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COMPETITION ACT
(CHAPTER 50B)

COMPETITION REGULATIONS 2007

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In exercise of the powers conferred by section 93 of the Competition Act, the Competition Commission of Singapore, with the approval of the Minister for Trade and Industry, hereby makes the following Regulations:

PART I
PRELIMINARY

Citation and commencement

1. These Regulations may be cited as the Competition Regulations 2007 and shall come into operation on 1st July 2007.

Definitions

2. In these Regulations, unless the context otherwise requires —

“confidential information” means —

- (a) commercial information the disclosure of which would, or might, in the opinion of the Commission, significantly harm the legitimate business interests of the undertaking to which it relates;
- (b) information relating to the private affairs of an individual the disclosure of which would, or might, in the opinion of the Commission, significantly harm the individual’s interests; or
- (c) information the disclosure of which would, in the opinion of the Commission, be contrary to the public interest;

“internal document” means —

- (a) a document —
 - (i) produced by the Commission or any other public authority; or
 - (ii) exchanged —
 - (A) between the Commission and any other public authority; or

(B) between such other public authorities; or

- (b) a document produced by any person from time to time retained under a contract for services by the Commission or any other public authority in connection with such a contract;

“public authority” includes —

- (a) a court or tribunal and any person or body exercising functions of a public nature; and
- (b) in any country or territory outside Singapore, a court or tribunal and any person or body which appears to the Commission to be exercising functions of a public nature;

“working day” means any day which is not a Saturday, Sunday or a public holiday;

“writing” includes text that is —

- (a) transmitted by electronic means;
- (b) received in legible form; and
- (c) capable of being used for subsequent reference.

PART II

COMMITMENTS

Applications to vary, substitute or release commitments

3.—(1) A party who provided a commitment may apply to the Commission to vary, substitute or release the commitment.

(2) The applicant shall —

- (a) within 2 working days of the application under paragraph (1), give notice that the application has been made —
- (i) to all other parties to the anticipated merger in respect of which the commitment was given and of whom he knows; or

(ii) to all other parties involved in the merger in respect of which the commitment was given and of whom he knows,

as the case may be; and

(b) provide a copy of such notice to the Commission within 2 working days from the date of the notification.

(3) An application under paragraph (1) shall be made to the Commission in such manner as the Commission may specify on the Commission's Internet website in an online location accessible to the public from time to time.

(4) The Commission may, at any time after the application under paragraph (1) is made, require the applicant to submit such other information (including any document) as the Commission thinks fit.

(5) Where, before the Commission makes a decision on an application under paragraph (1), there is any material change to any information submitted to the Commission (whether as contained in the application, under paragraph (4) or otherwise), the applicant shall give notice of that change to the Commission without delay.

(6) Without prejudice to the generality of the Commission's power to refuse an application under paragraph (1), the Commission may refuse the application if —

- (a) the applicant does not comply with paragraph (2);
- (b) the application is not made in accordance with paragraph (3);
- (c) the Commission has reasonable grounds for suspecting that any information submitted to the Commission (whether as contained in the application, under paragraph (4) or otherwise) is incomplete, false or misleading in a material particular;
- (d) the Commission's request for any information under paragraph (4) is not complied with; or
- (e) the Commission has reasonable grounds for believing that there has been a material change in any information submitted to the Commission (whether as contained in the

application, under paragraph (4) or otherwise), and such change has not been notified to the Commission under paragraph (5).

Consultation and decisions in respect of commitments

4.—(1) Where the Commission proposes to consult any person prior to accepting, varying, substituting or releasing a commitment, it shall —

- (a) give notice to that person; and
- (b) state in that notice the action the Commission proposes to take, its reasons for proposing such action and the period within which that person may make written representations to the Commission on these matters.

(2) Where, at the end of the period referred to in paragraph (1)(b), no written representations on the matters referred to in the notice have been made by the person to whom the notice was given, the Commission may proceed with its decision in respect of the commitment.

(3) Where, pursuant to an application under regulation 3, the Commission has made a decision not to vary, substitute or release a commitment, it —

- (a) shall give notice of the decision to —
 - (i) the applicant; and
 - (ii) the parties to the anticipated merger or parties involved in the merger, as the case may be, whom the applicant notified under regulation 3(2)(a),
stating the facts on which it bases the decision and its reasons for the decision; and
- (b) may publish the decision.

(4) Where the Commission has made a decision to vary, substitute or release a commitment, it shall —

- (a) give notice of the decision to —
 - (i) the applicant; and

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- (ii) the parties to the anticipated merger or the parties involved in the merger, as the case may be, whom the applicant notified under regulation 3(2)(a); and
- (b) publish —
- (i) the decision; and
 - (ii) in the case of a decision to vary or substitute a commitment, the varied or substituted commitment.

PART III GUIDANCE

Giving guidance

5.—(1) Where an application has been made to the Commission for guidance under section 43 or 50 of the Act and the Commission gives guidance to the applicant, it shall state the facts on which the guidance is based and its reasons for the guidance.

