

The Competition Act (Consolidation Act)

Consolidated Act No. 1027 of 21 August 2007 as amended as of 1 October 2010

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The Competition Act (Consolidation Act)

An Act to consolidate the Competition Act, i.e. Consolidation Act No. 785 of 8 August 2005 as amended by Act No. 523 of 6 June 2007 and Act No. 572 of 6 June 2007. The Act has later been amended by Section 6 of Act No. 375 of 27 May 2008, Section 162 of Act No. 1336 of 19 December 2008 and Act No. 495 of 12 May 2010. The amended text of the Act enters into force with full effect as of 1 October 2010, except from subsections (2) and (6) of Section 27 which enter into force as of 1 January 2011, as provided by Section 3 of Act No. 495 of 12 May 2010 reproduced at the end of this Act.

Part 1

Purpose and scope of the Act

1. The purpose of this Act is to promote efficient resource allocation in society through workable competition for the benefit of undertakings and consumers.

2. - (1) This Act shall apply to any form of commercial activity as well as aid from public funds granted to commercial activity.

(2) The provisions of Parts 2 and 3 of this Act shall not apply where an anti-competitive practice is a direct or necessary consequence of public regulation. An anti-competitive practice established by a local council shall only be considered a direct or necessary consequence of public regulation in so far as the practice is necessary to allow the local council to carry through the tasks assigned to it under current legislation.

(3) Decisions made by the executive committee of a local authority partnership, cf. Section 60 of the Local Government Act, shall be considered equivalent to decisions made by a local council as referred to in subsection (2) above.

(4) A question of whether an anti-competitive act or practice will be covered by subsection (2) above shall be resolved by the minister responsible for the regulation concerned. Where the Competition Council requests the relevant minister to determine whether an anti-competitive practice is covered by subsection (2), the minister must reach a decision not later than 4 (four) weeks after having received the request from the Council. The Competition Council may extend this time limit.

(5) If the Competition Council finds an aid scheme or public regulation likely to restrain competition or otherwise likely to impede efficient allocation of society's resources, the Council may deliver a reasoned opinion to the relevant minister and to the Minister for Economic and Business Affairs, pointing out its potentially adverse effects on competition and presenting recommendations for promoting competition in the area concerned. The relevant minister, who shall consult with the Minister for Economic and Business Affairs, is obliged to respond to the Competition Council's opinion not later than 4 (four) months after his receipt of the opinion submitted. The Competition Council may extend this time limit.

(6) (Repealed).

3. This Act shall not apply to pay and working conditions. For the purposes of its ongoing work the Competition Council may, however, demand information from organisations and undertakings concerning pay and working conditions.

4. (Repealed)

5. - (1) The provisions of Part 2 of this Act shall not apply to agreements, decisions and concerted practices within the same undertaking or group of undertakings.

(2) The Minister for Economic and Business Affairs shall lay down specific rules on the application of subsection (1), after consultation with the Competition Council, including rules on how to define agreements etc. within the same undertaking or group of undertakings.

5 a. -(1) The definition of the relevant market under this Act shall be based on examinations of demand and supply substitutability and potential competition. The potential competition must be examined when the position of the undertakings operating on the relevant market has been documented and this position gives rise to doubt as to whether this Act has been infringed.

(2) The Competition Council may draw on external expertise in making its assessment under subsection (1) above.

Part 2

Prohibition against certain anti-competitive agreements

6. - (1) It shall be prohibited for undertakings etc. to enter into agreements that have restriction of competition as their direct or indirect object or consequence.

(2) Agreements covered by subsection (1) may, in particular, be agreements made to

- i) fix purchase or selling prices or other trading conditions;
- ii) limit or control production, sales, technical development or investments;
- iii) share markets or sources of supply;
- iv) apply dissimilar conditions to equivalent transactions with trading partners, thereby placing them at a competitive disadvantage;
- v) make the conclusion of contracts subject to acceptance by the other contracting party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts;
- vi) coordinate the competitive practices of two or more undertakings through the establishment of a joint venture; or
- vii) determine binding resale prices or in other ways seek to induce one or more trading partners not to deviate from recommended resale prices.

