

TABLE OF CONTENTS

Foreword.....	I
Introduction.....	1
Chapter 1 - Inspections Upon Decision (Regulation 1/2003, Article 20(4))	7
I. Nature, Agents and Scope	7
1. Nature of inspection powers under Regulation 1/2003, article 20(4)...	7
2. Competent authority and agents	9
3. Scope of Article 20(4).....	12
4. Evidence-gathering and allocation of cases within the ECN	14
II. Compatibility With Fundamental Rights.....	17
1. Inspections and privacy rights	18
2. Inspections and due process.....	25
III. The Decision Ordering Inspections.....	42
1. Adoption procedure	42
2. Formal and substantive requirements	44
3. No prior EU judicial review	50
4. National court order(s)	52
IV. The Arrival of Inspectors and Notification of the Decision.....	59
1. The arrival of inspectors	59
2. Presence of a representative of the addressee of the decision and of external advisers	67
3. Notification of the inspection decision.....	72
4. Setting the inspection process.....	86
V. The Cooperation Obligation and Penalties Incurred for Obstruction or Lack of Cooperation.....	87
1. The duty to cooperate actively	88
2. Obstruction and applicable penalties	90
3. Other consequences	99
VI. The Premises Subject to the Inspection	100
1. Scope of the decision in relation to business premises	101
2. Access to business premises in practice.....	103
3. Other premises including private homes	106

Table of Contents

VII.	The Search, Review and Copy of Relevant Information	109
	1. Documents and data which are considered relevant.....	110
	2. Out-of-scope documents and data.....	112
	3. Legally privileged documents.....	117
	4. Other potential issues in relation to documents and data.....	123
	5. The document and data collection and review process in practice	128
VIII.	Seals	135
IX.	Questions and Interviews	140
	1. Types of questions which need to be answered.....	141
	2. Persons responsible for answering questions	144
	3. Obligation to cooperate	144
	4. Statements made by members of staff	145
	5. Organisation of questions and answers	146
X.	End of the Inspection.....	148
	1. Finalisation of minutes and document exports.....	149
	2. Response Team debriefing	150
XI.	Continued Inspections.....	151
	1. Principle.....	152
	2. Sealing off the data and documents with a view to a continued inspection	154
	3. Choosing between the offices of the Commission and those of the inspected company	157
	4. The continued inspection	158
XII.	Judicial Review	158
	1. <i>Ex post</i> judicial review with very limited exceptions.....	158
	2. Judicial review of the legality of the inspection decision	160
	3. Action for annulment against the final decision	162
	4. Other potential actions	163
	5. Judicial review of the national judicial order (if any).....	166
	6. Interaction with the case team and Hearing Officer	166
 Chapter 2 - Inspections Upon Authorisation		
	(Article 20(3))	167
I.	Compatibility with Fundamental Rights.....	167
II.	Authorisation to Conduct an Inspection	168
III.	The Arrival of Inspectors.....	169
IV.	The Cooperation Obligation and the Penalties Incurred.....	171

V.	Premises Subject to the Inspection	172
VI.	Review and Copy of Relevant Information	173
VII.	Seals.....	173
VIII.	Oral Questions	173
IX.	End of the Inspection.....	174
X.	Judicial Review	174
 Chapter 3 - Specific Inspection Procedures.....		175
I.	The Inspection Procedure under the Merger Regulation	175
II.	The State Aids Inspection Procedure	177
III.	Inspection Procedure Imposed by an Individual Decision	179
 Chapter 4 - European Competition Network Inspections....		181
I.	Implementation of Article 22 by/for the French Competition Authority (Inspections)	181
II.	Delegation by the Commission	182
	1. Cases for delegation	182
	2. Powers of inspectors	183
	3. Next steps in the procedure	184
	4. Judicial review.....	184
III.	Delegation to/from Another NCA	185
	1. Cases for delegation	185
	2. Powers of inspectors	186
	3. Next steps in the procedure	187
	4. Judicial review.....	188
 Index		189