(2) The Commission may determine an application for guidance by exercising its discretion not to give guidance, whereupon the Commission shall give notice to the applicant of that fact.

Further action after guidance referred to in section 45(1) or 52(1) of Act

6. If, having given guidance of the kind referred to in section 45(1) or 52(1) of the Act, the Commission proposes to take further action under Part III of the Act, it shall consult the applicant to whom it gave the guidance.

PART IV

PROPOSED DECISIONS IN RESPECT OF INVESTIGATIONS

Proposed infringement decision

7.—(1) Where the Commission has conducted an investigation into any agreement or conduct and the Commission proposes to make a decision that the section 34 prohibition or the section 47 prohibition has been infringed, as the case may be, the Commission shall —

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- (a) give notice of this to each person whom the Commission considers is or was a party to the agreement, or is or was engaged in the conduct, as the case may be, which the Commission considers has infringed a prohibition; and
- (b) state in such notice which prohibition the Commission considers has been infringed.
- (2) Where the Commission has conducted an investigation into any anticipated merger or merger and the Commission proposes to make a decision that —
- (a) an anticipated merger, if carried into effect, will infringe the section 54 prohibition; or
- (b) a merger has infringed the section 54 prohibition,
- the Commission shall give notice of this to each person whom the Commission considers is or was a party to the anticipated merger or party involved in the merger, as the case may be.
- (3) Regulation 8 shall apply to a notice given by the Commission under this regulation.

Notices, access to file and representations

- 8.**—(1) Every notice referred to in regulation 7 shall state —
- (a) the facts on which the Commission relies and its reasons for the proposed decision;
- (b) the period within which a relevant person may make representations to the Commission, which shall be in the form of a written statement, identifying the information contained in the notice which that relevant person considers the Commission should treat as confidential information and explaining why he considers the Commission should treat such information as confidential information;
- (c) the period within which a relevant person may submit a written statement to the Commission on the matters referred to in the notice; and

(d) where the proposed decision relates to an anticipated merger or a merger, that any party to the anticipated merger or any party involved in the merger, as the case may be, may apply to the Minister within 14 days of the date of the notice for the anticipated merger or merger, as the case may be, to be exempted from the section 54 prohibition on the ground of any public interest consideration.

(2) The Commission shall give a relevant person a reasonable opportunity to inspect the documents in the Commission's file that relate to the matters referred to in the notice given to that relevant person, except that the Commission may withhold any document —

- (a) to the extent that it contains confidential information; or
- (b) which is an internal document.

(3) Where, in his written statement on the matters referred to in a notice given to a relevant person, that relevant person requests to make oral representations to the Commission on such matters, the Commission may give that relevant person a reasonable opportunity to make such oral representations.

(4) Where, at the end of the period referred to in paragraph (1)(c), no written statement on the matters referred to in a notice given to a relevant person have been made by that relevant person, the Commission may proceed with its proposed decision in the absence of such statement.

(5) Where the Commission has given a relevant person a reasonable opportunity to make oral representations under paragraph (3) but no oral representations have been made, the Commission may proceed with its proposed decision in the absence of such representations.

(6) Nothing in paragraph (1)(b) shall be construed as restricting the application of regulation 28(2), (3), (5) and (6).

(7) In this regulation, "relevant person" means a person to whom notice is required to be given under regulation 7.

PART V
DECISIONS FOLLOWING APPLICATIONS AND
INVESTIGATIONS

Notice of decision

9.—(1) Where the Commission has made a decision that the section 34 prohibition has been infringed or a decision that the section 47 prohibition has been infringed, it shall —

(a) give notice of the decision to —

- (i) where an application was made under section 44 or 51 of the Act, the applicant and those persons whom the applicant identified in the application as being the other parties to the agreement, or the other persons, if any, engaging in the conduct, to which the application relates, as the case may be;
- (ii) where no application was made under section 44 or 51 of the Act, each person whom the Commission considers is or was a party to the agreement, or is or was engaged in the conduct, which is the subject of the decision,

stating the facts on which the Commission bases the decision and the Commission's reasons for making the decision; and

(b) publish the decision.

(2) Where the Commission has made a decision that there are no grounds for action in respect of —

- (a) an agreement because the conditions of the section 34 prohibition are not met or because the agreement is excluded under section 35 of the Act or exempted under section 36 of the Act; or
- (b) any conduct because the conditions of the section 47 prohibition are not met or because the conduct is excluded under section 48 of the Act,

the Commission —

- (i) shall, without delay, give notice of the decision to —
 - (A) where the decision was made following an application under section 44 or 51 of the Act, the applicant and those persons whom the applicant identified in the application as being the other parties to the agreement, or the other persons, if any, engaging in the conduct, to which the application relates, as the case may be; and
 - (B) where no application under section 44 or 51 of the Act was made —
 - (BA) any person whom the Commission considers is or was a party to the agreement, or is or was engaged in conduct, against whom any of the powers of investigation in the Act have been exercised; and
 - (BB) such other person as the Commission deems appropriate,

stating the facts on which the Commission bases the decision and the Commission's reasons for making the decision; and

- (ii) may publish the decision.

