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Market Court Proceedings Act (100/2013)

Chapter 1 — General provisions

Section 1 – *Scope of application*

(1) This Act contains provisions on the jurisdiction of the Market Court, the initiation and consideration of cases in the Market Court and on appeal of a decision of the Market Court.

(2) The Market Court Act (99/2013) contains provisions on a quorum in the Market Court and on the work of the Market Court.

Section 2 – *Competition and supervision cases*

(1) The Market Court considers as *competition and supervision cases* those assigned to its jurisdiction in:

- (1) the Competition Act (948/2011);
- (2) the Electricity Market Act (386/1995);
- (3) the Natural Gas Market Act (508/2000);
- (4) the Railways Act (304/2011);
- (5) the Act on the Airport Network and Fees (210/2011);
- (6) the Act on the Recovery and Storage of Carbon Dioxide (416/2012);
- (7) the Financial Supervision Act (878/2008).

(2) The Market Court also considers as competition and supervision cases assigned to its jurisdiction:

- (1) cases concerning the imposition of a monetary penalty as referred to in section 122 of the Communications Market Act (393/2003);
- (2) cases concerning the imposition of a monetary penalty as referred to in section 36(a) of the Broadcasting Act (744/1998);
- (3) appeals against decisions of the Energy Market Authority referred to in section 21, subsection 3 of the Act on the Power Reserve Ensuring Balanced Production and Consumption of Electricity (117/2011).

Section 3 – Procurement cases

(1) The Market Court considers as *procurement cases* those assigned to its jurisdiction in:

- (1) the Act on Public Contracts (348/2007);
- (2) the Act on Procurement by Units in Water and Energy Maintenance, Traffic and Postal Services (349/2007);
- (3) the Act on Electronic Auctions and Dynamic Procurement Systems (698/2011);
- (4) the Act on Public Contracts in Defence and Security (1531/2011);
- (5) the Mass Transit Act (869/2009);
- (6) the Act on Consideration of the Energy and Environmental Impact of Vehicles in Public Procurement (1509/2011).

(2) The Market Court also considers as procurement cases those appeals assigned to its jurisdiction that concern decisions of the Energy Market Authority referred to in section 21, subsection 2 of the Act on the Power Reserve Ensuring Balanced Production and Consumption of Electricity.

Section 4 – Industrial property right and copyright cases

(1) The Market Court considers as *industrial property right and copyright cases* those assigned to its jurisdiction in:

- (1) the Patent Act (550/1967);
- (2) the Act on the Right in Employee Inventions (656/1967);
- (3) the Act on the Right in Inventions in Higher Education (369/2006);
- (4) the Act on Inventions of Importance to the National Defence (551/1967);
- (5) the Act on Utility Model Rights (800/1991);
- (6) the Act on the Exclusive Right in the Layout-Design (Topography) of an Integrated Circuit (32/1991);
- (7) the Trademarks Act (7/1964);
- (8) the Act on Collective Marks (795/1980);
- (9) the Registered Designs Act (221/1971);
- (10) the Commercial Name Act (128/1979);
- (11) the Trade Register Act (129/1979);
- (12) the Patent and Registration Office Act (575/1992);
- (13) the Plant Breeder's Rights Act (1279/2009);
- (14) the Domain Name Act (228/2003);
- (15) the Copyright Act (404/1961).

(2) The Market Court also considers as industrial property right and copyright cases those civil cases assigned to its jurisdiction in the Unfair Business Practices Act (1061/1978).

(3) The Market Court also considers as industrial property right and copyright cases those that have been assigned to its jurisdiction in Chapter 7 of the Code of Judicial Procedure and in the Act on Securing the Provision of Evidence in Civil Cases Concerning Industrial Property Rights and Copyright (344/2000).

Section 5 – Jurisdiction in a civil case connected to an industrial property right or copyright case

(1) The Market Court may, in connection with civil cases assigned to its jurisdiction by the Acts referred to in section 4, subsection 1, paragraphs 1–10, 13 or 15 or subsection 2, consider also another civil case if the plaintiff has brought the suit at the same time against the same respondent or against different respondents and the suits are based on essentially the same grounds. For a special reason the Market Court may consider said other civil case even if the suit in question was not brought at the same time. Also in such a case the suit is to have been brought before the preparation has been declared concluded in accordance with Chapter 5, section 28, subsection 1 of the Code of Judicial Procedure, or before the time period set in accordance with Chapter 5, section 22 of the Code of Judicial Procedure has ended, if such a time period has been set for the parties.

(2) The Market Court may, in connection with a civil case assigned to its jurisdiction in an Act referred to in section 4, subsection 1, paragraphs 1–10, 13 or 15 or subsection 2, also consider a case brought by the respondent against the plaintiff other than a countersuit, if it concerns the same case as the original suit or a case that belongs in the same connection as the original suit.

(3) What is provided in subsections 1 and 2, however, is subject to the condition that it is not contrary to an agreement between the parties on the place of jurisdiction or contrary to the exclusive jurisdiction of another court.

(4) The Market Court remains competent to consider a case referred to in subsection 1 and 2 even though a change occurs in the grounds for jurisdiction subsequent to the initiation.

