Regulation sets the proceedings for the Leniency Programme implementation established in Chapter VIII of Act No. 27.442 and its regulatory Decree No. 480/2018.

Section 2 — Scope

This regulation shall apply to the cases set out in Section 60 subparagraphs a), b) and c) of Act No. 27.442 as appropriate.

Section 3 — Definitions

As for this Regulation, the following terms shall have the following meanings:

- a) **Coordination Hearing:** This is the hearing held once the Marker Certificate has been granted, within the period and scope provided for in Section 23 of this regulation.
- b) **Enforcement Authority:** It is the SECRETARIAT OF COMMERCE of the MINISTRY OF ECONOMY or the Authority that may replace it in the future.
- c) **Conditional Benefit of Exoneration from or Reduction of Sanction:** This is the benefit granted to the Applicant who meets the requirements provided for in Section 28 of this regulation, and which is subject to the condition precedent of the Applicant's duty to provide full cooperation throughout the procedure.
- d) **Definitive Benefit of Exoneration from or Reduction of Sanction:** This is the benefit to be granted definitively by the

Enforcement Authority in accordance with Section 33 of this regulation.

- e) Marker Certificate: The Leniency Unit issues this certificate once the requirements set out in Section 12 have been fulfilled.
- f) National Commission for the Defence of Competition: It is the decentralised body acting within the SECRETARIAT OF COMMERCE or the authority that may replace it in the future.
- g) Availability of Markers: The lack of Marker Applications in force at the date of consultation of Section 10 of this Regulation for the exoneration benefit or when a previous Marker Application has been made regarding a given market at the date of consultation for the reduction benefit.
- h) Marker: A number indicating the chronological order of the marker applications registered for a given market, according to the date and time of their submission, for the purposes set forth in Section 60 of Act No. 27.442.
- i) Leniency Unit: The organisational unit within the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION in charge of instructing and processing the Leniency Application in accordance with the functions provided for in this Regulation.
- j) Disclosed practice: It constitutes the practice or practices established in Section 2 of Act No. 27.442 that motivate the application to the Leniency Programme.
- k) Leniency Programme: It is regulated in Chapter VIII of Act No. 27.442.
- l) National Registry of Markers: The registry created in Part I of Section 60 of the Annex to Regulatory Decree No. 480/2018 will operate within the scope and under the control of the Clemency Unit.
- m) Applicant: The human or legal person that submits an application for the Leniency Program, as established in Section 60 of Act No. 27.442.
- n) Leniency Application: It is the submission made by the Applicant at the Coordination Hearing that complies with the requirements provided for in Section 21 of this regulation.
- o) Marker Application: it is the submission made by the Applicant that initiates the procedure to benefit from the Leniency

Programme and which must meet the requirements set out in Section 12 of this Regulation.

Section 4 — Principles

The principles underpinning the implementation of the Leniency Programme are:

- a) Confidentiality on the part of the members of the Leniency Unit, the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION, the Enforcement Authority and/or the bodies that may replace them in the future in the different stages of the Leniency Application proceedings, in accordance with the provisions of Section 60 of Act No. 27.442, Regulatory Decree No. 480/2018 and this Regulation.
- b) Full, continuous and diligent cooperation of the Benefit Applicant with the Leniency Unit, the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION, the Enforcement Authority and/or the bodies that may replace them in the future, in accordance with the provisions of Section 60 of Act No. 27.442, Regulatory Decree No. 480/2018 and this regulation.

CHAPTER II LENIENCY UNIT

Section 5 — Functions

The functions of the Leniency Unit, under the provisions of this regulation, shall be as follows:

- a) To address queries regarding the Availability of Markers.
- b) To receive, process, grant and/or reject Marker Applications.
- c) To issue the Marker Certificate.
- d) To run and administer the National Registry of Markers.
- e) To receive and process the Leniency Application.
- f) To summon and hold hearings with the Applicant and/or third parties and receive statements from them.
- g) To make requests for information and documentation from the Applicant and/or third parties.

- h) To issue and notify all types of orders related to the proceedings of the Leniency Application until the granting of the Conditional Benefit of Exoneration from or Reduction of Sanction.
- i) To make an opinion recommending the granting or rejection of the Conditional Benefit of Exoneration or Reduction of Sanction.
- j) To carry out any other act necessary for the Leniency Application proceedings until the Conditional Benefit of Exoneration from or Reduction of Sanction is granted or rejected.