(3) Where the Commission has made a decision that an anticipated merger, if carried into effect, will infringe the section 54 prohibition, or a decision that a merger has infringed the section 54 prohibition, it shall —

- (a) give notice of the decision to —
 - (i) where an application was made under section 57 or 58 of the Act, the applicant and those persons whom the applicant identified in the application as being the other parties to the anticipated merger or the other parties involved in the merger, as the case may be, to which the application relates;

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- (ii) where no application was made under section 57 or 58 of the Act, each person whom the Commission considers is or was a party to the anticipated merger or party involved in the merger, as the case may be, which is the subject of the decision,

stating the facts on which the Commission bases the decision and the Commission's reasons for making the decision; and

- (b) publish the decision.

(4) Where the Commission has made a decision that an anticipated merger, if carried into effect, will not infringe the section 54 prohibition or that a merger has not infringed the section 54 prohibition because —

- (a) the conditions of the section 54 prohibition will not be or are not met;
- (b) the anticipated merger, if carried into effect, will be, or the merger is, as the case may be, excluded under section 55 of the Act;
- (c) the anticipated merger, if carried into effect, or the merger, as the case may be, is exempted from the section 54 prohibition on the ground of any public interest consideration under section 57(3), 58(3) or 68(3) of the Act; or
- (d) a commitment has been accepted by the Commission under section 60A of the Act,

the Commission —

- (i) shall, without delay, give notice of the decision to —
 - (A) where the decision was made following an application under section 57 or 58 of the Act, the applicant and those persons whom the applicant identified in the application as being the other parties to the anticipated merger or the other parties involved in the merger, as the case may be, to which the application relates; and

(B) where no application under section 57 or 58 of the Act was made —

(BA) any person whom the Commission considers is or was a party to the anticipated merger or party involved in the merger, as the case may be, against whom any of the powers of investigation under the Act have been exercised; and

(BB) such other person as the Commission deems appropriate,

stating the facts on which the Commission bases the decision and the Commission's reasons for making the decision;

(ii) shall, in the case of a decision under paragraph (4)(d), publish the decision and commitment; and

(iii) may, in the case of a decision under paragraph (4)(a), (b) or (c), publish the decision.

(5) The Commission may determine an application for a decision under section 44, 51, 57 or 58 of the Act by exercising its discretion not to give a decision, whereupon the Commission shall give notice to the applicant of that fact.

Further action after decision

10. If, having made a decision of the kind referred to in section 46(1), 53(1), 59(1) or 60(1) of the Act following an application under section 44, 51, 57 or 58 of the Act, as the case may be, or a decision of the kind referred to in section 60B(1) of the Act, the Commission proposes to take further action under Part III of the Act, the Commission shall consult —

(a) where a decision was made following an application, the applicant and those persons whom the applicant identified in the application as being —

(i) the other parties to the agreement which is the subject of the decision;

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- (ii) the other persons, if any, engaging in the conduct which is the subject of the decision;
 - (iii) the other parties to the anticipated merger which is the subject of the decision; or
 - (iv) the other parties involved in the merger which is the subject of the decision,
- as the case may be; or
- (b) where no application under section 57 or 58 of the Act was made in respect of a decision of the kind referred to in section 60B(1) of the Act, each person whom the Commission considers is or was —
- (i) a party to the anticipated merger which is the subject of the decision; or
 - (ii) a party involved in the merger which is the subject of the decision,
- as the case may be.

Application for extension of validity period

11.—(1) An application under section 57(8) of the Act for an extension of the validity period for a decision referred to in regulation 9(4) in respect of an anticipated merger shall be made to the Commission in such manner as the Commission may specify on the Commission's Internet website in an online location accessible to the public from time to time.

- (2) The applicant shall —
- (a) within 2 working days of the application under paragraph (1), give notice to all other parties to the anticipated merger of whom he knows that the application has been made; and
 - (b) provide a copy of such notice to the Commission within 2 working days from the date of the notification.

(3) The Commission may, at any time after the application under paragraph (1) is made, require the applicant to submit such other information (including any document) as the Commission thinks fit.

(4) Where, before the Commission makes a decision on an application under paragraph (1), there is any material change to any information submitted to the Commission (whether as contained in the application, under paragraph (3) or otherwise), the applicant shall give notice of that change to the Commission without delay.

(5) The Commission may, on receiving an application under paragraph (1) —

- (a) grant the applicant an extension of the validity period for such period and subject to such conditions as it thinks fit; or
- (b) refuse the application.