Section 6 – Market law cases

(1) The Market Court considers as *market law cases* those assigned to its jurisdiction in:

- (1) the Consumer Protection Act (38/1978);
- (2) the Competition and Consumer Authority Act (661/2012);

- (3) the Act on the Offering of Services (1166/2009);
 - (4) the Act on the Collection of Debts (513/1999);
 - (5) the Payment Services Act (290/2010);
 - (6) the Lotteries Act (1047/2001);
 - (7) the Cooperatives Act (1488/2001);
 - (8) the Act on the Regulation of Contract Terms between Businesses (1062/1993);
 - (9) the Act on Terms of Payment in Commercial Contracts (30/2013);
 - (10) the Act on Cross-Border Injunction Proceedings (1189/2000);
 - (11) the Alcohol Act (1143/1994);
 - (12) the Tobacco Act (693/1976).
- (2) The Market Court also considers as market law cases the following that have been assigned to its jurisdiction:
- (1) cases concerning the imposition of an injunction referred to in section 6 of the Unfair Business Practices Act;
 - (2) cases concerning injunctions by the Communications Regulatory Authority, referred to in section 121(a) of the Communications Market Act, and decisions of the Consumer Ombudsman on the disconnecting of a number or the closing of a service, referred to in section 121(b);
 - (3) cases subject to the supervision of the Consumer Ombudsman in accordance with section 36 of the Broadcasting Act.

Chapter 2 — Consideration of competition and supervision cases

Section 1 – Consideration of competition and supervision cases

- (1) Chapter 4, sections 10, 11 and 14 contain provisions on the holding of a preparatory session and on oral hearings in a competition and supervision case.
- (2) In other respects, and to the extent not provided otherwise in the Acts mentioned in Chapter 1, section 2, competition and supervision cases are considered in the Market Court as provided in the Act on Administrative Procedure (586/1996).

Chapter 3 — Consideration of procurement cases

Section 1 – Consideration of procurement cases

- (1) Chapter 4, sections 10, 11 and 14 contain provisions on the holding of a preparatory session and on oral hearings in a procurement case.

(2) In other respects, to the extent not provided otherwise in the Acts mentioned to in Chapter 1, section 3, procurement cases are considered in the Market Court as provided in the Act on Administrative Judicial Procedure.

Chapter 4 — Consideration of industrial property right and copyright cases

Section 1 – Scope of application of the provisions of this Chapter

(1) A case which, on the basis of the Acts mentioned in Chapter 1, section 4, subsection 1, paragraph 1 and 5-14 above, is assigned to the jurisdiction of the Market Court (*appeal*) and in which an appeal has been lodged against a decision of the Patent and Registration Office or another competent authority (*register authority*) is considered in the Market Court as provided in sections 2—16.

(2) A civil case or application which, on the basis of the Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1—10, 13 and 15 as well as subsection 2 above (*industrial property right or copyright suit or application*) is assigned to the jurisdiction of the Market Court, and a civil case referred to in section 5 of said Chapter, is considered in the Market Court as provided in sections 17—24.

Section 2 – Consideration of an appeal by the Market Court

(1) An appeal against a decision of a register authority is considered and decided in the Market Court on the basis of the appeal, the decision that is the subject of the appeal, and the other written trial documents.

(2) The consideration of an appeal may be supplemented by holding a preparatory session, oral hearing or judicial view in the case.

(3) The Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1 and 5—14 contain provisions on appeal against a decision of a register authority, on the persons entitled to appeal and on the lodging of the appeal.

Section 3 – Initiation of preparation

(1) Preparation of an appeal begins in the Market Court when the Market Court receives the appeal.

(2) The Market Court may separately prepare a separate part of an appeal or a question concerning proceedings.

Section 4 – Purpose of preparation

In accordance with the nature of the case, the following shall be determined in the preparation:

(1) to what extent the decision of the register authority is being appealed;

- (2) what claims are presented in the Market Court and what grounds are referred to in support of the claims;
- (3) on what issues do the parties to the proceedings disagree in the Market Court; and
- (4) what evidence is presented in the Market Court and what each piece of evidence intends to prove.

Section 5 – *Supplementing an appeal*

(1) The provisions of section 28 of the Act on Administrative Judicial Procedure apply to the supplementing of an incomplete appeal.

(2) For a special reason the Market Court may reserve an appellant whose appeal continues to be incomplete even after having been supplemented, a new opportunity to supplement the appeal within the period set by the Market Court.

(3) If the appellant does not comply with the exhortation and the appeal is so incomplete that it not suitable as the basis for proceedings in the Market Court, the appeal is dismissed without considering the merits. In exhorting the appellant to supplement his or her appeal the Market Court shall at the same time state the possible consequence for failure to comply with the exhortation.

Section 6 – *Written response*

(1) The Market Court on shall exhort the appellant's opposite party to submit a written response within the period set by the Market Court. The Market Court may, in its exhortation, specify which issue the response is to address in particular. The Market Court shall in connection with its exhortation in addition serve the appellant's opposite party with the appeal and the documents appended thereto.

(2) The Market Court may decide the case even if the appellant's opposite party has not submitted a response within the period set. In exhorting the appellant's opposite party to submit a response the Market Court shall at the same time state the possible consequence for failure to comply with the exhortation.

(3) No response, however, need be requested if the appeal is immediately dismissed without considering the merits or withdrawn or if the request for a response would be manifestly unnecessary for another reason.

Section 7 – *Contents of the response*

(1) The written response, which is addressed to the Market Court, shall indicate:

- (1) the case in which the response is submitted;

- (2) the opinion of the respondent of the claims of the appellant and the grounds of these claims;
- (3) the grounds to which the party submitting the response refers;
- (4) the evidence that the party submitting the response intends to present and what each piece of evidence intends to prove.

(2) The provisions of section 24 of the Act on Administrative Judicial Procedure apply in addition to the information that is to be provided in the written response and to the signing of the written response. The documents to which the party submitting the response refers shall be attached to the written response, unless they have already been delivered to the register authority.

(3) The Market Court may if necessary reserve the party submitting the response an opportunity to supplement his or her response within a time period set by the Market Court.

Section 8 – *Opinion of the register authority in an appeal*

(1) The Market Court shall request that the register authority submits its opinion of the appeal within the period set by the Market Court. The Market Court may, in its request, specify which issue the opinion is to address in particular.