Section 6 — Functional Independence

For the exercise of the powers provided for in Section 5 of this regulation, the Leniency Unit shall have functional independence from the NATIONAL DIRECTORATE OF ANTICOMPETITIVE CONDUCTS, the NATIONAL DIRECTORATE OF ECONOMIC CONCENTRATIONS, the President, and the Commissioners of the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION, the Enforcement Authority and the bodies that may replace them in the future.

The members of the Leniency Unit shall be the only ones authorised to intervene in this procedure. They shall exclusively have access to the proceedings and the documentation involved until the evaluation of the Conditional Benefit of Exoneration from or Reduction of Sanction established in Section 28 of this regulation.

Section 7 — Appointment and Incompatibilities

The NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION shall appoint the members of the Leniency Unit

The President and the Commissioners of the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION, as well as the heads of the NATIONAL DIRECTORATE OF ANTICOMPETITIVE CONDUCTS and the NATIONAL DIRECTORATE OF ECONOMIC CONCENTRATIONS and/or those directors and/or agents working in the directorates mentioned above may not be appointed as members of the Leniency Unit.

CHAPTER III NATIONAL REGISTRY OF MARKERS

Section 8 — Content of the National Registry of Markers

Each entry of a Marker in the National Registry of Markers shall contain:

- a) Name and surname or company name of the Applicant;
- b) National Identity Card or Unique Tax Identification Number, as appropriate;

- c) Date and time of Marker Application submission;
- d) Products and/or services involved in the disclosed Practice;
- e) Geographical and temporal extent of the disclosed Practice;
- f) Order of priority given to the Applicant.

Section 9 — Immutability and Confidentiality

The National Registry of Markers will be immutable and strictly confidential. Only those belonging to the Leniency Unit will be able to access it.

CHAPTER IV MARKER APPLICATION PROCEDURE

Section 10 — Enquiries for Availability of Markers

An interested party wishing to benefit from the Leniency Programme may make enquiries about the Availability of Markers anonymously, in hypothetical terms, and indicating a description of the market in which the practice would have taken place without the need to provide specific facts. These enquiries shall not be considered as an acknowledgement of an infringement or acceptance of any kind of liability, nor do they imply an application for the Leniency Programme.

After the consultation, the Leniency Unit will only provide information on the Market Availability Marker for the Leniency Programme at the time of the consultation.

If the Leniency Unit reports that a Marker is available and within FIVE (5) days does not receive a Marker Application, the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION may take appropriate action to investigate such a market.

Section 11 — How to submit a Marker Application

To qualify for the Leniency Programme, the Applicant must submit a Marker Application, which will determine the order of priority in which he/she will be assessed.

The Marker Application must be made in writing and signed by the Applicant to the head of the Leniency Unit. Alternatively, the Applicant may choose to do so through the technological means provided for this purpose.

If the application is made through an attorney-in-fact or legal representative, the original or legally certified documentation attesting to the signatory's legal condition must be attached.

In the event of omission, it must be rectified within THREE (3) days following the notification, under penalty of being considered as not submitted, without the need for prior notification, under the provisions of Section 19.

Section 12 — Content of the Marker Application

At the time of submitting the Marker Application, the Applicant must provide the following minimum information, which is essential for the application to be accepted:

- a) Name and surname or company name and address;
- b) An Address for service, where all notifications made within the framework of this procedure shall be considered valid.
- c) Description of the disclosed Practice and the affected market;
- d) The approximate geographical and temporal extent of the disclosed Practice.

In the event of any omission, it shall be remedied within THREE (3) days following the notification, under penalty of being deemed not to have been submitted without the need for prior notice, in accordance with the provisions of Section 19.

Section 13 — Proof of Marker Application

After the Marker Application has been submitted, the Applicant will receive a record of the day and time in which the application was made.

Section 14 — Time Limit for Resolution

Once the requirements established in Section 12 of the regulation have been fulfilled and within FIVE (5) days of receipt of the Marker Application, or if it is complete under the terms of Sections 11 and 12 of this Regulation, the Leniency Unit shall decide on its admissibility. The time limit established herein shall not be extendable.

Section 15 — Assessment, chronological order and broadening of the Marker

According to the records in the NATIONAL REGISTRY OF MARKERS, the Leniency Unit will assess the Marker Application in the chronological order in which it was submitted. A Marker Application will not be assessed if the granting or rejection of a previous application corresponding to the same market and disclosed Practice has not been decided.