(3) Subsection (1) shall furthermore apply to decisions made by an association of undertakings and to concerted practices between undertakings.

(4) The Competition Council may issue orders to put an end to infringements of subsection (1), cf. Section 16. Acting upon any concerns it may have in relation to subsection (1), the Competition Council may, furthermore,

decide that commitments made by an undertaking shall be binding, cf. Section 16a (1).

(5) Agreements and decisions that are prohibited under subsections (1) – (3) shall be void, unless otherwise excepted under Section 7, exempted under Section 8 or Section 10, or comprised by a declaration under Section 9.

7. - (1) The prohibition set out in Section 6(1) above shall not apply to agreements between undertakings, decisions made by an association of undertakings or concerted practices between undertakings, in case the undertakings involved have

i) an aggregate annual turnover of less than DKK 1 billion and an aggregate share of less than 10 per cent of the product or service market concerned, cf. however subsections (2) – (4); or

ii) an aggregate annual turnover of less than DKK 150 million, cf. subsections (2) – (4).

(2) The exceptions in subsection (1) above shall not apply in cases where undertakings or an association of undertakings agree, coordinate or decide on

i) prices, profits etc. for the sale or resale of goods or services,

ii) restrictions on production or sales,

iii) sharing of markets or customers, or

iv) fixing bids prior to their tendering, fixing conditions for the opening of bids, deferring bids, prior notification of bids, or any other form of bid rigging.

(3) The prohibition set out in Section 6(1) shall, irrespective of subsection (1) above, apply to an agreement between undertakings, a decision made by an association of undertakings and concerted practices between undertakings if, together with other similar agreements etc., the agreement etc. will restrict competition.

(4) The Minister for Economic and Business Affairs shall, after consultation with the Competition Council, lay down specific rules on the calculation of turnover under subsection (1), including rules to the effect that, in the case of financial undertakings, the mentioned turnover thresholds shall be calculated on the basis of other assets.

(5) The exception set out in subsection (1) shall apply even if the undertakings exceed the above thresholds for two consecutive years. The Minister for Economic and Business Affairs shall, after consultation with the Competition Council, lay down specific rules in that respect, including rules on minor transgressions of the mentioned thresholds.

8. - (1) The prohibition set out in Section 6(1) above shall not apply if agreements between undertakings, decisions made by an association of undertakings or concerted practices between undertakings

i) contribute to improving the efficiency of the production or distribution of goods or services or to promoting technical or economic progress;

ii) provide consumers with a fair share of the resulting benefits;

iii) do not impose on the undertakings restrictions that are not necessary to attain these objectives; and

iv) do not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products or services in question.

(2) The Competition Council may, upon notification, exempt an agreement between undertakings, a decision within an association of undertakings or a concerted practice between undertakings from the prohibition in Section 6(1) if the Council finds the conditions set out in subsection (1) above satisfied. The notification of such an agreement etc., including an application for exemption under subsection (1), may be submitted to the Competition Authority. The Competition Council shall lay down specific rules on notification, including rules on the use of special notification forms.

(3) Decisions made under subsection (2) shall specify the period for which the exemption is effective. Exemptions may be granted on specific terms.

(4) The Competition Council may, upon notification, extend an exemption where the Council finds that the conditions in subsection (1) are still satisfied. Subsection (3) shall apply correspondingly.

(5) The Competition Council may refrain from considering a notification under subsection (2) or (4), if the agreement etc. may appreciably affect trade between the member states of the European Union.

(6) The Competition Council may alter or revoke a decision made under subsection (2) or (4) if

i) the facts of the situation have changed in any respect that was important for the decision;

ii) the parties to the agreement etc. fail to comply with the terms imposed;
or

iii) the decision has been based on incorrect or misleading information from the parties to the agreement etc.

