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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

No. 15 of 2018.

I assent.

HALIMAH YACOB,
President.
11 April 2018.



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).”.

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