(6) Without prejudice to the generality of the Commission's power under paragraph (5) to refuse an application, the Commission may refuse the application if —

- (a) the application is not made in accordance with paragraph (1);
- (b) the applicant does not comply with paragraph (2);
- (c) the Commission's request for any information under paragraph (3) is not complied with;
- (d) the Commission has reasonable grounds for suspecting that any information submitted to the Commission (whether as contained in the application, under paragraph (3) or otherwise) is incomplete, false or misleading in a material particular; or
- (e) the Commission has reasonable grounds for believing that there has been a material change in any information submitted to the Commission (whether as contained in the application, under paragraph (3) or otherwise), and such change has not been notified to the Commission under paragraph (4).

(7) The Commission may, at any time before the end of an extension of the validity period —

- (a) revoke or otherwise terminate the extension if it has reasonable grounds for suspecting that any information submitted to the Commission (whether as contained in the application, under paragraph (3) or otherwise) is incomplete, false or misleading in a material particular;
- (b) terminate the extension if the Commission has reasonable grounds for believing that there has been a material change in any information submitted to the Commission (whether as contained in the application, under paragraph (3) or otherwise), and such change has not been notified to the Commission under paragraph (4); or
- (c) terminate the extension if the applicant contravenes any condition imposed by the Commission under paragraph (5)(a).

(8) Before revoking or terminating an extension of the validity period under paragraph (7), the Commission shall give notice to the applicant and the other parties to the anticipated merger.

(9) Any termination of the extension of the validity period under paragraph (7) shall take effect on a date specified by the Commission which may be earlier than the date of the notice given under paragraph (8), except that —

- (a) in the case of a termination under paragraph (7)(b), the date shall not be earlier than the date on which the material change in information occurred; and
- (b) in the case of a termination under paragraph (7)(c), the date shall not be earlier than the date on which the condition was contravened.

PART VI
DIRECTIONS

Directions under section 58A or 67 of Act

12.—(1) Subject to paragraph (2), if the Commission proposes to give a direction under section 58A or 67 of the Act, it shall give each person to whom it proposes to give the direction a reasonable opportunity to inspect the documents in the Commission's file relating to the proposed direction.

(2) The Commission may withhold any document —

- (a) to the extent that it contains confidential information; or
- (b) which is an internal document.

(3) When giving a person an opportunity to make representations under section 58A (2)(b) or 67(2)(b) of the Act, the Commission shall specify the period within which that person may make such representations.

(4) Where the Commission gives a direction to a person under section 58A or 67 of the Act, it shall at the same time inform that person in writing of the facts on which it bases the direction and its reasons for giving the direction, and it shall publish the direction.

Directions under section 69 of Act

13.—(1) Where the Commission proposes to give such person as it thinks appropriate any direction referred to in section 69(1) of the Act, the Commission shall give notice to that person of the action it proposes to take and its reasons therefor.

(2) Regulation 8(1)(b) and (c) and (2) to (6) shall, with the necessary modifications, apply to a notice referred to in paragraph (1).

(3) Where the Commission gives a direction to a person under section 69 of the Act (including the payment of any financial penalty), it shall at the same time inform that person in writing of its reasons for giving the direction, and it shall publish the direction.

PART VII
BLOCK EXEMPTIONS

Proposed cancellation of block exemption

14.—(1) If the Commission proposes to make a decision for or in relation to the cancellation of a block exemption in respect of an agreement —

- (a) the Commission shall give notice of this; and
- (b) the provisions of regulation 15 shall apply.

(2) The notice referred to in paragraph (1)(a) shall be given to each person whom the Commission considers is or was a party to the agreement.

Notices, access to file and representations

15.—(1) Every notice referred to in regulation 14 shall state —

- (a) the facts on which the Commission relies and its reasons for the proposed decision;
- (b) the period within which a relevant person may make representations to the Commission, which shall be in the form of a written statement, identifying the information contained in the notice which that relevant person considers the Commission should treat as confidential information and explaining why he considers the Commission should treat such information as confidential information; and
- (c) the period within which a relevant person may submit a written statement to the Commission on the matters referred to in the notice.

(2) The Commission shall give a relevant person a reasonable opportunity to inspect the documents in the Commission's file that relate to the matters referred to in the notice given to that relevant person, except that the Commission may withhold any document —

- (a) to the extent that it contains confidential information; or
- (b) which is an internal document.

(3) Where, in his written statement on the matters referred to in a notice given to a relevant person, that relevant person requests to make oral representations to the Commission on such matters, the Commission may give that relevant person a reasonable opportunity to make such oral representations.

(4) Where, at the end of the period referred to in paragraph (1)(c), no written statement on the matters referred to in a notice given to a relevant person have been made by that relevant person, the Commission may proceed with its proposed decision in the absence of such statement.

(5) Where the Commission has given a relevant person a reasonable opportunity to make oral representations under paragraph (3) but no oral representations have been made, the Commission may proceed with its proposed decision in the absence of such representations.