9. – (1) The Competition Council may declare, upon notification from an undertaking or association of undertakings, that according to the facts in its

possession, an agreement, decision or concerted practice shall be outside the scope of the prohibition set out in Section 6(1), and that, accordingly, it has no grounds for issuing an order under Section 6(4). The Competition Council shall lay down specific rules on notification, including rules on the use of special notification forms.

(2) The Competition Council may refrain from considering a notification under subsection (1) if an agreement etc. may appreciably affect trade between the member states of the European Union.

10.– (1) The Minister for Economic and Business Affairs shall, after consultation with the Competition Council, lay down rules on the granting of block exemptions from the prohibition in Section 6(1) for groups of agreements, decisions and concerted practices that satisfy the conditions in Section 8(1) above.

(2) Where agreements, decisions by an association of undertakings or concerted practices that are comprised by a block exemption issued under subsection (1) above have impact on a concrete case which is incompatible with the conditions in Section 8(1), the Competition Council may revoke such a block exemption for the undertakings etc. that have entered into the agreement etc.

Part 2a

Trading terms of dominant undertakings

10 a. –(1) The Competition Council may order a dominant undertaking to submit its general trading terms to the Competition Authority if

- i) a competitor has filed a not unfounded complaint;
- ii) special conditions prevail on the market and
- iii) the Competition Authority, due to these conditions, sees a special need to acquire insight into the ways in which the dominant undertaking fixes its prices, discounts, etc.

The order may exclusively comprise the trading terms for the markets with which the complaint is concerned.

(2) Orders issued under subsection (1) shall apply for 2 (two) years from the date when the decision is final.

(3) “Trading terms” shall mean the basis applied at any time by an undertaking to generally fix its prices, discounts, marketing contributions and free services and the terms and conditions on which the undertaking will grant these financial benefits to its trading partners.

(4) Undertakings that have submitted their trading terms under subsection (1) above may ask the Competition Council for an assessment of these terms. The Competition Council shall make its decision within 6 (six) months. This time limit will run from the date when the Competition Authority receives from the undertaking the information that is necessary to make an assessment of its trading terms. If no decision has been made by the Competition Council within this time limit, the trading terms shall be considered as approved.

(5) The Competition Council may refrain from making a decision in case such a decision may have implications for whether one or more undertakings abuse a dominant position in the common market or an essential part thereof, and the trading between the member states of the European Union may be appreciably affected thereby.

(6) If the trading terms are contrary to Section 11(1) or administered in contravention of Section 11(1), the Competition Council may order revocation or alteration of one or more provisions in the trading terms. If the trading terms are prepared in such a manner that the Competition Council will have an inadequate basis for assessing whether they are contrary to Section 11(1), the Competition Council may order that one or more of the terms must be further specified.

(7) If a dominant undertaking against which an order under subsection (1) has been issued deals with trading partners on the Danish market using prices, discounts, financial benefits or other terms that are not shown in or deviate to a not insignificant extent from the trading terms submitted to the Competition Authority, this will be taken into account in connection with the general presentation of evidence in proceedings under Section 11.

(8) The provision in subsection (7) shall also apply if a dominant undertaking breaches an order issued under subsection (6). This shall not apply, however, where under Section 19(4) a stay of execution has been granted pending the outcome of a complaint against the order.

Part 3

Abuse of a dominant position

11. - (1) Any abuse by one or more undertakings etc. of a dominant position is prohibited.

(2) The Competition Council must declare, upon request, whether one or more undertakings hold a dominant position, cf. however subsection (7). If the Competition Council declares that an undertaking does not hold a dominant position, this declaration shall be binding until revoked by the Competition Council.

- (3) Abuse as set out in subsection (1) may, for instance, consist in
- i) directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions;
 - ii) limiting production, sales or technical development to the prejudice of consumers;
 - iii) applying dissimilar conditions to equivalent transactions with trading partners, thereby placing them at a competitive disadvantage; or
 - iv) making the conclusion of contracts conditional upon acceptance by the other contracting party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.