The Leniency Unit may, as appropriate, extend a Marker to cover a larger geographic relevant market and a more significant number of participants in the disclosed Practice.

The Leniency Unit will not grant an extension for separate practices or practices linked to separate markets. In those cases, the Applicant shall submit a new Marker Application, which shall be subject to the order of submission of the new application and compliance with the appropriate requirements.

Section 16 — Issuance of the Marker Certificate

If the Marker Application is accepted, the Leniency Unit shall grant the Applicant a Marker Certificate, which shall indicate the date and time when the Marker Application was made, and the order of priority, according to the records of the National Register of Markers.

Obtaining the Marker Certificate does not guarantee that the Applicant will receive the benefit established in Section 60 of Act No. 27.442.

Section 17 — Rejection of a Marker Application

The Leniency Unit may declare the Marker Application inadmissible in the following cases:

- a) Whenever the Marker Application does not comply with the requirements established in Section 12;
- b) If the Marker Application is submitted after the Applicant has been served the notification provided for in Section 41 of Act No. 27.442.
- c) In cases in which the Enforcement Authority and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION have previously initiated an investigation on which they have sufficient evidence to make the charge provided for in Section 41 of Act No. 27.442. Concerning “sufficient evidence”, it shall be understood as that which is relevant and decisive for the proceedings, contains elements of knowledge of the facts and circumstances under analysis, and provides the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION with certain or probable understanding of the facts to decide whether the notification provided for in Section 41 of Act No. 27.442 is appropriate.

Section 18 — Notification

The Applicant shall be notified of the decision on the granting or rejection of the Marker Application.

In the case the Marker Application is granted, the date of the Coordination Hearing will be notified at the same time, and that will be the moment when the Applicant must submit the Leniency

Application in accordance with the provisions of Section 21 of this regulation.

Section 19 — Effects of a rejected Marker Application

In the event of rejection of the Marker Application and within THREE (3) days of the notification provided for in the previous Section, the Applicant shall withdraw all the information and documentation provided, in case it has been submitted at the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION. If the Applicant had not taken back such documentation within THREE (3) days of being notified of the rejection of the Marker Application, it shall be destroyed without any further procedure.

If the Marker Application has been initiated by electronic means, the documents part of the electronic file through which the Application was processed shall be deleted.

The NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION and the Leniency Unit shall not share, disclose, publish or make use of such documentation for any purpose.

If a Marker Application is rejected, the turn will pass to the next registrant according to the records in the National Registry of Markers.

CHAPTER V LENIENCY APPLICATION PROCEDURE

Section 20 — Opportunity

The Leniency application shall be formalised by the Applicant at the Coordination Hearing, which will be held within TEN (10) days of the issuance of the Marker Certificate.

THREE (3) days before the date of the Coordination Hearing, the Applicant may request its rescheduling to allow it to take place. In this case, the Applicant will have to provide all the documentation and information referred to in Section 21.

Section 21 — Form and content of the Leniency Application

The Leniency Application must be in writing and signed by the Applicant at the time of the Coordination Hearing and must contain the following:

- a) Name and surname or company name; National Identity Card (D.N.I. *for its acronym in Spanish*) or Tax Identification Number (C.U.I.T. *for its acronym in Spanish*) as appropriate and place of residence;
- b) Copy of the Marker Certificate.
- c) Affidavit of the Applicant as provided for in Section 22 of this Regulation.
- d) Identification of the other participants who, to the Applicant's knowledge, are or have been involved in the disclosed Practice, including a detailed description of their own involvement and as much detail as possible of the involvement of each of the other participants.
- e) Description of the affected market, including details of the products or services object of the disclosed Practice, and the geographic and temporal scope of such practice.
- f) Identification of other players operating in the affected market who have not been involved in the disclosed Practice.
- g) Detailed description of the facts and the Disclosed Practice, including its purpose, motivation, activities, and operation.
- h) Description of the impact of the Disclosed Practice in the territory of the Argentine Republic. In case the Disclosed Practice is international, an explanation of the direct or indirect, actual and/or potential impact it may have on the Argentine Republic.
- i) Relevant information on the Leniency Applications that the Applicant has made or intends to make in other jurisdictions for the same disclosed Practice that motivated the Leniency Application.