(6) Nothing in paragraph (1)(b) shall be construed as restricting the application of regulation 28(2), (3), (5) and (6).

(7) In this regulation, “relevant person” means a person to whom notice is required to be given under regulation 14.

Notice of cancellation of block exemption

16. Where the Commission has made a decision for or in relation to the cancellation of a block exemption in respect of an agreement, it shall —

- (a) give notice of the decision to each person whom the Commission considers is or was a party to the agreement, stating the facts on which the Commission bases the decision and the Commission’s reasons for making the decision; and
- (b) publish the decision.

PART VIII**EXERCISE OF POWERS OF INVESTIGATION****Definition of this Part**

17. In this Part, “officer” means —

- (a) where entry into the premises is pursuant to section 64 of the Act —
 - (i) an inspector; or
 - (ii) an investigating officer; and
- (b) where entry into the premises is under a warrant issued under section 65 of the Act —
 - (i) an officer of the Commission named in the warrant;
or
 - (ii) the inspector named in the warrant.

Search warrants

18.—(1) A warrant under section 65 of the Act shall —

- (a) be in the form set out in the Schedule;
- (b) be signed by a District Judge; and
- (c) bear the seal of the court.

(2) A search warrant issued under the Act may be executed in any part of Singapore.

List of all things taken to be made and signed

19.—(1) A list of all things taken in the course of any entry to any premises under the Act and of the places in which they are respectively produced or found shall be prepared or caused to be prepared and signed by the officer entering the premises.

(2) The occupier of the premises entered or some person in his behalf shall in every instance be permitted to attend during the entry, and a copy of the list prepared and signed under paragraph (1) shall be delivered to that occupier or person at his request, as soon as practicable.

Legal advice during investigations

20.—(1) An officer shall grant a request of the occupier of premises entered by the officer to allow a reasonable time for the occupier’s professional legal adviser to arrive at the premises before the investigation continues, if —

- (a) the officer considers it reasonable in the circumstances to do so; and
- (b) the officer is satisfied that such conditions as he considers it appropriate to impose in granting the occupier’s request are, or will be, complied with.

(2) In paragraph (1), “a reasonable time” means such period of time as the officer considers is reasonable in the circumstances.

(3) A person required by the Commission under section 63 of the Act to provide specified information or an explanation of a specified document in person may be accompanied by a professional legal adviser.

PART IX**MISCELLANEOUS****Reliance on exclusions and exemptions in Act**

21. Any undertaking claiming the benefit of any —

- (a) exclusion from the section 34 prohibition or the section 47 prohibition specified in the Third Schedule to the Act;
- (b) exclusion from the section 54 prohibition specified in the Fourth Schedule to the Act; or
- (c) exemption from the section 34 prohibition under a block exemption order made pursuant to section 36 of the Act,

shall bear the burden of proving that the conditions relating thereto have been satisfied.

Forms

22.—(1) The forms prescribed for the purpose of submission to the Commission under these Regulations shall be those provided on the Commission's Internet website in an online location accessible to the public from time to time.

(2) The Commission may issue such other forms as it thinks fit for the purposes of these Regulations.

(3) The Commission may make any modification or amendment necessary to any form.

(4) Where strict compliance with a form is not possible, the Commission may allow that form to be complied with in such other manner as it thinks fit.

Directions as to forms

23.—(1) A form shall be completed and submitted in accordance with such directions as are specified in that form or by the Commission.

(2) Unless otherwise required, all particulars to be inserted in a form shall be in the English language.

(3) The Commission may, in its absolute discretion, refuse to accept any form that is not completed or submitted in accordance with these Regulations.

Directions as to documents submitted to Commission

24.—(1) Any document submitted to the Commission shall comply with such directions as are specified in the form for which the document is required or by the Commission.

(2) Every document, if not in the English language, shall be accompanied by a translation thereof —

(a) certified by a court interpreter; or

(b) verified by the affidavit of a person qualified to translate it, before it may be received, filed or used by the Commission.

Notices: general

25.—(1) Any notice required to be given to any person under the Act or these Regulations may be —

- (a) delivered personally at his last known address;
- (b) left at or sent to him by ordinary post to his last known address; or
- (c) sent to him by facsimile or, with his consent, electronic mail.

[S 537/2008 wef 01/11/2008]

(2) Where the Act or these Regulations require the Commission to give any notice to any person and —

- (a) the Commission has taken the steps referred to in paragraph (1) to give notice to such person but has been unable to give such notice or in the Commission's opinion there is doubt that it has been able to give such notice; or
- (b) the Commission is of the view that none of the steps referred to in paragraph (1), if taken, would give the required notice to such person,

the Commission may, instead, take one or both of the steps specified in paragraph (3).

[S 537/2008 wef 01/11/2008]

(3) The steps specified for the purposes of paragraph (2) are as follows:

- (a) publish a summary of the notice by means of entry in the register maintained by the Commission under regulation 30; and
- (b) cause a reference to the summary of the notice published in that register to be published in at least one national daily newspaper.

