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## GENERAL NOTICE

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### NOTICE 1255 OF 2005

#### AMENDMENTS TO THE

#### ***RULES FOR THE CONDUCT OF PROCEEDINGS IN THE COMPETITION APPEAL COURT***

#### **Rule 2 is amended by -**

##### *THE INSERTION OF:*

"business day" shall mean any day other than Saturday, Sunday or **Public** holiday and only business days shall be included in the computation of any time expressed in days prescribed by these rules or fixed in any order of court or practice directions;

##### *THE SUBSTITUTION:*

for sub-rule (3), paragraph (a) of the following:

- (a) "Act" means the Competition Act, 1998 (Act No. 89 of **1998**) as amended.

##### *THE SUBSTITUTION:*

for sub-rule (3), paragraph (i) of the following paragraph:

- (t) "serve" means to serve **in** accordance with Rule 6 and 'service' has a corresponding meaning: and"

##### *THE INSERTION:*

in sub-rule (3), at the end of paragraph (h) of the following:

- "(h) "deliver" means to file and serve and "delivery" shall have a corresponding meaning.

***THE SUBSTITUTION:***

for **sub-rule (3)**, paragraph (u) of the following paragraph:

- (u) "Tribunal" depending on the context, means either -
- (i)** the body established by section **26**;
  - (ii)** a panel convened in terms of section **31(1)**;
  - (iii)** a member of the Tribunal sitting in terms of section **31(5)**;  
or
  - (iv)** the registrar of the Tribunal"

**Rule 3 is amended by:*****THE SUBSTITUTION:***

For sub-rule **(3)** of the following paragraph:

- (a)** Delivered by hand at: -  
**3<sup>rd</sup> Floor, Mulayo, the dti campus, 77 Meintjies Street,  
Sunnyside, Pretoria**
- (b)** Addressed by post to:  
**Private Bag X28, Lynnwood Ridge, 0040**
- (c)** Transmitted by fax on  
**012 394 0169**
- (d)** Communicated by telephone on  
**012 394 3354**
- (e)** Transmitted by electronic mail to:  
**cac@comptrib.co.za**

**Rule 4 is amended by:***THE SUBSTITUTION:*

For the existing rule of the following:

"4. Condonation of Time Limits

On good cause shown, the Court may condone late performance of an act in respect of which these rules prescribe a time limit."

**Rule 6 is amended by:***THE SUBSTITUTION:*

For sub-rule (1) of rule 6, of the following sub-rule -

"(1) A notice or document may be delivered in any manner permitted in accordance with Table 1"

*THE SUBSTITUTION:*

For sub-rule (4) of rule 6, of the following sub-rule -

"(4) Subject to Rule 3(2), if a document referred to in Table 1 is delivered on a date or at a time that is outside of the office hours of the registrar as set out in Rule 3(1), that document will be deemed to have been delivered on the next business day."

**Rule 7 is amended by:***THE INSERTION:*

following sub-rule (7) of the following sub-rules -

"(8) A person **who** files any document **in** terms of the Act or these Rules must:

(a) provide to the registrar, in writing **on** the face of the document or on a separate filing sheet, that person's -

(i) legal name;

(ii) address for service;

- (iii) telephone number;
  - (iv) If available, e-mail address and fax number; and
  - (v) if that person is not an individual, the name and contact details of the individual authorised to deal with the Court on behalf of the person filing the document; and
- (b) if the person filing the document does so as a representative of another person, such person must comply with Rule 31.

### **Ad Rule 8(1):**

Why **do** copies of all documents filed "*in any proceedings*" with the CAC have to be delivered to the Commission and to the Tribunal **as** a matter of course? There are cost implications and issues of relevance here.

Unless there is a reason for this rule - it should be deleted.

### **Ad Rule 8(2) and (3):**

The Act provides in chapter 3 for notification of mergers to the Minister. (See: section 14A). I am unsure to which "*proceedings*" sub-rule (2) refers.

The CAC only features in chapter 3 in sections 17 and 18. Section 18 permits the Minister to intervene before the CAC "in the prescribed manner". "*Prescribed*" is defined in the Act (section 191)(xx)) **as 'means prescribed by regulation'**.

**"Regulations"** are not the Rules of the CAC but are made by the Minister in terms of section 78 of the Act. Rules are made by the JP in terms of section 38(1)(c) of the Act.

**I would recommend** that sub-rules (2) and (3) be deleted and that the Minister be advised that he should issue the necessary regulations. We could offer to draft the necessary regulations.

**Rule 9 is amended by:***THE SUBSTITUTION:*

For the existing rule of the following:

**9. Format of Documents and Preparation of the Court Record**

- (1) Every document filed in terms of the Act or these Rules must:
  - (a) be typed or legibly written on white paper of A4 size. Typed documents shall be printed in a clear font of not less than 12 point on one side of the paper only and shall be double spaced. Documents filed by legal practitioners must, however, be typed;
  - (b) have a margin of at least 35 mm on the left side to facilitate binding. No notes, signatures, initials, stamps or other matter shall be placed in the binding margin;
  - (c) if smaller than A4 size, and intended to be placed before the Court, be affixed to a sheet of A4 paper;
  - (d) if larger than A4 size, be folded to A4 size to facilitate binding of the Court record;
  - (e) the registrar may refuse to accept for filing any document that does not comply with the requirements of this sub-rule.
- (2) The attorney acting for an applicant (or similar party initiating the proceedings), shall, before applying for a date of hearing, collate, number consecutively and suitable bind all the documents delivered and forming the Court record and shall deliver a complete index thereof as also an index to each separate bound volume. On a date between 10 and 15 business days before the hearing, the aforesaid attorney shall ensure that the record to be used by each Judge hearing the matter is complete and fully indexed. The aforesaid attorney shall, not later than 5 business days before the hearing, file a certificate confirming that the above matters have been attended to.
- (3) Whenever practical, the attorney acting for an applicant (or similar party initiating the proceedings) shall in consultation with the attorneys for all other represented parties and with unrepresented parties, prepared a separate bundle of essential core documents and/or a list of any pages in the record that the parties agree need not be read by the Court prior to the hearing. The essential core documents and/or aforesaid list shall be filed not less than 30 business days before the hearing.