Except for subparagraphs a., b. and c., incomplete submission of the information detailed in the subparagraphs of this Section may be remedied within THREE (3) days.

Section 22 — Applicant's affidavit

Together with the Leniency Application, the Applicant shall submit an affidavit stating that:

- a) He/she requests to avail himself/herself of the Leniency Programme.
- b) He/she understands that the granting of the benefit will be subject to compliance with the duty to cooperate established in Section 60, part II.C) of Regulatory Decree No. 480/2018 and Section 36 of this Regulation.
- c) The declarations, information and documents provided are accurate and truthful.
- d) He/she undertakes to comply with the duty of confidentiality set out in Section 60, Part IV of the Annex to Decree No. 480/2018 and in this Regulation.

Section 23 — Coordination Hearing

If the Leniency Unit determines that the Leniency Application is admissible, it shall establish a schedule for the submission of all the documentation and information referred to in Section 25.

The deadline for the presentation of documentation and information shall not exceed SIXTY (60) days from the date of the Coordination Hearing. When the complexity of the investigation determines the need for more time to obtain information relevant to the proceedings, the Leniency Unit may extend the time limit established herein for a maximum of THIRTY (30) days.

Likewise, within the same period, the Applicant must respond to all the requirements and questions posed by the Leniency Unit regarding the disclosed Practice.

In the event of attending the Coordination Hearing through an attorney or legal representative, the original documentation or a notarised copy thereof, which accredits the capacity invoked by the Applicant, must be submitted.

The Applicant's lawyer may assist him during the Coordination Hearing and the other hearings held within the framework of this procedure.

Section 24 — Default of Appearance

In Case of Default of Appearance at the Coordination Hearing, the Marker Certificate duly issued shall be rendered null and void, which shall be recorded in the National Registry of Markers, and the documentation submitted shall be dealt with under Section 19 of this regulation.

Section 25 — Information, documentation and supporting data for the Leniency Application

Within the term established in Section 23, and according to the schedule set in the Coordination Hearing, the Applicant shall provide truthful, verifiable and relevant data and information that, in the opinion of the Leniency Unit and the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION, allows a significant progress in the investigation and that represents consequential

contributions in the constitution of sufficient evidence to determine the existence of the disclosed Practice or that generate or increase the probability of certainty in its evidentiary assessment, such as:

- a) Documents concerning its existence and the Applicant's participation in the Disclosed Practice, including negotiations or coordination mechanisms, monitoring, compensation or any other act involving its execution, directly or indirectly.
- b) Information about the role of the human or legal persons mentioned in the Disclosed Practice, changes in the representation of the companies involved that have occurred since the origin of the Disclosed Practice, and any available information about the participants in the Disclosed Practice, including, but not limited to, name and address, position held in the companies, office addresses, home addresses, etc.
- c) Details of meetings and/or similar means of communication used to coordinate events and/or actions among the various participants of the disclosed Practice, dates, locations, content and participants in meetings or contacts, frequency and articulation of communications, details of the organisation of the Disclosed Practice, monitoring and/or punishment mechanisms, etc.
- d) Information contained in data storage devices such as computers, pen drives, CD-ROMs, telephone equipment, and/or any technological device, as well as in access to e-mail accounts.
- e) Statements from one or more of the Applicant's representatives, executives, officers, and/or advisors who have been involved in the disclosed Practice or who have relevant documentation and/or background information conducive to clarifying the facts.
- f) Studies, reports, statistics, spreadsheets, databases or other background information relating to the market in which the Disclosed Practice has occurred.
- g) Detail of background information, documentation and/or evidence of any nature in the possession of third parties that may be conducive to clarifying the facts.
- h) Any other evidence, document, or background in general, which is suitable to establish the existence of the disclosed Practice.

- i) Testimonies from those involved or third parties on the Disclosed Practice's existence, characteristics or development.

CHAPTER VI OF THE CONDITIONAL BENEFIT OF EXONERATION OR REDUCTION OF SANCTION

Section 26 — Preliminary Beneficiary Qualification

At the end of the term set forth in Section 23, following the opinion of the Leniency Unit, the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION shall evaluate and analyse the documentation and information provided by the Applicant within a term no longer than TWENTY (20) days. Such a term may be extended once only for up to TWENTY (20) additional days in case the complexity or volume of the background information and documentation justifies it.