(4) Except where paragraph (2) applies, where the Act or these Regulations allow or require notice to be given to a person, such notice shall be treated as if it had been received by or served on that person —

- (a) in the case of personal delivery, on the day of delivery;
- (b) when left at the last known address, on the day of leaving;
- (c) when sent by ordinary post, on the working day after the day on which it was posted;
- (d) in the case of a facsimile transmitted on a working day before 5 p.m., on that day or in any other case on the working day after the day on which it is transmitted; or
- (e) in the case of electronic mail or similar means, on the working day after the day on which it is transmitted.

[S 537/2008 wef 01/11/2008]

(5) Where paragraph (2) applies, the notice shall be treated as having been given on the date of its publication in accordance with paragraph (3)(a) and (b).

(6) Any notice given under the Act or these Regulations shall be in writing.

[S 537/2008 wef 01/11/2008]

Notices: associations of undertakings

26.—(1) Where the Act or these Regulations require the Commission to give notice of any matter to an association of undertakings, the Commission shall give such notice to the director, secretary, manager or other similar officer of the association on its behalf.

[S 537/2008 wef 01/11/2008]

(2) Where the Act or these Regulations require the Commission to give notice of any matter to each of more than 20 members of an association of undertakings, the Commission may, instead of giving such notice to any such member, give such notice to the director, secretary, manager or other similar officer of the association on that member's behalf, provided that individual notice shall be given to any member who has made an application in respect of the agreement, conduct, anticipated merger or merger to which the notice relates.

[S 537/2008 wef 01/11/2008]

Time

27.—(1) Where an act is required to be done in accordance with these Regulations within a specified period after or from a specified date, the period begins immediately after that date.

(2) Where an act is required to be done in accordance with these Regulations within or not less than a specified period before a specified date, the period ends immediately before that date.

(3) Where the time prescribed by these Regulations for doing any act expires on a day which is not a working day, the act is in time if done at or before 5 p.m. on the next following working day.

(4) Where an act done in accordance with these Regulations is done on a day which is not a working day, or after 5 p.m. on a working day, the act shall be treated as done on the next following working day.

Information to be treated as confidential

28.—(1) Where a person submitting any information or document to the Commission considers the information or, in the case of a document, any of the information contained therein, as confidential information under section 89(1)(b) of the Act, that person shall, at the time of submitting the information or document —

- (a) in the case of such information, identify to the Commission the confidential information and provide a written statement explaining why the information is confidential information; and
- (b) in the case of such document, provide —
 - (i) a confidential version of the document containing and clearly identifying the confidential information;
 - (ii) a non-confidential version of the document, in which the confidential information has been removed in the manner specified by the Commission; and
 - (iii) a written statement explaining why the information is confidential information.

(2) Where a person has identified any information he is submitting to the Commission as being confidential information, or any

document he is submitting to the Commission as containing confidential information, but the person does not provide the Commission with the written statement referred to in paragraph (1)(a) or (b)(iii), as the case may be, the Commission may give notice to the person submitting the information or document to provide such written statement within such time limit as the Commission considers appropriate.

(3) Where a written statement has been given to the Commission to explain why any information submitted to the Commission is confidential information, the Commission may, in its discretion, give notice to the person submitting the information or document to provide written clarification of the written statement within such time limit as the Commission considers appropriate.

(4) Where the person submitting the information or document fails to provide the Commission with the written statement referred in paragraph (1)(a) or (b)(iii) or with the written clarification referred to in paragraph (3), as the case may be, within the time limit specified by the Commission, the information submitted shall be treated as not falling within section 89(1)(b) of the Act.

(5) Where the Commission proposes to disclose information which has been submitted to the Commission and identified as confidential information under section 89(1)(b) of the Act, the Commission may —

- (a) inform the person who submitted the information or document or the person from whom the information or document originated, of the Commission's proposed action; and
- (b) give that person a reasonable opportunity to make representations to the Commission on the Commission's proposed action.

(6) For the avoidance of doubt, nothing in this regulation shall be construed as preventing the Commission from having regard to any information which is, or any document containing information which is, confidential information, or any part thereof, in its determination of any matter for which the confidential information is required.

(7) This regulation shall not apply in any case where regulation 8, 13 or 15 applies, except as may be provided in such regulation.

Consultation

29.—(1) Where the Commission is required to consult a person under these Regulations, it shall —

- (a) give notice to that person; and
- (b) state in that notice the action the Commission proposes to take, its reasons for proposing such action and the period within which that person may make written representations to the Commission on these matters.

(2) The Commission shall have the discretion to consult with such persons as it thinks appropriate, if the Commission feels that this would be advantageous, necessary or convenient for it to carry on its functions or discharge its duties under the Act.