(4) The Competition Council may issue orders to bring infringements of the prohibition in subsection (1) to an end according to Section 16. Acting upon possible concerns it may have in relation to subsection (1), the Competition Council may, furthermore, order that commitments made by an undertaking shall be binding, cf. also Section 16 a (1).

(5) The Competition Council may declare, upon notification from one or more undertakings, that on the facts in its possession a certain form of conduct shall not fall under the prohibition in subsection (1) and that, accordingly, it has no grounds for issuing an order under subsection (4).

(6) The Competition Council may lay down specific rules on the material that has to be submitted for a decision under subsection (2) or (5).

(7) The Competition Council may refrain from making a decision under subsection (2) or (5) if the decision may have implications for whether one or more undertakings will abuse a dominant position in the common market or an essential part thereof, and the trade between the member states of the European Union may be influenced appreciably thereby.

Part 3a

Aid that distorts competition

11 a.- (1) The Competition Council may issue orders for the termination or repayment of aid granted from public funds to support certain forms of commercial activity.

- (2) An order under subsection (1) may be issued in case
- i) the direct or indirect object or effect of the aid is distortion of competition; and
 - ii) the aid is not lawful according to public regulation.

(3) The decision of whether granted aid is lawful according to public regulation shall be made by the relevant minister or the relevant municipal supervisory authority unless otherwise provided by other legislation. Decisions as to the lawfulness of granted aid according to public regulation shall be made not later than 4 (four) weeks after receipt of a request from the Competition Council. The Competition Council may extend this time limit.

(4) An order for repayment of aid under subsection (1) may be issued to private undertakings, self-governing institutions and corporate undertakings owned fully or partly by public authorities. The Minister for Economic and Business Affairs may lay down specific rules to the effect that orders for repayment of aid under subsection (1) may also be issued to certain quasi-corporate undertakings owned fully or partly by public authorities.

(5) The Competition Council's powers to order repayment of public aid under subsection (1) above shall be barred by limitation five years after the aid was paid out. The Competition Council shall determine the interest to be paid in connection with orders for repayment of unlawful aid according to subsection (1) above. Interest shall be paid at the interest rate fixed at any time under the European Union's state aid rules to be applied in the repayment of state aid. The Competition Council may stipulate that compound interest shall accrue from the date when unlawful aid was first made available to the recipient and until the date when the aid has been repaid. The sum of interest which has accrued the preceding year shall accrue interest each subsequent year.

(6) The Competition Council may, upon notification, declare that, based on the conditions known to it, certain grants of public aid are not covered by subsection (2)(i) and that, accordingly, the Council has no grounds for issuing an order under subsection (1). The Council may lay down specific rules on notification, including rules on the use of special notification forms.

(7) The Competition Council may refrain from dealing with a case under subsections (1) – (6) if the aid scheme at issue may affect trade between the member states of the European Union.

11b.-(1) The Competition Council may investigate the extent to which a public authority offers private providers of services covered by the Free Choice programme a settlement price fixed in accordance with the rules established in other legislation on the Free Choice programme, cf. subsection (5).

(2) If the settlement price referred to in subsection (1) is lower or estimated to be lower than the price which the public authority should have used according to the relevant provisions on Free Choice, the Competition Council may issue an order addressed to the public authority to the effect that the public authority shall

- i) stop calculating and stipulating settlement prices that are contrary to the Free Choice rules,
- ii) use specified bases of calculation, calculation methods or settlement prices in respect of private providers of Free Choice services and
- iii) ensure post-payment of an amount to private suppliers of Free Choice services corresponding to the difference between the settlement price that the authority has used and the settlement price that the authority should have used in accordance with paragraph (i).

(3) Unless otherwise specified in the provisions on the Free Choice programme in question, the order to ensure post-payment may not relate to payments that were made more than one year prior to the date on which the Competition Authority launched an investigation into the conditions of the public authority in question.