(2) The Market Court may decide the case even if the register authority has not submitted an opinion within the period set. In requesting that the register authority submit an opinion the Market Court shall at the same time state the possible consequence of a failure to submit an opinion.

(3) An opinion need not be requested, however, if it is not necessary.

(4) In its opinion, the register authority shall present its views on the claims presented in the appeal and on the grounds of these claims. On the request of the Market Court, the register authority shall submit to the Market Court the documents that formed the basis for the decision that is the subject of the appeal, as well as the other necessary documents.

Section 9 – *Written opinion*

(1) The Market Court may exhort the parties or the register authority to submit a written opinion to it, within a time period set by the Market Court. In so doing the Market Court shall order on what issue the parties to the proceedings are to submit their opinion.

(2) The Market Court may decide the case even if a party to the proceedings has not submitted an opinion within the period set. In exhorting a party to the proceedings to submit an opinion, the Market Court shall at the same time state the possible consequence of a failure to submit an opinion.

Section 10 – Preparatory session

(1) In connection with the preparation, the Market Court may organize a preparatory session in order to achieve the purpose of preparation referred to in section 4.

(2) A preparatory session may also be held by telephone or through the use of another suitable form of communication in which the parties to the session are in oral communication with one another, if this is appropriate with consideration to the nature and scope of the issues to be considered in the hearing.

Section 11 – Consideration of the case in the preparatory session

(1) The Market Court shall summon the parties and a representative of the register authority to the preparatory session under threat that failure to appear shall not prevent the consideration of the case.

(2) The provisions of section 43, subsection 3 and section 45 of the Act on Administrative Judicial Procedure apply to service of the summons and to the keeping of a record of the preparatory session.

Section 12 – Other measures in the preparation

(1) The Market Court may decide in the preparation on the obtaining of the opinion of an expert witness, the presenting of a document or an object, the organization of a judicial view or on the undertaking of another necessary measure.

(2) The Market Court may also decide in the preparation on the organization of an oral hearing and on whether or not the parties are to be heard in person, and on what witnesses, expert witness and other persons to be heard for evidentiary purposes are to be heard in the oral hearing.

(3) The Market Court shall in the course of the preparation prepare a written summary of the claims presented in the case and on the grounds for these claims and on what each piece of evidence intends to prove, if this is deemed to promote the preparation. The parties and the register authority shall be reserved an opportunity to provide their opinion on the summary.

Section 13 – Stipulation of a time period for the presentation of proceedings documentation

(1) The Market Court may, in order to prevent delay or for another justified reason, exhort a party, within the period set by the Market Court:

- (1) to present his or her claims and their grounds;
- (2) to indicate all the evidence that he or she intends to present, and what he or she intends to prove with each piece of evidence;

- (3) to present all the written evidence to which he or she refers.
- (2) The request referred to above in subsection 1 is made with the threat that the party may not, after the end of the period set, refer to a new claim or circumstance or indicate new evidence unless he or she can show on the balance of probability that his or her conduct is due to a justified reason.
- (3) If after the set period referred to in subsection 1 a party wishes to refer to a new claim or circumstance or indicate new evidence, he or she shall inform the Market Court of this without delay and at the same time account for why he or she had not complied with the exhortation of the Market Court.

Section 14 – Oral hearing

- (1) The provisions of sections 37 and 39 of the Act on Administrative Judicial Procedure apply to the holding of an oral hearing.
- (2) The provisions of sections 39, 40 and 43-50 of the Act on Administrative Judicial Procedure apply to the consideration of a case in an oral hearing. The Market Court may, nonetheless, with the consent of a party or register authority, assign to the respective party in the proceedings the summoning to an oral hearing of a witness, expert witness or other person to be heard for the purpose of the presentation of evidence, if the Market Court deems there to be a justified reason for this.

Section 15 – Notice to the register authority of an appeal

- (1) The Market Court shall inform the respective competent register authority immediately of the initiation of an appeal. A notice of the initiation of the case need not be made, however, in respect of appeals which, according to the Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 10 and 14 are assigned to the jurisdiction of the Market Court nor of the appeals referred to in section 5, subsection 1, paragraph 6 of the Patent and Registration Office Act.
- (2) The Market Court shall send the respective competent register authority a copy of the decision in the appeal and at the same time notify the register authority whether or not the decision is legally final.

Section 16 – Application of the Administrative Judicial Procedure Act

To the extent not provided otherwise in this Act or in the Acts mentioned in Chapter 1, section 4, subsection 1, paragraph 1 or 5-14, the provisions of the Administrative Judicial Procedure Act apply to the consideration of the appeal in the Market Court.

Section 17 – *Application of the Code of Judicial Procedure*

Unless provided otherwise in this Act, or unless in respect of industrial property right or copyright civil or application cases provided otherwise in an Act mentioned in Chapter 1, section 4, subsection 1, paragraphs 1—10, 13 or 15 or subsection 2, the provisions of the Code of Judicial Procedure on the consideration of civil and application cases in District Court apply as appropriate to the consideration in the Market Court of the civil and application cases assigned to its jurisdiction in the Acts referred to in section 4, subsection 1, paragraphs 1-10, 13 and 15 and subsection 2 of said Act and to the consideration of the civil cases referred to in section 5 of said Chapter.

Section 18 – *Provisions applicable to industrial property right and application cases*

In addition to what is provided in section 17, what is provided below in this Chapter applies as appropriate to the consideration in the Market Court of the civil and application cases assigned to the jurisdiction of the Market Court in the Acts referred to above in Chapter 1, section 4, subsection 1, paragraphs 1—10 and 13.