(3) Where the Commission proposes to consult the public in exercise of its discretion to do so under these Regulations, it shall publish, in such manner as the Commission deems appropriate, a notice stating the action it proposes to take, its reasons for proposing such action and the period within which written representations may be made to the Commission on these matters.

Public register

30.—(1) The Commission shall maintain a register in which there shall be entered —

- (a) all decisions and commitments that the Commission is required to publish under these Regulations;
- (b) all applications for decisions under section 44, 51, 57 or 58 of the Act, a summary of the nature and objectives of the agreement or conduct, or a summary of the description of the anticipated merger or merger, as the case may be, which is the subject of the application (as provided by the applicant under Form 1 or Form M1, as the case may be) and an indication of the final outcome of the application;

- (c) all decisions published under regulation 9(2)(ii) and (4)(iii);
- (d) all directions (including the payment of any financial penalty) that the Commission is required to publish under these Regulations; and
- (e) all summaries of notices published under regulation 25(3)(a).

(2) The register shall be open to public inspection on the Commission's Internet website.

Revocation

31. The Competition Regulations (Rg 1) are revoked.

THE SCHEDULE

Regulation 18(1)

WARRANT TO ENTER PREMISES AND EXERCISE THE STATUTORY
POWERS UNDER SECTION 65 OF THE COMPETITION ACT IN THE
STATE COURTS OF THE REPUBLIC OF SINGAPORE

[S 121/2014 wef 07/03/2014]

O.S. No.)
)
of 20)

In the matter of the Competition Act (Cap. 50B)
("the Act")

And in the matter of an application by the
Competition and Consumer Commission of
Singapore ("CCCS") for a warrant to enter the
premises described therein and exercise the
statutory powers under section 65 of the Act

[S 180/2018 wef 01/04/2018]

To [insert name of undertaking], who is believed to be the occupier of the premises at [insert address] and to any person in charge of, or operating at or from, the premises:

You should read the terms of this Warrant very carefully. You are advised to seek legal advice as soon as possible. If you intentionally obstruct any officer or other

THE SCHEDULE — *continued*

person exercising his powers under the Warrant or fail to comply with any reasonable requirement imposed by any of the officers or other persons exercising their powers under the Warrant, you may be committing a criminal offence under sections 75 to 78 of the Act, the relevant terms of which are set out in Schedule A to this Warrant. A criminal offence under any of those sections is punishable with a fine not exceeding \$10,000 or with imprisonment for a term not exceeding 12 months or with both.

Upon the application of the CCCS under section 65(1) [insert the relevant subsection (a), (b) or (c)] of the Act in this matter and upon reading the affidavit of [insert name] (“the named officer”) filed the day of 20 and the Court having been satisfied that there are [insert the text of the relevant subsection (a), (b) or (c) as appropriate] —

[S 180/2018 wef 01/04/2018]

It is ordered that —

1. This Warrant be issued to the CCCS under section 65 of the Act in respect of an investigation under section 62 of the Act.

[S 180/2018 wef 01/04/2018]

2. [Set out the subject matter and purpose of the investigation].

3. This Warrant continues in force until the end of the period of one (1) month beginning with the day on which it is issued and may be executed on any one or more days within that period.

4. By this Warrant the named officer [“and such other officers and person(s) authorised in writing by the CCCS to accompany the named officer” or, where the named officer is an inspector appointed to conduct an investigation under the Act for purposes of the investigation, “and such other person(s) required by him” named] in Schedule B, are authorised to produce this Warrant and on producing this Warrant:

- (a) to enter the premises using such force as is reasonably necessary for the purpose;
- (b) to search any person on the premises if there are reasonable grounds for believing that that person has in his possession any document, equipment or article which has a bearing on the investigation;
- (c) to search the premises and take copies of, or extracts from, any document appearing to be of a kind in respect of which the application referred to in this Warrant was granted (“the relevant kind”);
- (d) to take possession of any document appearing to be of the relevant kind if —

THE SCHEDULE — *continued*

- (i) such action appears to be necessary for preserving the document or preventing interference with it; or
- (ii) it is not reasonably practicable to take copies of the document on the premises,

and to retain possession of any document so taken for a maximum period of three (3) months;

- (e) to take any other step which appears to be necessary for preserving any document of the relevant kind or preventing interference with them including but not limited to a requirement to seal the premises or any part thereof (including any office, cupboard or file, etc.) for not more than seventy-two (72) hours, except where the occupier consents to a longer period or where access to the documents is unduly delayed;
- (f) to require any person to provide an explanation of any document appearing to be of the relevant kind or to state, to the best of his knowledge and belief, where it may be found;
- (g) to require any information which is stored in any electronic form and is accessible from the premises and which the named officer considers relates to any matter relevant to the investigation, to be produced in a form —
 - (i) in which it can be taken away; and
 - (ii) in which it is visible and legible,

and the power to require such information to be produced includes the power to require any document to be produced which the named officer believes may contain that information;

- (h) to remove from those premises for examination any equipment or article which relates to any matter relevant to the investigation; except that instead of removing from the premises for examination any such equipment or article, the named officer may allow any such equipment or article to be retained on the premises subject to such conditions as he may impose; and
- (i) to take action as mentioned in sub-paragraphs (a) to (h) above in relation to any other documents on the premises relating to the investigation described in paragraphs 1 and 2 above. [This sub-paragraph to be included in a Warrant applied under section 65(1)(b) of the Act if the Judge so orders.]

