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**ACTS SUPPLEMENT**  
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The following Act was passed by Parliament on 19 March 2018 and assented to by the President on 11 April 2018:—

**REPUBLIC OF SINGAPORE**

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**No. 15 of 2018.**

I assent.

HALIMAH YACOB,  
*President.*  
*11 April 2018.*

(LS)

An Act to amend the Competition Act (Chapter 50B of the 2006 Revised Edition).

Be it enacted by the President with the advice and consent of the Parliament of Singapore, as follows:

**Short title and commencement**

1. This Act is the Competition (Amendment) Act 2018 and comes into operation on a date that the Minister appoints by notification in the *Gazette*.

**Amendment of section 44**

2. Section 44 of the Competition Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) On an application under this section, the Commission may make a decision as to —

- (a) whether the section 34 prohibition has been infringed; and
- (b) if it has not been infringed, whether that is —
  - (i) because of the effect of an exclusion;
  - (ii) because the agreement is exempt from the prohibition; or
  - (iii) because a commitment has been accepted pursuant to section 60A(1A).”.

**Amendment of section 51**

3. Section 51 of the Competition Act is amended by deleting subsection (2) and substituting the following subsection:

“(2) On an application under this section, the Commission may make a decision as to —

- (a) whether the section 47 prohibition has been infringed; and
- (b) if it has not been infringed, whether that is —
  - (i) because of the effect of an exclusion; or
  - (ii) because a commitment has been accepted pursuant to section 60A(1B).”.

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**New section 55A**

4. The Competition Act is amended by inserting, immediately after section 55, the following section:

**“Confidential advice by Commission on anticipated mergers**

**55A.**—(1) A party to an anticipated merger may apply to the Commission for its advice as to whether the view of the Commission is that the anticipated merger, if carried into effect, is likely to infringe the section 54 prohibition.

(2) Subject to regulations made under subsection (5), the Commission may issue the advice under subsection (1) if the Commission is satisfied —

- (a) that all parties to the anticipated merger intend to carry into effect the anticipated merger;
- (b) that no information relating to the anticipated merger is in the public domain at the time that the application under subsection (1) is made; and
- (c) if information relating to the anticipated merger enters the public domain after the application under subsection (1) is made, that there are good reasons for the applicant not notifying the Commission of the anticipated merger and not applying to the Commission for its decision, under section 57.

(3) Despite subsection (2), the Commission may refuse to issue the advice mentioned in subsection (1) if the Commission is of the view that, given the facts and circumstances of the anticipated merger, the parties to the anticipated merger are able to assess whether an application under section 57 in respect of the anticipated merger should be made without the advice.

(4) Advice issued by the Commission under this section is not binding on the Commission.

- (5) The Minister may make regulations to provide —
- (a) that the Commission may issue advice under this section in relation to only such anticipated mergers as are prescribed; and
  - (b) for the procedure to be followed —
    - (i) by any party making an application under this section; and
    - (ii) by the Commission, in considering such an application.”.

**Amendment of section 57**

5. Section 57(2) of the Competition Act is amended —
- (a) by deleting the words “sections 60A and 60B” and substituting the words “sections 60A(1) and 60B(1)”; and
  - (b) by deleting the words “section 60A” in paragraph (b)(iii) and substituting the words “section 60A(1)”.

**Amendment of section 58**

6. Section 58(2) of the Competition Act is amended —
- (a) by deleting the words “sections 60A and 60B” and substituting the words “sections 60A(1) and 60B(1)”; and
  - (b) by deleting the words “section 60A” in paragraph (b)(iii) and substituting the words “section 60A(1)”.

**Amendment of section 60A**

7. Section 60A of the Competition Act is amended —
- (a) by inserting, immediately after subsection (1), the following subsections:
    - “(1A) The Commission may, at any time before making a decision pursuant to an application under section 44 or an investigation under section 62(1)(a) as to whether the section 34 prohibition has been infringed by an agreement, accept from such person as

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the Commission thinks appropriate, a commitment to take or refrain from taking such action as the Commission considers appropriate for the purpose of remedying, mitigating or preventing the prevention, restriction or distortion of competition which has resulted or may be expected to result from the agreement.