Section 19 – *Obligation to give service*

(1) A person who intends to bring an action for the voiding, loss or nullification of a registered industrial property right or of an industrial property right or for the transfer of said right or for the granting of a compulsory licence to said right, referred to in an Act mentioned in Chapter 1, section 4, subsection 1, paragraph 1, 5-19 or 13, shall notify the relevant competent register authority thereof and shall in addition give notice thereof to every holder of a licence or patent registered in the register. If a holder of a licence intends to bring an action for a violation of the exclusive right provided by an industrial property right based on the registration referred to in an Act mentioned to in Chapter 1, section 4, subsection 1, paragraph 1, 5—9 or 13, he or she shall correspondingly notify the holder of said right thereof.

(2) The obligation to give service referred to above in subsection 1 is deemed to be completed when the notice has been submitted for the delivery of the post as a registered delivery to the address noted in the register in respect of the appropriate industrial property right.

(3) If in bringing the action it is not shown that the notice or service has been given in the manner referred to in subsections 1 and 2, the Market Court shall designate sufficient time for the plaintiff to do so. If the plaintiff neglects to comply with the time period, the action shall not be taken under consideration.

Section 20 – *Bring of a counter-action for voiding*

(1) If in a case concerning the violation of the exclusive right produced by an industrial property right referred to in an Act mentioned in Chapter 1, section 4, subsection 1, paragraph 1, 7—10 or 13 a claim is made regarding the voiding, loss or nullification of a registered industrial property right or an industrial property right, the Market Court shall, unless an action for this is pending, set a time period within which such action shall be brought under threat that otherwise the claim shall not be investigated. A claim regarding the loss of a plant breeding right, however, shall be made to Evira.

(2) The Market Court considers and decides the action for infringement and the counter-action referred to in subsection 1 in the same proceedings. The Market Court may, however, for special reasons interrupt the consideration of an action for infringement until such time as the counterclaim has been decided in a final manner.

(3) What is provided in subsections 1 and 2 on the industrial property rights referred to in Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1, 7—10 and 13 applies as appropriate also to a utility model and the layout design of an integrated circuit. A claim for the voiding of a utility model and the layout design of an integrated circuit shall, however, be made to the Patent and Registration Office.

(4) What is provided in subsection 1 and 2 applies as appropriate also if in an action regarding the infringement of the exclusive right produced by an established trademark, a claim is brought that the trademark should be declared lost.

Section 21 – *Action for a declaratory judgment*

(1) The provisions in section 19 on the obligation of a holder of a compulsory licence when he or she intends to bring an action for the violation of a registered industrial property right referred to in an Act mentioned in Chapter 1, section 4, subsection 1, paragraph 1, 5—9 or 13, applies as appropriate also to a case in which a declaratory action is brought concerning whether or not the exclusive right exists as a result of said industrial property right, or whether or not the plaintiff enjoys protection against others on the basis of said exclusive right.

(2) What is provided in section 20, subsections 1 and 2 on cases concerning a violation of an industrial property right referred to in an Act mentioned in Chapter 1, section 4, subsection 1, paragraphs 1, 7—10 and 13, applies as appropriate also to a declaratory action on whether the exclusive right exists as a

result of said industrial property right or whether or not the plaintiff enjoys protection against others on the basis of said exclusive right. A request for the loss of a plant breeder's right should, however, be made to Evira. What is provided in this subsection on industrial property rights referred to in the Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1, 7—10 and 13 applies as appropriate also to a utility model and the lay-out design of an integrated circuit. A claim for the declaration of a utility model or the lay-out design of an integrated circuit as void, however, should be made to the Patent and Register Office.

(3) What is provided in section 20, subsection 4 on a case concerning a violation of an exclusive right produced by an established copyright, applies as appropriate also to a declaratory action on whether or not whether or not the exclusive right exists, or whether or not the plaintiff enjoys protection against others on the basis of said exclusive right.

Section 22 – The opinion of the register authority in a civil and application case

(1) The Market Court may, in a civil and application case which according to the Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1—10 and 13 is assigned to the jurisdiction of the Market Court, request that the relevant competent register authority provide an opinion.

(2) In the request for an opinion the Market Court shall specify the questions on which an opinion is requested.

Section 23 – Notice to a register authority in a civil case

(1) The Market Court shall send to each relevant competent authority a copy of the decision in civil cases referred to in the Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1—10 and 13 and inform them at the same time whether or not the decision has become legally final.

(2) Provisions shall be issued as necessary in a decision of the Ministry of Justice on the obligation of the Market Court to provide notice of the decision it has made in a civil case referred to in subsection 1 by making an entry thereof in the judgment and statement of decision system in the national administration of justice information system or by providing the information to the Legal Register Centre for forwarding to the competent register authority. The provisions of the Act on the National Administration of Justice Information System (372/2010) and other provisions given on the basis of said Act apply to the making of the entry and to the provision of information.

Section 24 – European patent and the European Union systems for the protection of industrial property rights

(1) The provisions above in this Chapter on the consideration of a civil or application case in the Market Court apply also to the consideration of a case concerning a European patent referred to in section 70(f) of the Patent Act. The provisions in sections 19, 22 and 23 on the relevant competent register authority apply to the Patent and Registration Office.

(2) Council Regulation (EC) No 6/2002 on Community design and Council Regulation (EC) No 207/2009 on the Community trade mark contain provisions on the consideration of a civil or application case concerning a Community design or a Community trade mark that falls within the jurisdiction of the Market Court. In addition, the provisions of sections 17, 18 and 20 as well as section 21, subsection 2 apply, as appropriate, to the consideration of said cases in the Market Court.