(4) The Competition Council may refrain from dealing with a case under subsections (1)-(3) if the programme in question may affect trade between the Member States of the European Union.

(5) The Minister for Economic and Business Affairs shall, after negotiation with the relevant minister, lay down rules to specify the Free Choice programmes that fall within the Competition Council's field of competence.

11c. The Minister of Economic and Business Affairs may lay down rules on the implementation of the Commission Directive on the transparency of financial relations between Member States and public undertakings and on financial transparency within certain undertakings.

Part 4

Merger control

12.-(1) The provisions of Part 4 of the Act shall apply to mergers where

- i) the aggregate annual turnover in Denmark of all undertakings involved is more than DKK 900 million and the aggregate annual turnover in Denmark of each of at least two of the undertakings concerned is more than DKK 100 million; or
- ii) the aggregate annual turnover in Denmark of at least one of the undertakings involved is more than DKK 3.8 billion and the aggregate annual world-wide turnover of at least one of the other undertakings concerned is more than DKK 3.8 billion.

(2) Where a merger is a result of the acquisition of parts of one or more undertakings, the calculation of the turnover referred to in subsection (1) shall

only comprise the share of the turnover of the seller(s) that relates to the assets acquired.

(3) However, two or more acquisitions as referred to in subsection (2), which take place within a two-year period between the same persons or undertakings, shall be treated as one and the same merger arising on the date of the last transaction.

(4) The Minister for Economic and Business Affairs shall, after consultation with the Competition Council, lay down specific rules on the calculation of the turnover under subsection (1), including rules prescribing that the mentioned turnover thresholds shall be calculated on the basis of other assets in the case of financial institutions.

(5) Even if the aggregate turnover of the undertakings involved is lower than the thresholds referred to in subsection (1) above, the provisions of this Part of the Act shall apply to a merger which the European Commission refers to Denmark according to the EU Merger Regulation.

12 a.-(1) For the purpose of this Act, a merger shall mean:

i) two or more previously independent undertakings amalgamating into one undertaking; or

ii) one or more persons who already control at least one undertaking, or one or more undertakings - by an agreement to purchase shares or assets or by any other means - acquiring direct or indirect control of the entirety of or parts of one or more other undertakings.

(2) The establishment of a joint venture that will perform on a permanent basis all the functions of an independent business entity shall constitute a merger within the meaning of subsection (1)(ii).

(3) For the purpose of this Act, control of an undertaking is obtained through rights or agreements or in other ways which will, either separately or in combination, make it possible to exert decisive influence on the operations of the undertaking.

(4) A merger shall not be deemed to arise under subsection (1) in the following cases:

i) Where credit institutions, other financial undertakings or insurance companies whose normal activity includes transactions and dealing in securities for their own account or for the account of others are temporarily in possession of interests which they have acquired in an undertaking with a view to reselling these, provided always that they do not exercise the voting rights attached to these interests for the purpose of determining the competitive conduct of that undertaking or exercise these voting rights exclusively with the aim of preparing

the disposal of all or part of that undertaking or its assets or shares held and that the disposal takes place within one year of the date of acquisition;

ii) Where control is acquired by a professional who has powers under current insolvency legislation to deal with and dispose of the undertaking; or

iii) Where the transactions referred to in subsection (1)(ii), above are carried through by holding companies as defined in the Annual Accounts Directive, subject to the restriction, however, that the voting rights attached to the shares in their possession, especially in relation to the appointment of members of the management and supervisory bodies of the undertakings in which the shares are held, are only exercised to retain the full value of these investments and not to determine directly or indirectly the competitive conduct of these undertakings.

(5) The Competition Council may, upon request, extend the time limit set out in subsection (4)(i), where the credit institute or financial undertaking or insurance company is able to substantiate that the disposal was not reasonably possible within the period required.

