

Competition (Fees) Regulations 2007

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No. S 358

COMPETITION ACT (CHAPTER 50B)

COMPETITION (FEES) REGULATIONS 2007

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:

Citation and commencement

- 1.** These Regulations may be cited as the Competition (Fees) Regulations 2007 and

shall be deemed to have come into operation on 1st July 2007.

Definitions

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

“applicable turnover”, in relation to a relevant asset, means —

- (a) where there is a business year preceding the relevant date which equals 12 months, the turnover of the relevant asset for that business year;
- (b) where there is a business year preceding the relevant date for a period which does not equal 12 months, the turnover of the relevant asset for 12 months determined as follows:

$$\frac{A}{B} \times 12$$

where A is the turnover of the relevant asset for the business year; and

B is the period of the business year in whole months; or

- (c) where there is a period preceding the relevant date that does not amount to a business year, the turnover of the relevant asset for that period;

“business year” means a period of more than 6 months in respect of which an undertaking prepares or is required to prepare accounts;

“control”, in relation to an asset, means —

- (a) the ownership of, or the right to use, all or part of the asset; or
- (b) direct or indirect control over an undertaking which has the ownership of, or the right to use, all or part of the asset;

“net aggregate turnover” means the sum of the applicable turnovers of all relevant assets and deducting —

- (a) the applicable turnover of any relevant asset which —
 - (i) in the case of an anticipated merger, will continue immediately after the merger to be carried on under the same control as immediately before the merger; or

- (ii) in the case of a merger, continues immediately after the merger to be carried on under the same control as immediately before the merger; or
- (b) if no relevant asset will continue or continues to be carried on under the same control, the applicable turnover of the relevant asset which, of all the applicable turnovers concerned, is the turnover of the highest value;

“related undertakings” means —

- (a) undertakings where one undertaking has direct or indirect control over another undertaking; or
- (b) undertakings which are directly or indirectly under the control of the same undertaking;

“relevant asset” means —

- (a) in relation to section 54(2)(a) of the Act —
 - (i) in the case of an anticipated merger, any asset which, immediately before the merger, is controlled by each undertaking which will merge, plus any asset which, immediately before the merger, is controlled by any undertaking that will control the merged entity immediately after the merger; and
 - (ii) in the case of a merger, any asset which, immediately before the merger, was controlled by the undertakings which have merged, plus any asset which, immediately before the merger, was controlled by any undertaking that controls the merged entity immediately after the merger;
- (b) in relation to section 54(2)(b) of the Act —
 - (i) in the case of an anticipated merger, any asset which, immediately before the merger, is controlled by the undertaking which is to be acquired (the first undertaking), plus any asset which, immediately before the merger, is controlled by the undertaking which is acquiring the first undertaking; and
 - (ii) in the case of a merger, any asset which, immediately before the merger, was controlled by the undertaking which has

been acquired (the first undertaking), plus any asset which, immediately before the merger, was controlled by the undertaking which has acquired the first undertaking; and

(c) in relation to section 54(2)(c) of the Act —

- (i) in the case of an anticipated merger, any asset (the first asset) which will be acquired by an undertaking, plus any asset which, immediately before the merger, is controlled by that undertaking which will be acquiring the first asset; and
- (ii) in the case of a merger, any asset (the first asset) which has been acquired by an undertaking, plus any asset which, immediately before the merger, was controlled by that undertaking which has acquired the first asset;

“relevant date” means —

- (a) in the case of an application under section 57 of the Act, the date the application is made; and
- (b) in the case of an application under section 58 of the Act, the date the merger occurred;

“small or medium sized enterprise” means an undertaking —

- (a) having an annual sales turnover of not more than \$100 million; or
- (b) having not more than 200 employees;

“turnover”, in relation to a relevant asset, means the turnover of the relevant asset as determined in accordance with the First Schedule.

[S 430/2011 wef 01/08/2011]

(2) For the purposes of paragraph (a) of the definition of “small or medium sized enterprise” in paragraph (1) —

- (a) “sales turnover”, in relation to the undertaking, means the amounts derived from the business operations of that undertaking in Singapore, and —
 - (i) includes amounts derived by that undertaking from the sale of products and the provision of services falling within the ordinary activities of that undertaking; and
 - (ii) does not include gains from the sale of fixed assets, donations, grants, subsidies, subscriptions, interest, dividends, goods