(3) Council Regulation (EC) No 2100/94 on Community plant variety rights contains provisions on the consideration of a civil or application case concerning Community plant variety rights that is assigned to the jurisdiction of the Market Court. In addition, the provisions of sections 17, 18 and 20 as well as section 21, subsection 2 apply, as appropriate, to the consideration of said cases in the Market Court.

Chapter 5 — Consideration of market law cases

Section 1 – Initiation of a market law case

A market law case is initiated by a written application to be submitted to the Market Court.

Section 2 – Parties with the right to initiate a case

(1) The application referred to above in section 1 may be submitted by the following:

- (1) in cases in accordance with the Consumer Protection Act, by the Consumer Ombudsman, except in cases in accordance with Chapter 2, section 18 of said Act, in which case they may be submitted by the entrepreneur;
- (2) in cases in accordance with the Competition and Consumer Authority Act, by the Consumer Ombudsman;
- (3) in cases in accordance with section 13, subsection 1 of the Act on the Collection of Debts, by the Consumer Ombudsman or the entrepreneur on whom the injunction ordered by the Consumer Ombudsman is imposed, and in cases in accordance with subsection 2 of said sec-

tion, by the entrepreneur at whom the conduct in violation of section 4, 4(a), 4(b) or 7 of said Act is directed, or by a registered association that acts in protection of the interests of entrepreneurs;

- (4) in cases in accordance with the Payment Services Act, by the Consumer Ombudsman;
- (5) in cases in accordance with the Cooperatives Act, by an auditor examining savings fund activity or by a registered association that acts in protection of the interests of member investors and in which at least one half of the members are member investors;
- (6) in cases in accordance with the Act on the Regulation of Contract Terms between Businesses, by a registered association that acts in protection of the interests of entrepreneurs or the entrepreneur or procurement unit at which the use of the contract term or the contract practice is directed;
- (7) in cases in accordance with the Act on Cross-Border Injunction Proceedings, by a foreign association or authority as provided in greater detail in said Act.

(2) In cases concerning the imposition of the injunction referred to in section 6 of the Unfair Business Practices Act, the application referred to in section 1 of this Chapter may be made by the entrepreneur at whom the conduct referred to in sections 1-3 of said Act is directed or whose business it may harm or whose commercial secrets, technical models or technical instructions another entrepreneur has used or revealed in violation of the provisions of section 4 of said Act, or by an association that has been registered for the protection of the interests of entrepreneurs.

(3) In cases referred to in sections 121(a) and 121(b) of the Communications Market Act of the imposition of an injunction or the disconnecting of a number or the closing of a service, the application referred to in section 1 of this Act may be made by the communications company at which the decision of the Communications Regulatory Authority or the Consumer Ombudsman is directed, and in cases referred to in section 121(b) of said Act of the disconnecting of a number or the closing of a service also by the service provider whose service has been closed.

(4) In cases in accordance with section 36 of the Broadcasting Act, the application referred to in section 1 of this Act may be made by the Consumer Ombudsman.

(5) Nonetheless, an application for enforcement of a threatened monetary penalty for violation of an injunction may be made:

- (1) in cases in accordance with Chapter 2, section 18 of the Consumer Protection Act, by the Consumer Ombudsman;
 - (2) in cases involving the threat of a monetary penalty imposed by the Consumer Ombudsman in accordance with section 13, subsection 1 of the Act on the Collection of Debts, by the Consumer Ombudsman;
 - (3) in cases involving the threat of a monetary penalty imposed by the Communications Regulatory Authority in accordance with the Communications Market Act, by the Communications Regulatory Authority and correspondingly in cases involving the threat of a monetary penalty imposed by the Consumer Ombudsman in accordance with said Act by the Consumer Ombudsman.
- (6) Separate provisions apply to who has the right to initiate cases in accordance with the Lottery Act, the Alcohol Act and the Tobacco Act.

Section 3 – *Secondary right of initiation*

If the Consumer Ombudsman refuses to submit for the consideration of the Market Court a case in accordance with the Consumer Protection Act, the Act on the Competition and Consumer Authority, section 13, subsection 1 of the Act on the Collection of Debts or section 36 of the Broadcasting Act which concerns an injunction against a marketing measure, a contract term or a method of collection, the application referred to in section 1 may be made by a registered association that acts in protection of the interests of employees and consumers.

Section 4 – *Application*

- (1) The application shall indicate:
 - (1) the detailed claim of the applicant;
 - (2) the circumstances on which the claim is based;
 - (3) to the extent possible the evidence to which the applicant intends to refer in support of his or her application, and what he or she intends to prove with each piece of evidence;
 - (4) in a case concerning the imposition of an injunction referred to in section 6 of the Unfair Business Practices Act, a claim for compensation for legal costs, if the applicant deems this appropriate.
- (2) If a case is initiated after the decision of an authority, also the original or a copy of the decision made in the case shall be attached to the application together with a certificate of the date on which service was given of the decision.
- (3) The application shall indicate the names and places of residence of the parties and the contact information for their lawful representative or agent as well

as the postal address and possible other address to which summons, exhortations and notices regarding the case may be sent (*procedural address*). The Market Court shall be informed in a suitable manner also of the telephone number and other contact information of the parties. If a piece of information subsequently changes, the applicant shall inform the Market Court of this without delay.

(4) The application shall be signed by the party or, if he or she did not draft it, by the person who did draft it. The person who drafted the application shall at the same time indicate his or her profession and place of residence.

Section 5 – Preparation of the case

(1) Preparation of the case begins when the Market Court receives the application. The preparation may be written or oral.

(2) The preparation shall clarify:

- (1) the claims of the parties and their grounds;
- (2) on what points the parties disagree;
- (3) what evidence shall be presented and what each piece of evidence intends to prove.