12 b.-(1) A merger covered by this Act shall be notified to the Competition Authority after a merger agreement has been concluded, a takeover bid has been published or a controlling interest has been acquired and before the merger is carried through.

(2) The Competition Authority may publish a notice to announce that it has received notification of a merger. The notice published shall include the names of the parties to the merger, the nature of the merger and the economic sectors involved.

(3) The Minister for Economic and Business Affairs shall, after consultation with the Competition Council, lay down rules on the notification of mergers, including rules on the use of special notification forms.

12 c.-(1) The Competition Council shall decide whether to approve or prohibit a merger, cf. however subsection (7) below.

(2) A merger that will not significantly impede effective competition, in particular due to the creation or strengthening of a dominant position, shall be approved. A merger that will significantly impede effective competition, in particular due to the creation or strengthening of a dominant position, shall be prohibited.

(3) To the extent that the formation of a joint venture that will constitute a merger under Section 12 a(2) above also has as its object or effect the co-ordination of the competitive conduct of undertakings that remain independent, such coordination shall be assessed in accordance with the criteria laid down in

Sections 6(1) and 8(1) of this Act or Article 101(1) and (3) TFEU in order to establish whether the transaction shall be approved.

(4) When making the assessment under subsection (3), the Competition Council shall, in particular, take into account:

i) whether two or more founding undertakings have retained significant activities in the same market as the established joint venture or in a market which is downstream or upstream from that of the joint venture or in a related market closely associated with this market; and

ii) whether the coordination that is the direct consequence of the establishment of the joint venture provides a possibility for the undertakings involved to eliminate competition in respect of a substantial part of the products or services in question.

(5) A merger that is subject to the provisions of this Act shall not be carried through until it has been notified to and approved by the Competition Council under subsection (1) above. This shall not prevent the implementation of a public takeover bid or a series of transactions in securities, including securities that can be converted to other securities which can be traded in a market such as a stock exchange, whereby control is acquired from different sellers, cf. Section 12a, provided that the merger is notified immediately to the Competition Authority and the acquirer does not exercise the voting rights attached to the securities in question or only does so to maintain the full value of his investment and on the basis of an exemption granted by the Competition Council according to subsection (6) below.

(6) The Competition Council may grant an exemption from the provision set out in subsection (5) and in that connection make it subject to certain conditions or it may issue an order for the purpose of protecting effective competition.

(7) Irrespective of subsection (1) above, the Competition Authority may grant approval of a merger, based on a simplified procedure if the Authority based on the information submitted finds that the merger will not give rise to any objections on the part of the Authority.

12 d.-(1) It shall be decided, not later than 25 weekdays after a complete notification has been received, whether a merger shall be approved, and whether the merger may be approved on the basis of a simplified procedure. Within the same time limit it shall be decided whether a further investigation of the merger shall be initiated.

(2) If the Competition Council initiates a further investigation of a merger, cf. subsection (1), second sentence, then it shall be decided within 90 weekdays

after the expiry of the time limit set out in subsection (1) above whether to approve or prohibit the merger.

(3) The time limit referred to in subsection (2) above shall be extended by up to 20 weekdays in case one or more of the undertakings involved propose new or revised commitments. The time limit may only be extended if, at the time when the commitments are proposed, there are less than 20 weekdays left until a decision should have been made under subsection (2) above, thus, providing that a total period of 20 weekdays is available for the assessment of the merger in light of the new or revised commitments.

(4) The time limit set out in subsection (2) above may furthermore be extended upon a decision of the Competition Council provided that the undertaking(s) that has/have filed the notification has/have requested or consented to the extension. An extension may not exceed 20 weekdays.

(5) If no decision has been made within the time limits provided by subsections (1) – (4) above, this shall be considered to be a decision to approve the merger.

12 e.-(1) The Competition Council may attach conditions to its approval of a merger under Section 12 c (2) or issue orders to ensure, for example, that the undertakings involved comply with the commitments they have accepted vis-à-vis the Competition Council to eliminate any anti-competitive effects of the merger.

