

**Competition (Transitional Provisions for Section 34 Prohibition) Regulations
2005**

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No. S 869

**COMPETITION ACT 2004
(ACT 46 OF 2004)**

**COMPETITION (TRANSITIONAL PROVISIONS FOR SECTION 34 PROHIBITION)
REGULATIONS 2005**

In exercise of the powers conferred by section 94(b) of the Competition Act 2004, the Minister for Trade and Industry hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Competition (Transitional Provisions for Section 34 Prohibition) Regulations 2005 and shall come into operation on 1st January 2006.

Definitions

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

“application” means an application under regulation 4;

“application period” means the period from 1st January 2006 to 30th June 2006 (both dates inclusive);

“appropriate fee” means the fee specified in the Competition (Fees) Regulations 2005 (G.N. No. S 868/2005) as being payable for an application;

“interim period” means the period from 1st July 2006 to the date on which the Commission notifies its decision on an application to the applicants;

“penalty” means the financial penalty that the Commission may impose under section 69 (2)(d)(iii) of the Act on any party to an agreement that infringes the section 34 prohibition;

“transitional period” means the period from 1st January 2006 to 30th June 2006 (both dates inclusive).

Immunity from penalty

3.—(1) No penalty shall be imposed by the Commission on a party to an agreement made on or before 31st July 2005, for an infringement by the agreement of the section 34 prohibition —

- (a) during the transitional period;
- (b) subject to regulations 6 (3) and 7(1) and (2), during any extension of the transitional period granted to the party;
- (c) subject to regulation 7, where the party has made an application and the Commission notifies its decision on the application on or after 1st July 2006, during the interim period; and
- (d) subject to regulation 7(4), where the party has made an application and the

application is refused, during any period specified by the Commission under regulation 5(4) or by the Board under section 73(8) of the Act on an appeal under regulation 9, for the party to bring the infringement to an end.

(2) Paragraph (1) does not apply to any infringement by any agreement of the section 34 prohibition which continues or occurs after the expiry of the applicable period referred to in paragraph (1).

Application for extension of transitional period

4.—(1) The parties to an agreement made on or before 31st July 2005 may in respect of the agreement jointly apply to the Commission for an extension of the transitional period if they are of the view that the agreement infringes the section 34 prohibition and they require the extension to bring the infringement to an end.

(2) The application —

- (a) shall be made during the application period;
- (b) shall be made by all the parties to the agreement;
- (c) subject to paragraph (5), shall be submitted in such form or manner as the Commission may specify on the Commission's Internet website at <http://www.ccs.gov.sg>;
- (d) subject to paragraph (6), shall include the documents specified in paragraph (4); and
- (e) shall be accompanied by the appropriate fee which shall be paid during the application period in the manner specified by the Commission on its Internet website at <http://www.ccs.gov.sg>.

(3) The application shall also —

- (a) specify one representative who is authorised by all the parties to act on their behalf in respect of any matter relating to the application;
- (b) describe the parties to the agreement;
- (c) describe the purpose and nature of the agreement;
- (d) describe the goods or services involved;
- (e) specify the basis for the parties' belief that the agreement was made on or before 31st July 2005 and still has effect;
- (f) specify the duration of the agreement;
- (g) explain the agreement's infringement of the section 34 prohibition;

- (h) explain the parties' inability to bring the infringement to an end within the transitional period;
- (i) specify the period of extension applied for; and
- (j) explain the grounds for the parties' belief that the infringement can be brought to an end within the period of extension.

(4) The documents specified for the purpose of paragraph (2)(d) are —

- (a) proof of the representative's authority to act on behalf of all the parties;
- (b) if the agreement is in writing, the original agreement;
- (c) if the agreement is in writing and in a language other than English, the original agreement together with an English translation of the agreement, and a verification document made in accordance with the Commission's requirements, as specified on the Commission's Internet website at <http://www.ccs.gov.sg>, verifying that the translation corresponds to the original text of the agreement; and
- (d) a copy of the latest annual report and the audited annual balance-sheet and profit and loss accounts of each of the parties.

(5) Where the Commission is satisfied that the parties are unable to submit the application in the form specified by the Commission under paragraph (2)(c), the Commission may allow the parties to submit the application in such other form as it may specify.

(6) Where the Commission is satisfied that the parties are unable to submit any of the documents specified in paragraph (4), the Commission may waive the requirement for the document or require the parties to submit such other document in substitution as it may specify.

(7) The Commission may, at any time after the application is made, require the parties to furnish any other information (including any document) as the Commission thinks fit.

(8) Where any of the parties know of any material change in any information contained in the application or any information furnished to the Commission under paragraph (7), he shall without delay communicate that change to the Commission.

(9) In this regulation, a reference to parties or parties to an agreement is a reference to persons who are parties to the agreement at the time the application is made.

Grant or refusal of application