Section 6 – Service of the application

(1) The Market Court shall give service of the application to the entrepreneur or other person against whom the claim is lodged. If the application concerns a decision or order of an authority, service of the application shall be given also to the authority whose decision or order the application concerns.

(2) In giving service, the Market Court shall exhort the recipient to respond to the application in writing within a specific period. The response shall:

- (1) state an opinion on the applicant's request and its grounds;
- (2) mention the facts on which the response is based;
- (3) to the extent possible the evidence to which the recipient intends to refer in support of his or her response, and what he or she intends to prove with each piece of evidence;
- (4) in a case concerning the imposition of an injunction referred to in section 6 of the Unfair Business Practices Act, a claim for compensation for legal costs, if the recipient deems this appropriate.

(3) The Market Court may in addition exhort the recipient to state an opinion on a specific question.

(4) In the notice of service, the recipient shall be exhorted to provide the contact address of his or her lawful representative or agent as well as the postal address and possible other address to which summons, exhortations and notices

regarding the case may be sent (*procedural address*). The notice of service shall state that service of a document may be given to a party by sending it to the procedural address that he or she has indicated in his or her response. The recipient shall also provide the Market Court, in a suitable manner, his or her own telephone number and other contact information. If a piece of information subsequently changes, the recipient shall inform the Market Court of this without delay.

(5) The notice of service shall in addition state that the response shall be signed by the party or, if he or she did not draft it, by the person who did draft it, and that the person who drafted it shall indicate his or her profession and place of residence.

(6) Service is given as provided in Chapter 11, sections 3, 3(b) and 4, section 5, subsection 1 and sections 7—10 of the Code of Judicial Procedure.

Section 7 – Service of an application for the imposition of an injunction referred to in section 6 of the Act on Unfair Business Practices

The Market Court shall give service to the Consumer Ombudsman of the application referred to in section 2, subsection 2.

Section 8– Service of the application in certain other cases

(1) The Market Court shall give service of an application of the association mentioned in section 2, subsection 1, paragraph 5 to the auditor of the cooperative who audits the savings fund.

(2) The Market Court shall give service of an application of the foreign association or authority mentioned in section 2, subsection 1, paragraph 7 to the Consumer Ombudsman, the National Supervisory Authority for Welfare and Health or the Communications Regulatory Authority, each in a case falling within its jurisdiction. Said authority shall be reserved an opportunity to be heard, unless such hearing would unnecessarily delay a decision in the case.

Section 9 – Consideration of a request for a temporary injunction

(1) A request for the imposition of a temporary injunction may be considered in written procedure.

(2) A request of the Consumer Ombudsman for the imposition of a temporary injunction in a case in accordance with the Consumer Protection Act, the Competition and Consumer Authority Act, section 13, subsection 1 of the Collection of Debts Act or section 36 of the Broadcasting Act may be decided even if service of it has not been given to the person against whom the request is directed.

Section 10 – *Hearing*

(1) The Market Court shall hold a hearing in a market law case.

(2) No hearing, however, need be held to the extent that a case is dismissed without considering the merits, the case is withdrawn or a settlement is reached in the case. The Market Court may decide a case without a hearing also if the nature of the case is such that deciding it does not require the holding of a hearing, and none of the parties opposes the case being decided in written procedure.

(3) The Market Court may decide that after preparation the consideration of the case is continued as provided in Chapter 6 of the Code of Judicial Procedure for the main hearing in civil cases. In other cases a hearing may be held to clarify solely one or some issues. Should this be done, the consideration of the case may be continued in the registry or in a new hearing.

Section 11 – *Summons to a hearing*

(1) The applicant and the opposite party as well as other persons with party standing and the supervisory authorities shall be summoned to the hearing of the Market Court. If a case has been initiated by an application of an entrepreneur in accordance with Chapter 2, section 18 of the Consumer Protection Act, the Consumer Ombudsman is the supervisory authority to be summoned to the hearing.

(2) If the applicant is absent from the hearing, the case shall be dismissed without considering the merits. If the opposite party is absent, the case may be decided regardless of the absence.

(3) Service of the summons to the hearing shall be made as provided in Chapter 11, sections 3, 3(a), 3(b) and 4, section 5, subsection 1 and sections 7–10 of the Code of Judicial Procedure.

Section 12 – *Clarification in the case*

The Market Court may on its own motion seek clarification in the case and require that an entrepreneur provides the information needed for clarification of the case. However, the revelation of a business or professional secret may not be required unless there is a special reason for this. The requirement may be enhanced with the threat of a fine.

Section 13 – *Injunction against enforcement or staying of enforcement*

(1) If the application concerns a decision or order of an authority, the Market Court may, when there is reason for this, before deciding the application order

that the decision or order of the authority may not be enforced for the time being or that enforcement be stayed.

(2) The injunction against enforcement or the stay of enforcement referred to above in subsection 1 may be considered in written procedure.

Section 14 – *Decision*

(1) The judgment of the Market Court in a case referred to in this Chapter takes the form of a decision. The decision, which is drafted as a separate document, shall state:

- (1) the name of the court and the date on which the decision was issued or pronounced;
- (2) the names of the parties;
- (3) a statement of the claims and responses of the parties together with their grounds;
- (4) a list of the persons who provided testimony and of other evidence submitted;
- (5) the grounds;
- (6) the statement of decision;
- (7) the name and position of the members deciding the case and a statement on whether or not a vote was taken on the decision.

(2) If a vote was taken on the decision, the minority opinions shall be attached.

(3) If the decision contains an injunction or an order for the enforcement of a remedial measure, the decision shall specify who are bound thereby as well as the date by which the injunction or order shall be enforced.