(2) Such conditions or orders may require that the undertakings involved have to

- i) dispose of an undertaking, parts of an undertaking, assets or other proprietary interests;
- ii) grant third party access; or
- iii) take other measures capable of promoting effective competition.

(3) the Competition Council may, after its approval of a merger, issue the orders that are necessary to ensure due and correct fulfilment of the commitments made to the Council by the undertakings involved according to subsection (1) above.

12 f.-(1) The Competition Council may revoke its approval of a merger, where

- i) its approval is based to a substantial extent on incorrect or misleading information, for which one or more of the undertakings concerned are responsible; or
- ii) the undertakings concerned fail to comply with conditions or orders imposed under Section 12 e (1).

(2) In case the Competition Council is made aware of the fact that an undertaking concerned, as part of the assessment of a merger notified according to the simplified procedure, has submitted incorrect or misleading information, the Council may revoke its approval under Section 12 c (7) and demand that within two weeks the undertakings concerned submit a full notification, cf. however subsection (3). The Competition Council's assessment is subject to the time limits set out in Section 12 d.

(3) However, a full notification shall not be submitted, if, at the time when the Competition Council revokes its approval, the undertakings involved have not taken any initiatives to implement the merger or if they have taken initiatives to implement the merger, but inform the Competition Council within two weeks that the merger will not be implemented.

12 g. The Competition Council may, when making a decision under Section 12 c(1) to prohibit a merger that has already been carried through, issue an order that requires separation of the undertakings or assets that have been taken over or merged or cessation of joint control or any other measure capable of restoring effective competition.

Part 5

Access to documents

13.-(1) The Act on Public Access to Documents in Public Files shall not apply to cases and investigations under this Act other than cases concerning the definition of rules under Section 5(2), Section 7(4) and (5), second sentence, Section 8(2), third sentence, Section 9(1), second sentence, Section 10(1), Section 11(6), Section 11a(4), second sentence, and (6), second sentence, Section 11 c, Section 12(4), Section 12 b(3), Section 14(3), Section 18(8), second sentence, Section 18 a (3) and Section 21(3). However, Section 4(2) and Section 6 of the Act on Public Access to Documents in Public Files shall also apply to cases covered by this Act. In addition sentences one and two are applicable if information obtained under this Act has been disclosed to another administrative authority.

(2) The Competition Authority shall publish:

i) Decisions made by the said authority according to Section 2(4), first sentence and Section 11 a (3), first sentence, as well as the Competition Council's reasoned opinions and the relevant minister's responses according to Section 2(5),

ii) The Competition Council's decisions made under this Act,

iii) The Competition Authority's decisions made on behalf of the Competition Council or a summary of such decisions, unless the decision is neither found to be of importance for the understanding of the Competition Act nor otherwise found to be of public interest,

iv) Judgments, settlements of fines or a summary thereof, where subject to Section 23 a fine is imposed on or accepted by an undertaking.

v) Orders made by the Competition Appeals Tribunal,

vi) Judgments passed in lawsuits, to which the Competition Authority, the Competition Council or the Competition Appeals Tribunal is a party,

vii) Judgments which the Authority has obtained from the courts or of which it has requested copies according to Section 20(4) where such judgments concern the application of this Act or Articles 101 and 102 TFEU.

(3) The Competition Council may publish information concerning its activity as well as general reports.

(4) Publication of information according to subsections (2) and (3) shall not include information on technical matters, including information on research, production methods, products and operating and business secrets, where such information is of substantial financial importance to the person or undertaking concerned. Nor shall customer-related information from undertakings, which fall under the jurisdiction of the Financial Supervisory Authority, be disclosed.

(5) Any party who is required to submit information to the Competition Council may file an application to the Chairman of the Council requesting that information which may not be disclosed or made available to the public pursuant to subsection (4) may not be disclosed to the members of the Council either. The Chairman shall make the final decision as to the extent to and form in which the information should be disclosed.

