

Competition (Amendment) Bill

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Bill No: 11/2007

Read the first time: 9th April 2007

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Expenditure of Public Money

Competition (Amendment) Bill

Bill No. 11/2007

Read the first time on 9th April 2007.

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.—(1) This Act may be cited as the Competition (Amendment) Act 2007 and shall, with the exception of section 23, come into operation on such date as the Minister may, by notification in the *Gazette*, appoint.

(2) Section 23 shall be deemed to have come into operation on 1st January 2006.

Amendment of section 2

2. Section 2(1) of the Competition Act is amended —

(a) by inserting, immediately before the definition of “block exemption”, the following definition:

“ “anticipated merger” means an arrangement that is in progress or contemplation and that, if carried into effect, will result in the occurrence of a merger referred to in section 54(2);”;

(b) by deleting the definition of “merger”; and

(c) by deleting the definition of “party involved in a merger” and substituting the following definitions:

“ “party involved in a merger” means a person or an undertaking specified in section 54(2) and includes the merged entity;

“party to an anticipated merger” means a person or an undertaking which would be a person or an undertaking specified in section 54(2) if the anticipated merger were carried into effect;”.

Amendment of section 33

3. Section 33 of the Competition Act is amended by deleting subsection (1) and substituting the following subsection:

“(1) Notwithstanding that —

(a) an agreement referred to in section 34 has been entered into outside Singapore;

- (b) any party to such agreement is outside Singapore;
- (c) any undertaking abusing the dominant position referred to in section 47 is outside Singapore;
- (d) an anticipated merger will be carried into effect outside Singapore;
- (e) a merger referred to in section 54 has taken place outside Singapore;
- (f) any party to an anticipated merger or any party involved in a merger is outside Singapore; or
- (g) any other matter, practice or action arising out of such agreement, such dominant position, an anticipated merger or a merger is outside Singapore,

this Part shall apply to such party, agreement, abuse of dominant position, anticipated merger or merger if —

- (i) such agreement infringes or has infringed the section 34 prohibition;
- (ii) such abuse infringes or has infringed the section 47 prohibition;
- (iii) such anticipated merger, if carried into effect, will infringe the section 54 prohibition; or
- (iv) such merger infringes or has infringed the section 54 prohibition,

as the case may be.”.

Amendment of section 45

4. Section 45(2) of the Competition Act is amended by deleting the words “under this Part” and substituting the words “in relation to the section 34 prohibition”.

Amendment of section 46

5. Section 46(2) of the Competition Act is amended by deleting the words “under this Part” and substituting the words “in relation to the section 34 prohibition”.

Amendment of section 52

6. Section 52(2) of the Competition Act is amended by deleting the words “under this Part” and substituting the words “in relation to the section 47 prohibition”.

Amendment of section 53

7. Section 53(2) of the Competition Act is amended by deleting the words “under this

Part” and substituting the words “in relation to the section 47 prohibition”.

Repeal of Division 4 of Part III and new Divisions 4 and 4A of Part III

8.—(1) Division 4 of Part III of the Competition Act is repealed.

(2) Part III of the Competition Act is amended by inserting, immediately after section 53, the following Divisions:

“Division 4 — Mergers

Mergers

54.—(1) Subject to section 55, mergers that have resulted, or may be expected to result, in a substantial lessening of competition within any market in Singapore for goods or services are prohibited.

(2) For the purposes of this Part, a merger occurs if —

- (a) 2 or more undertakings, previously independent of one another, merge;
- (b) one or more persons or other undertakings acquire direct or indirect control of the whole or part of one or more other undertakings; or
- (c) the result of an acquisition by one undertaking (the first undertaking) of the assets (including goodwill), or a substantial part of the assets, of another undertaking (the second undertaking) is to place the first undertaking in a position to replace or substantially replace the second undertaking in the business or, as appropriate, the part concerned of the business in which that undertaking was engaged immediately before the acquisition.

(3) For the purposes of this Part, control, in relation to an undertaking, shall be regarded as existing if, by reason of rights, contracts or any other means, or any combination of rights, contracts or other means, decisive influence is capable of being exercised with regard to the activities of the undertaking and, in particular, by —

- (a) ownership of, or the right to use all or part of, the assets of an undertaking; or
- (b) rights or contracts which enable decisive influence to be exercised with regard to the composition, voting or decisions of the organs of an undertaking.