Section 15 – *Compensation from state funds*

(1) A person who has been heard in the Market Court as a witness or expert witness in a case referred to in the Consumer Protection Act, the Consumer Authority Act, section 13, subsection 1 of the Act on the Collection of Debts, the Act on Cross-Border Injunction Proceedings, and section 36 of the Broadcasting Act shall be paid compensation from state funds as provided in the Act on Costs of Evidence Payable from State Funds (666/1972).

(2) The Market Court may, in its decision, obligate a party other than the Consumer Ombudsman or the foreign authority or organisation referred to in section 2, subsection 1, paragraph 7 to reimburse the state for the costs referred to in subsection 1.

Section 16 – *Legal costs and fees*

(1) The parties shall themselves bear their legal costs in the Market Court in a case referred to in this Chapter. In cases concerning the imposition of an injunction referred to in section 6 of the Act on Unfair Business Practices, however, the provisions of the Code of Judicial Procedure on the compensation of legal costs apply.

(2) Separate provisions apply to fees collected by the Market Court. The parties and the persons summoned to be heard shall not be charged for copies of extracts from the court record or the decisions supplied to them.

Section 17 – *Application of the Code of Judicial Procedure*

To the extent not otherwise provided in this Act or in Acts mentioned in Chapter 1, section 6, market law cases referred to in this Chapter are considered in the Market Court in other respects in accordance, as appropriate, with the provisions in the Code of Judicial Procedure on the consideration of civil cases.

Chapter 6 — Miscellaneous provisions

Section 1 – *Consideration of civil cases involving industrial property rights and copyright in the same legal proceedings*

(1) Civil cases assigned to the jurisdiction of the Market Court in Acts mentioned above in Chapter 1, section 4, subsection 1, paragraphs 1-10, 13 or 15 or in subsection 2 that involve the same or different parties may be considered in the same legal proceedings, if this promotes the clarification of the cases.

(2) The Market Court may, if there is reason for this, separate cases referred to in subsection 1 for consideration as separate cases.

Section 2 – *Consideration of a civil case involving industrial property rights or copyright together with another civil case in the same legal proceedings*

(1) Civil cases assigned to the jurisdiction of the Market Court in Acts mentioned above in Chapter 1, section 4, subsection 1, paragraphs 1-10, 13 or 15 or in subsection 2, and a civil case referred to in section 5 of said Chapter, may be considered in the same legal proceedings.

(2) If an action referred to in Chapter 1, section 5, subsection 2 is brought after the preparation of a civil case referred to in an Act mentioned in section 4, subsection 1, paragraphs 1–10, 13 or 15 or section 2 of said Chapter has been declared closed in accordance with Chapter 5, section 28, subsection 1 of the Code of Judicial Procedure, the Market Court may consider the civil cases separately if they cannot be considered in the same legal proceedings without hindrance. The same may be done also when an action referred to in Chapter 1,

section 5, subsection 2 has been brought after the time set for a party in accordance with Chapter 5, section 22 of the Code of Judicial Procedure has ended.

Section 3 – Consideration of civil cases involving industrial property rights or copyright cases and of market law cases in the same legal proceedings

(1) Civil and market law cases assigned to the jurisdiction of the Market Court in Acts mentioned above in Chapter 1, section 4, subsection 1, paragraphs 1-10, 13 or 15 or in subsection 2 may be considered in the same legal proceedings if the cases are connected with one another and their consideration together does not result in hindrance.

(2) After the Market Court has decided to consider together in the same legal proceedings cases referred to in subsection 1, their consideration continues in the order provided for civil cases. Notwithstanding this, the provisions of Chapter 5, sections 2 and 3, section 6, subsection 1 and sections 7—9, 13, 15 and 16 apply.

(3) The Market Court may, if there is reason for this, separate cases referred to in subsection 1 for consideration as separate cases.

Section 4 – Consideration in the same legal proceedings of market law cases

(1) Market law cases between the same or different parties may be considered in the same legal proceedings if this promotes clarification of the cases.

(2) The Market Court may, if there is reason for this, separate cases referred to in subsection 1 for consideration as separate cases.

Section 5 – Publicity of the proceedings

The Act on the Publicity of Proceedings in Administrative Courts (381/2007) applies to the publicity of proceedings in the Market Court in competition and supervision cases, procurement cases and appeals. In other respects the Act on the Publicity of Proceedings in General Courts (370/2007) contains provisions on the publicity of proceedings in the Market Court.

Section 6 – The speed of the legal proceedings, the order of consideration of cases and ordering that a case be dealt with as a matter of urgency

(1) Cases shall be considered in the Market Court within a reasonable time period, without unnecessary delay.

(2) Unless separately provided otherwise, cases shall be considered in the Market Court in the order in which they were initiated, unless there is reason to depart from this, with special regard to the length of the consideration of the case, the nature of the case and the significance to the parties.

(3) The Market Court may, on a written application from a party in the legal proceedings, order that the case shall be dealt with as a matter of urgency if there is a particularly weight reason for considering the case before other cases, having regard to the length of the consideration of the case, the nature of the case and the significance to the parties as well as the other grounds for ordering that the case be dealt with as a matter of urgency. The provisions of Chapter 19 of the Code of Judicial Procedure apply as appropriate to the application requesting that a case be dealt with as a matter of urgency. Section 18 of the Market Court Act, however, contains provisions on the quorum in the Market Court when deciding on an application requesting that a case be dealt with as a matter of urgency. The decision of the Market Court on ordering that a case be dealt with as a matter of urgency is not subject to separate appeal.

Section 7– Issuing or pronouncing the decision in administrative judicial procedure cases

(1) In competition and supervision cases, procurement cases and appeals the decision of the Market Court is issued after the end of the deliberation on the decision.