(1B) The Commission may, at any time before making a decision pursuant to an application under section 51 or an investigation under section 62(1)(b) as to whether the section 47 prohibition has been infringed by any conduct, accept from such person as the Commission thinks appropriate, a commitment to take or refrain from taking such action as the Commission considers appropriate for the purpose of remedying, mitigating or preventing the abuse of a dominant position in a market which has resulted or may be expected to result from the conduct.”;

- (b) by deleting the words “subsection (1)” in subsection (3) and substituting the words “subsection (1), (1A) or (1B), whichever is applicable, and any reference to a commitment accepted under any of those subsections includes a reference to a commitment varied or substituted under this subsection”; and
- (c) by deleting the words “subsection (1)” in subsection (4) and substituting the words “subsection (1), (1A) or (1B), whichever is applicable”.

### **Amendment of section 60B**

**8.** Section 60B of the Competition Act is amended —

- (a) by deleting the words “section 60A” in subsection (1) and substituting the words “section 60A(1)”;

(b) by inserting, immediately after subsection (1), the following subsections:

“(1A) Where the Commission has accepted a commitment under section 60A(1A) in relation to an agreement, and subject to subsection (2), the Commission must make a decision that the section 34 prohibition has not been infringed by the agreement.

(1B) Where the Commission has accepted a commitment under section 60A(1B) in relation to any conduct, and subject to subsection (2), the Commission must make a decision that the section 47 prohibition has not been infringed by the conduct.”; and

(c) by inserting, immediately after the words “subsection (1)” in subsections (2) and (3), the words “, (1A) or (1B)”.

### **Amendment of section 63**

9. Section 63 of the Competition Act is amended by inserting, immediately after subsection (4), the following subsections:

“(4A) For the purposes of an investigation under section 62, a person who is empowered to enter any premises under section 64(1), or who is authorised under a warrant under section 65 to enter the premises specified in the warrant, may —

(a) orally examine any individual on the premises who appears to be acquainted with the facts and circumstances relevant to the investigation that is being carried out; and

(b) require the individual to answer any question relating to the investigation.

(4B) Any information provided verbally by an individual under subsection (1), or any answer given or statement made by an individual under subsection (4A), must —

(a) be reduced to writing;

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- (b) be read over to the individual;
  - (c) if the individual does not understand English, be interpreted for the individual in a language that the individual understands; and
  - (d) after correction (if any), be signed by the individual.”.

#### **Amendment of section 64**

**10.** Section 64 of the Competition Act is amended —

- (a) by deleting the word “he” in subsection (5)(b)(i) and substituting the words “the investigating officer, authorised person, inspector or person required by the inspector”;
- (b) by deleting the words “any such document” in subsection (5)(c) and substituting the words “any document mentioned in paragraph (b)(i)”;
- (c) by inserting, immediately after subsection (5), the following subsection:

“(6) The power to require any person on the premises to produce any document under subsection (5)(b) includes the power to require that person to produce the document at such time and place, and in such form and manner, as may be required by the investigating officer, authorised person, inspector or person required by the inspector.”.

#### **Amendment of section 65**

**11.** Section 65(2) of the Competition Act is amended by inserting, immediately after paragraph (vi), the following paragraph:

“(via) to require any person on the premises to produce any document of the relevant kind at the time and place, and in the form and manner, required by the named officer or other officer or person whom the Commission has authorised in writing to accompany the named officer, or by any other

person required under paragraph (b) by an inspector;”.

### **Amendment of section 75**

**12.** Section 75(3) of the Competition Act is amended by inserting, immediately after the word “information” in paragraph (a), the words “or answer any question posed to him”.

### **Repeal and re-enactment of section 90**

**13.** Section 90 of the Competition Act is repealed and the following section substituted therefor:

#### **“Protection from personal liability**

**90.** No liability shall lie personally against any of the following persons for anything done or purported to be done, or omitted to be done, in good faith and with reasonable care in the performance or purported performance of any function of the Commission or the exercise or purported exercise of any power of the Commission under this Act or any other written law:

- (a) the Chief Executive;
- (b) any member, officer, employee or agent of the Commission;
- (c) any member of the Board or any person authorised, appointed or employed to assist the Board;
- (d) any person who is on secondment or attachment to the Commission;
- (e) any person authorised, appointed, employed or directed by the Commission to exercise the Commission’s powers, perform the Commission’s functions or discharge the Commission’s duties or to assist the Commission in the exercise of the Commission’s powers, the performance of the Commission’s functions or the discharge of the Commission’s duties;



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- (f) any inspector or any person authorised, appointed or employed to assist the inspector in connection with any function or duty of the inspector.”.

**Transitional provision**

**14.** Sections 2, 3 and 7 apply to the following respectively, whether made or commenced before, on or after the date of commencement of this Act:

- (a) an application under section 44 or 51;
- (b) an investigation under section 62(1)(a) or (b).
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