[S 180/2018 wef 01/04/2018]

5. Where the premises are occupied when this Warrant is executed, the named officer shall produce this Warrant upon arrival and serve a copy thereof personally

THE SCHEDULE — *continued*

on the occupier or person appearing to be in charge of the premises thereafter, as soon as practically possible.

6. Any person entering the premises by virtue of this Warrant may take with him such equipment as appears to him to be necessary.

7. If there is no one at the premises when the named officer proposes to execute this Warrant, he must, before executing it —

- (a) take such steps as are reasonable in all the circumstances to inform the occupier of the intended entry; and
- (b) if the occupier is so informed, afford him or his legal or other representative a reasonable opportunity to be present when this Warrant is executed.

8. If the named officer is unable to inform the occupier of the intended entry he must, when executing this Warrant, leave a copy of it in a prominent place on the premises.

9. On leaving the premises, the named officer must, if they are unoccupied or the occupier is temporarily absent, leave them as effectively secured as he found them.

10. Terms used in this Warrant have the following meanings in accordance with the Act:

“document” includes information recorded in any form;

“information” includes estimates and forecasts;

“named officer” means —

- (a) an officer of the CCCS named in the Warrant; or
[S 180/2018 wef 01/04/2018]

- (b) the inspector named in the Warrant,

as the case may be;

“occupier” means any person whom the named officer reasonably believes is the occupier of the premises; and

“premises” does not include domestic premises unless —

- (a) they are used in connection with the affairs of an undertaking; or
- (b) documents relating to the affairs of an undertaking are kept there,

but includes any vehicle.

THE SCHEDULE — *continued*

SCHEDULE A

The relevant provisions of sections 75 to 78 of the Competition Act (Cap. 50B) are as follows:

Refusal to provide information, etc.

75.—(1) Any person who fails to comply with a requirement imposed on him under section 61A, 63, 64 or 65 shall be guilty of an offence.

(2) If a person is charged with an offence under subsection (1) in respect of a requirement to produce a document, it shall be a defence for him to prove that —

- (a) the document was not in his possession or under his control; and
- (b) it was not reasonably practicable for him to comply with the requirement.

(3) If a person is charged with an offence under subsection (1) in respect of a requirement —

- (a) to provide information;
- (b) to provide an explanation of a document; or
- (c) to state where a document is to be found,

it shall be a defence for him to prove that he had a reasonable excuse for failing to comply with the requirement.

(4) Failure to comply with a requirement imposed under section 61A, 63 or 64 shall not be an offence if the person imposing the requirement has failed to act in accordance with that section.

Destroying or falsifying documents

76. Any person who, having been required to produce a document under section 61A, 63, 64 or 65 —

- (a) intentionally or recklessly destroys or otherwise disposes of it, falsifies it or conceals it; or
- (b) causes or permits its destruction, disposal, falsification or concealment,

shall be guilty of an offence.

False or misleading information

77.—(1) Any person who provides information to the Commission, an investigating officer or an inspector or any person authorised, appointed or

THE SCHEDULE — *continued*

employed to assist the Commission, investigating officer or inspector, in connection with any function or duty of the Commission, investigating officer or inspector under this Act shall be guilty of an offence if —

- (a) the information is false or misleading in a material particular; and
 - (b) he knows that it is false or misleading in a material particular or is reckless as to whether it is.
- (2) A person who —
- (a) provides an information to another person, knowing the information to be false or misleading in a material particular; or
 - (b) recklessly provides any information to another person which is false or misleading in a material particular,

knowing that the information is to be used for the purpose of providing information to the Commission, an investigating officer or an inspector or any person authorised, appointed or employed to assist the Commission, investigating officer or inspector, in connection with any function or duty of the Commission, investigating officer or inspector under this Act, shall be guilty of an offence.

Obstruction of officer of Commission, etc.

78. Any person who refuses to give access to, or assaults, hinders or delays any member, officer, employee or agent of the Commission authorised to act for or assist the Commission, or any inspector or person assisting an inspector, in the discharge of his duties under this Act shall be guilty of an offence.

SCHEDULE B

The Officer[s] [and other persons] authorised under this Warrant are as follows:

[List Officers and other persons]

Dated thisday of 20.....

(Seal)

District Judge

Made this 27th day of June 2007.

LAM CHUAN LEONG
Chairman,
Competition Commission of
Singapore.

[CCS/100/210/06; AG/LEG/SL/50B/2005/3 Vol. 1]