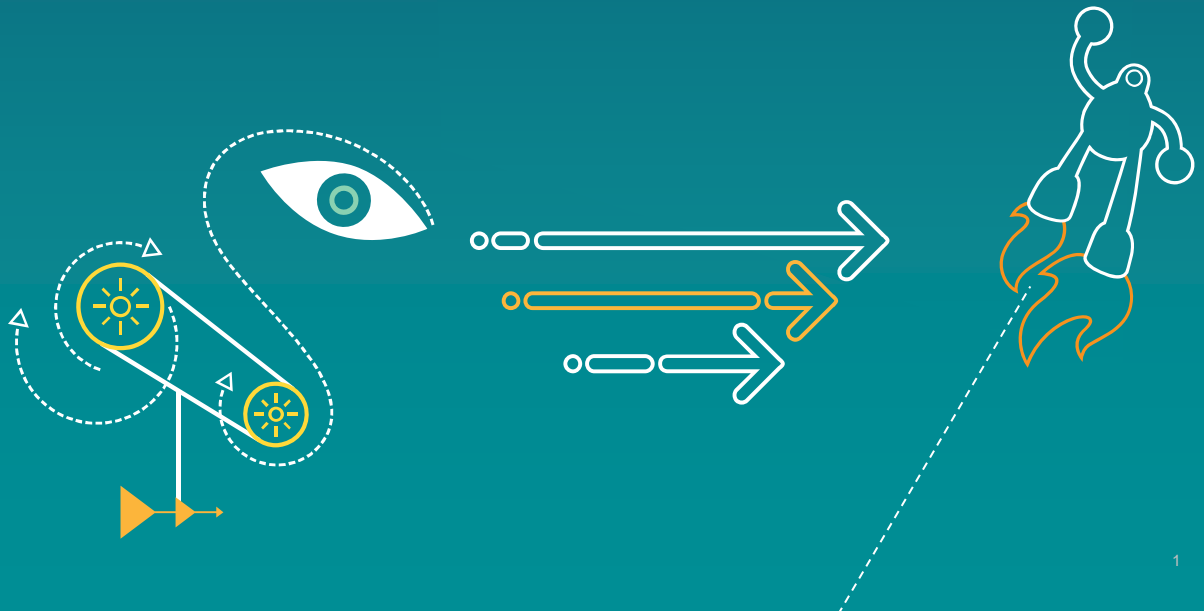


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Due process under the ECN+ Proposal



1. In light of the very significant disparities with respect to due process across the EU, what “*common minimal standards*”?

Procedural guarantees are crucial for the business community and for antitrust agencies to come to an informed view of the case, i.e. for sounder antitrust enforcement

- Since Regulation 1/2003 the enforcement of EU competition rules has been decentralized
- A significant enforcement gap across the EU following the accession of Eastern countries
 - No comprehensive overview as to the due process standards applicable across the EU, but
 - Strong disparities with respect to due process across the EU ;
 - To date, the very important decrease in the number of competition cases before the GC

~~2. The conditions to be met to allow the~~ application of higher due process standards under the ECN+ Directive

- Fundamental procedural rights should be listed in the text of the Directive :
 - Early identification of the allegations and evidence relied on of complainant(s);
 - Opportunities to present evidence to the investigatory team early in the decision making process;
 - Meaningful opportunity to review a report of the investigatory team before a final decision is taken ;
 - Meaningful opportunity to be heard and present a defense to the actual decision maker prior to a final order ;
 - Appeal of decision to court and opportunity to stay enforcement pending appeal
- The Directive should allow for the application of higher standards at Member State level.