

# **Competition (Notification) Regulations 2007**

## **Table of Contents**

### **Enacting Formula**

#### **Part I PRELIMINARY**

##### **1 Citation and commencement**

##### **2 Definitions**

#### **Part II ANTICIPATED MERGERS NOTIFIABLE UNDER SECTION 57 OF ACT**

##### **3 Anticipated mergers that may be notified to Commission**

#### **Part III APPLICATIONS TO COMMISSION**

##### **4 Person who is to make application**

##### **5 Person making application to notify other parties**

##### **6 Applications: general**

##### **7 Applications: Commission may request outstanding or additional information and documents**

##### **8 Applications: confidential information**

##### **9 Applications: fees**

##### **10 Proposed infringement decisions: Commission to notify**

##### **11 Proposed infringement decisions: notices, access to file and representations**

##### **12 Change in information provided to Commission**

## **Part IV MISCELLANEOUS**

**13 Reliance on exclusions and exemptions in Act**

**14 Forms**

**15 Directions as to forms**

**16 Directions as to documents submitted to Commission**

**17 Notices: general**

**18 Notices: associations of undertakings**

**19 Time**

**20 Information to be treated as confidential**

**21 Transitional provision**

**No. S 349**

### **COMPETITION ACT (CHAPTER 50B)**

#### **COMPETITION (NOTIFICATION) REGULATIONS 2007**

In exercise of the powers conferred by sections 42, 49 and 56 of the Competition Act, 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 (Notification) Regulations

2007 and shall come into operation on 1st July 2007.

## Definitions

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

“application” means an application made —

- (a) under section 43 or 44 of the Act for an agreement to be examined;
- (b) under section 50 or 51 of the Act for conduct to be considered;
- (c) under section 57 of the Act for an anticipated merger to be considered; or
- (d) under section 58 of the Act for a merger to be considered,

as the case may be;

“appropriate further fee”, “appropriate initial fee” and “appropriate merger fee” mean, respectively, the appropriate further fee, the appropriate initial fee and the appropriate merger fee as specified in the Competition (Fees) Regulations 2007;

“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;

“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

## ANTICIPATED MERGERS NOTIFIABLE UNDER SECTION 57 OF ACT

### **Anticipated mergers that may be notified to Commission**

3. Only such anticipated mergers as may be made known to the public may be notified to the Commission under section 57 of the Act.

## PART III

### APPLICATIONS TO COMMISSION

#### **Person who is to make application**

4.—(1) An application shall be made (jointly or otherwise) by the following persons, and no others:

- (a) where the applicant is an individual, by the individual;
- (b) where the applicant is a body corporate, by an officer of that body corporate;
- (c) where the applicant is a partnership, by a partner of that partnership; or
- (d) where the applicant is an unincorporated association (other than a partnership), by an officer of that association or a member of its governing body.

(2) In paragraph (1), “officer” —

- (a) in relation to a body corporate, means any director, member of the committee of management, chief executive, manager, secretary or other similar officer of the body; or
- (b) in relation to an unincorporated association (other than a partnership), means the president, the secretary or any member of the governing body of the unincorporated association, or any person holding a position analogous to that of president, secretary or member of the governing body.

(3) If a joint application is made, the application shall be regarded as being made to the Commission by or on behalf of all the applicants, and a joint representative shall be appointed as authorised to act on behalf of all the joint applicants for the purposes of these Regulations, unless excepted by the Commission.

#### **Person making application to notify other parties**

5.—(1) Where a party to an agreement wishes to make or makes an application for

guidance under section 43 of the Act or for a decision under section 44 of the Act, he shall give notice to all other parties to the agreement of whom he knows —

- (a) that the application will be or has been made; and
- (b) as to whether the application will be or is for guidance or for a decision.

(2) Where a person wishes to make or makes an application for guidance under section 50 of the Act or for a decision under section 51 of the Act in respect of his conduct, being conduct involving one or more other persons, he shall give notice to all other persons who are engaged in the conduct of whom he knows —

- (a) that the application will be or has been made; and
- (b) as to whether the application will be or is for guidance or for a decision.

(3) Where a party to an anticipated merger wishes to make or makes an application under section 57 of the Act, he shall give notice to all other parties to the anticipated merger of whom he knows that the application will be or has been made.

(4) Where a party involved in a merger wishes to make or makes an application under section 58 of the Act, he shall give notice to all other parties involved in the merger of whom he knows that the application will be or has been made.

(5) Notices under paragraphs (1) to (4) shall be given —

- (a) in the case of paragraphs (1) and (2), no later than 7 working days from the date on which the applicant submits the form referred to in regulation 6(1)(a); and
- (b) in the case of paragraphs (3) and (4), no later than 2 working days from the date on which the applicant submits the form referred to in regulation 6(1)(b).

(6) The applicant shall provide a copy of any notice given under paragraph (1), (2), (3) or (4) to the Commission —

- (a) where the notice is given before the applicant submits the form referred to in regulation 6(1)(a) or (b), on the date of the submission of the form; and
- (b) where the notice is given on the same date as the date on which the applicant submits the form referred to in regulation 6(1)(a) or (b), or (subject to paragraph (5)) on a date subsequent thereto, within 2 working days from the date of the notification.

(7) If the applicant is unable, despite the exercise of due diligence, to contact the other parties or persons as required under this regulation, the Commission may, if it considers appropriate, require the applicant to notify such other parties or persons in such