The opinion of the Leniency Unit shall be confidential.

Section 27 — Determination of the reduction of penalties

To determine the percentage of the benefit to be granted to those who submit their Marker Application in second and subsequent places, the provisions of Section 60, paragraph b), part 2 of Act No. 27.442 and the probative value of the information provided by the Applicant shall be considered, taking into account its nature and level of detail.

Section 28 — Granting of Conditional Benefit or Reduction of Penalties

Upon expiration of the term stated in Section 23, and in case it is appropriate, the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION shall grant the Conditional Benefit of Exoneration from or Reduction of Sanction, as the case may be.

The granting of the Conditional Benefit of Exoneration or Reduction of Sanction shall be formalised by means of the execution of a document between the Applicant and the NATIONAL

COMMISSION FOR THE DEFENCE OF COMPETITION,
which shall contain:

- a) The chronological order in which the Marker Application was received.
- b) The exemption or percentage reduction of the sanction that will apply if the disclosed Practice is sanctioned, indicating the scope of the benefits granted to the Applicant, to other companies of the economic group and/or to the Applicant's officers and former officers, conditional upon compliance with the duty to cooperate by each of those to whom the benefit is extended.
- c) The Applicant's acknowledgement of its participation in the disclosed Practice;
- d) Express mention of the fact that the exemption from or reduction of the sanction is subject to the Applicant's compliance with the duty to cooperate throughout the investigation;
- e) The waiver of the confidentiality of evidence that could not be produced is essential for initiating or processing the administrative sanctioning procedure.

Section 29 — Additional Information

As from the Coordination Hearing and until the granting of the Final Benefit of Exoneration from or Reduction of Sanction, the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION may require the Applicant to submit additional background information and documentation, hold hearings and request all the clarifications they deem relevant in order to determine the existence of the disclosed Practice and the participation of the agents involved in it.

In addition, they may also take any necessary actions to prove the existence of the disclosed Practice and to obtain the relevant evidence.

Section 30 — Condition Precedent

The Conditional Benefit of Exemption or Reduction of Sanction shall be subject to a condition precedent, conditional upon the

Applicant's obligation to comply with the duty to cooperate throughout the procedure set out in Section 36 of this regulation.

Section 31 — Referral of proceedings

Once the Conditional Benefit of Exoneration from or Reduction of Sanction has been granted, the proceedings shall be forwarded to the NATIONAL DIRECTORATE OF ANTICOMPETITIVE CONDUCTS of the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION for the continuation of the proceedings and the corresponding investigation under the provisions of Chapter VI of Act No. 27.442 or the rule that in the future regulates the sanctioning procedure for the investigation of anticompetitive practices.

Upon receipt of the proceedings, the documentation and other evidence provided by the Applicant may be used to investigate the corresponding proceedings.

Section 32 — Rejection of the Conditional Benefit of Exoneration or Reduction of Sanctions

Failure to comply with the provisions of Chapter V and Section 36 of this regulation shall be a reason for rejection of the Leniency Application.

In such a case, the Leniency Application shall not be considered as an acknowledgement or confession by the Applicant of its participation in the disclosed Practice.

The information and evidence obtained in the framework of a rejected Leniency Application may not be used for any purpose, without prejudice to the powers of the Enforcement Authority and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION to make use of its investigative powers. In such a case, it shall proceed in accordance with the provisions set forth in Section 19 in relation to the documentation provided by the Applicant.

Rejected Leniency Applications may not be disclosed.

**CHAPTER VII
OF THE DEFINITIVE BENEFIT OF EXONERATION FROM
OR REDUCTION OF SANCTION**

Section 33 — Granting of Definitive Benefit

At the time of issuing a decision on the imposition of fines or penalties under the provisions of Sections 55 to 59 of Act No. 27.442 - or the rule that may replace it in the future- the Enforcement Authority shall decide on the granting or rejection of the Final Benefit of Exoneration from or Reduction of Sanction, after receiving the opinion of the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION on its appropriateness, taking into account the compliance with the duty of cooperation established in Section 36 of this regulation. The opinion of the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION shall be strictly confidential.

Section 34 — Definitive Benefit Eligibility

The definitive benefit shall be enforceable before the competent authorities, with the scope established in the last paragraph of Section 61 and Section 65 of Act 27.442.