(2) In a case in which the Market Court holds an oral hearing, the decision may, notwithstanding the provisions in subsection 1, also be pronounced after the end of the deliberation on the decision. If the decision need not pronounced in full, the grounds and the outcome of the decision shall be pronounced. In so doing, should the parties consent to this, the grounds need be pronounced only in general. If a vote has been taken on the decision, this shall be stated when the decision is pronounced.

(3) The final decision shall be issued within 30 days of the conclusion of the oral hearing. If for a special reason the decision cannot be issued within said period, it shall be issued as soon as possible. When a case is decided without the holding of an oral hearing, the decision shall be issued without delay.

(4) The provisions of section 55 of the Act on Administrative Judicial Procedure apply to service of the decision.

Section 8 – Issuing or pronouncing the decision in other cases

(1) In civil and application cases assigned to the jurisdiction of the Market Court by the Acts mentioned to in Chapter 1, section 4, subsection 1, para-

graphs 1—10, 13 and 15 and subsection 2 above, in the civil law cases referred to in section 5 of said Chapter, and in market law cases, the decision of the Market Court is pronounced after the end of the deliberation on the decision or is issued in the registry of the Market Court. The proclaimed decision is dated to indicate the date that it was proclaimed, and a decision issued in the registry is dated to indicate when it has been available for the parties.

(2) If it is not necessary to proclaim the decision in full, the grounds and the statement of judgment or statement of decision shall be pronounced. In so doing, should the parties consent to this, the grounds need be pronounced only in general. If a vote has been taken on the decision, this shall be stated when the decision is pronounced.

(3) The judgment and final decision shall be issued within 30 days of the conclusion of the main hearing or the hearing. If for a special reason the decision cannot be issued within said period, it shall be issued as soon as possible. When a case is decided without the holding of a main hearing or a hearing, the decision shall be issued without delay.

(3) The judgment and the final decision shall be issued within 30 days of the conclusion of the main hearing or the hearing. If for a special reason the decision cannot be issued within said period, it shall be issued as soon as possible. When a case is decided without the holding of a main hearing or hearing, the decision shall be issued without delay.

(4) The Market Court shall send a copy of its decision to each of the parties. A copy of the decision may be sent by post if no other form of service is deemed necessary.

Chapter 7 — Appeal against a judgment of the Market Court

Section 1 – *Appeal in competition and supervision cases and in procurement cases*

Appeal against a decision of the Market Court in a competition or supervision case or in a procurement case is to the Supreme Administrative Court as provided in the Acts mentioned in Chapter 1, sections 2 and 3.

Section 2 – *Appeal in appeal cases*

(1) The decision of the Market Court in an appeal case is subject to appeal to the Supreme Administrative Court only if the Supreme Administrative Court grants leave of appeal. The appeal shall be made within 30 days of service of the decision of the Market Court.

(2) If in the cases referred to in subsection 1 an appeal cannot be lodged within the prescribed period due to a lawful impediment or another acceptable reason,

the Market Court shall on the basis of an application set a new time period for appeal. The new time period shall be requested from the Market Court with a written application submitted before the end of the original time period. An account of the impediment faced by the application or of the other reason that serves as grounds for the application shall be appended to the application.

(3) The provisions of the Act on Administrative Judicial Procedure apply otherwise to the lodging of an appeal.

Section 3 – Consideration in the Supreme Administrative Court of appeal cases

The provisions of Chapter 4, section 13 and section 15, subsection 2 apply as appropriate to the consideration in the Supreme Administrative Court of a case referred to above in section 2.

Section 4 – Appeal in civil and application cases concerning industrial property rights and copyright as well as in market law cases

(1) Decisions of the Market Court in civil and application cases assigned to its jurisdiction by the Acts mentioned in Chapter 1, section 4, subsection 1, paragraphs 1—10, 13 and 15 and subsection 2, in civil cases referred to in Chapter 1, section 5, and in market law cases, are subject to appeal to the Supreme Court, if the Supreme Court grants leave of appeal on the basis of Chapter 30, section 3 of the Code of Judicial Procedure.

(2) The letter of appeal, which shall contain an application for appeal and the appeal, shall be submitted together with the decision of the Market Court to the registry of the Market Court. In other respects the provisions of Chapter 30 of the Code of Judicial Procedure on appeal in cases dealt with by the court of appeal as the appellate level, apply to the procedure in seeking leave of appeal and in considering the case.

(3) A decision of the Market Court may be enforced in the manner provided for the enforcement of a legally final judgment. The Supreme Court may, however, order that the decision may not be enforced for the time being or that enforcement that has been begun may not be continued.

(4) The provisions of Chapter 31 of the Code of Judicial Procedure on civil cases apply as appropriate to extraordinary means of appeal in a case referred to in this section; however, also an extraordinary appeal on the basis of procedural fault shall be made to the Supreme Court.

Section 5 – Consideration in the Supreme Court of civil and application cases concerning industrial property rights

The provisions of Chapter 4, sections 20, 21, subsections 2 and 3 as well as sections 22—24 apply as appropriate to the consideration in the Supreme Court of a civil or application case referred to above in Chapter 4, section 18.

Chapter 8 — Entry into force

Section 1 – *Entry into force*

- (1) This Act enters into force on 1 September 2013.
- (2) This Act repeals the Act on the Consideration of Certain Market Law Cases (1528/2001).
- (3) If another Act or Decree contains a reference to the Act on the Consideration of Certain Market Law Cases, the corresponding provision of the present Act applies.

Section 2 – *Transitional provisions*

- (1) A case which is initiated in the Market Court before this Act enters into force shall be considered in accordance with the provisions that were in force at the time this Act enters into force.
- (2) Measures necessary for the implementation of this Act may be undertaken before it enters into force.