Section 35 — Rejection of Definitive Benefit

The granting of the Definitive Benefit of Exoneration or Reduction of Sanction shall be subject to compliance with the duty of cooperation set forth in Section 36 of this regulation.

In case of rejection of the Final Benefit of Exoneration or Reduction of the Sanction, before issuing the Opinion of Section 33, the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION shall notify the Applicant for FIVE (5) days of the analysis of the facts and grounds that gave rise to the alleged breach of the duty to cooperate.

**CHAPTER VIII DUTY TO COOPERATE, WITHDRAWAL AND
CONFIDENTIALITY**

Section 36 — Duty to cooperate

The duty to cooperate implies for the Applicant, among others:

- a) To immediately cease with the disclosed Practice, unless otherwise provided, all in accordance with part 2), subparagraph a) of Section 60 of Act No. 27.442.
- b) To cooperate fully, effectively, and diligently with the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION in accordance with the principle of good faith throughout the procedure.
- c) To provide in due time and form and without delay any information requested by the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION that may allow the investigation and instruction of the procedure to be carried out.
- d) To immediately report to the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION any known facts related to any other infringement in the market affected by the disclosed Practice.
- e) To submit all information and evidence in their possession, custody or control that may be useful for the development of the procedure.
- f) To refrain from disclosing to third parties, directly or indirectly, the presentation and content of the Leniency Application, the evidence provided and the terms of the Conditional Benefit of Exoneration from or Reduction of Sanction, or any other documentation produced in the framework of the procedure until the notification provided for in Section 41 of Act No. 27.442.
- g) To make themselves available to the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION to respond to requests for information or clarifications.
- h) To appear at the hearings to which it has been summoned whenever the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION requires.
- i) To cooperate in the carrying out of proceedings and actions by the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION, including, but not limited to, visual inspections and verification visits, which shall be scheduled by mutual agreement with the Applicant.

- j) The Applicant and its employees and/or dependants shall refrain from destroying, falsifying, concealing information/evidence or carrying out any action or omission that would hinder the course of the proceedings.
- k) To collect and preserve the evidence available to it.

Section 37 — Withdrawal

Before granting the Conditional Benefit of Exoneration from or Reduction of Sanction, the Applicant may withdraw the Leniency Application, which must be made in writing, by taking back the submitted application. In case of withdrawal, the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION shall return all the documentation provided by the Applicant, deleting the documents that are part of the electronic file to make them illegible and shall not keep or use copies of such documentation in its investigation or an eventual administrative sanctioning procedure.

The withdrawal shall not imply and shall not be understood as a renouncement on the part of the Enforcement Authority and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION to make use of its powers of investigation and prosecution.

Section 38 — Duty of Confidentiality

Both the Applicant, the Leniency Unit and the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION have a duty of confidentiality since the Marker Application is made until the notification provided for in Section 41 of Act No. 27.442.

The duty of confidentiality includes, but is not limited to:

- l) the content of the Marker Application;
- m) the content of the Leniency Application;
- n) the Conditional Benefit of Exoneration from or Reduction of Sanction;
- o) the Definitive Benefit of Exoneration from or Reduction of Sanction;
- p) documents, statements, records, databases, mailings, hearings, interviews, etc.;

- q) the evidence provided;
- r) the application to the Leniency Programme; and
- s) any other information related to the submission and processing of the Leniency Application and, in general, any document or piece of evidence provided to the proceedings by the Applicant.

The Applicant's identity shall be kept confidential until the conclusion of the administrative sanctioning procedure.

To guarantee confidentiality, and in accordance with part IV of Section 60 of the Annex to Regulatory Decree No. 480/2018, the proceedings related to the Leniency Programme shall be processed by using a reserved and confidential file.

Section 39 — Exception to the duty of confidentiality

In cases where the disclosure of confidential information is required by any Act or by a final judicial decision issued by a Court of the Argentine Republic, and the applicable regulatory framework does not contemplate the possibility of requesting the confidentiality of the information or giving confidential treatment to it, the Applicant shall previously inform the Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION in writing.

The duty of confidentiality shall not affect any right or ability of the Applicant to cooperate with competition authorities of other jurisdictions.

Section 40 — Exchange of Information

The Leniency Unit and/or the NATIONAL COMMISSION FOR THE DEFENCE OF COMPETITION may request the Applicant to consult and exchange information with other competition authorities in other jurisdictions.