Part 6

The Competition Authority, organisation and powers

14.-(1) The enforcement of this Act and the subordinate rules issued under this Act shall be the responsibility of the Competition Council, cf. however Sections 2(4), first sentence, and 11 a(3), first sentence. However, this shall not apply to rules laid down according to Section 11 c of this Act. The Competition Council may consider cases on its own initiative, upon notification or complaint, or as a result of a referral from the European Commission or other competition authorities of the European Union. The Competition Council shall decide whether there are sufficient grounds to initiate an investigation or make a decision in a case, including whether the consideration of a case should be

suspended or discontinued. The Competition Council may also decide not to consider cases in which undertakings have previously given commitments under Section 16 a(1).

(2) The Competition Authority serves as secretariat to the Competition Council in respect of cases under this Act and handles the day-to-day administration of the Act on behalf of the Competition Council.

(3) The Minister for Economic and Business Affairs shall lay down rules of procedure for the Competition Council as well as rules on the activities of the Competition Council and the Competition Authority, including rules on the dismissal of Council members or their deputies upon recommendation from the Chairman of the Council prior to the expiry of their term.

15.-(1) The Competition Council is composed of a Chairman and 17 members. The Minister for Economic and Business Affairs shall appoint the Chairman and the members for a term of up to 4 (four) years. The Council shall have comprehensive insight into public as well as private enterprise activity, including expertise in legal, economic, financial and consumer-related matters. The Chairman and 8 (eight) members of the Council shall be independent of commercial and consumer interests. One of these members shall have special insight into government enterprise activity. According to specific directions given by the Minister for Economic and Business Affairs, 7 (seven) members shall be appointed on the recommendation of trade organisations, one member shall be appointed on the recommendation of consumer organisations, and one member with special insight into public enterprise activity upon recommendation from KL (Local Government Denmark). The members of the Council shall be appointed on the basis of their personal and professional qualifications and they shall act independently when carrying out their duties.

(2) The Minister for Economic and Business Affairs shall appoint permanent deputies for the members of the Competition Council.

(3) The Minister for Economic and Business Affairs may lay down specific rules on the recommendation and appointment of members for the Competition Council and on the recommendation and nomination of their permanent deputies.

15 a.-(1) Under the Public Administration Act, the right to access to information for the parties to a case shall only comprise the part of the correspondence and exchange of documents between the European Commission and the competition authorities of the member states, or between the competition authorities of the member states, which contains information about factual circumstances of a case that are of substantial importance for its decision.

(2) In cases where a party shall be heard as required under the Public Administration Act, the party must be given access to the full draft decision. The

time limit for making a statement regarding the draft decision shall be at least 3 (three) weeks, unless the case has already been before the Competition Council or the decision is made under the provisions of Part 4 of this Act.

15 b. The Minister for Economic and Business Affairs may lay down specific rules on the use of electronic communication to and from the Competition Council, the Competition Authority and the Competition Appeals Tribunal, including rules on the use of digital signatures.

15 c. The Competition Council may consider cases and make decisions in English if so requested by the parties to whom a decision is addressed and the regard for the parties to the case does not decisively make the use of English inadvisable. If the Competition Council has made a decision in English, a Danish summary of the decision shall be available.

15 d.-(1) The Competition Authority may carry out investigations of a specific business sector or certain types of agreements in different sectors (sector inquiries) in order to gain an insight into the competition situation in the sector(s) concerned.

(2) The provisions of Sections 17 and 18 of this Act shall similarly be applicable to the Competition Authority's investigations under subsection (1) above.

(3) The Competition Authority may subject to the limitations in Section 13(4) publish the results of investigations carried out according to subsection (1) above.

16. -(1) The orders which the Competition Council may issue under Section 6(4), first sentence, or Section 11(4), first sentence, or with reference to Article 101 or 102 TFEU, cf. Section 24(1), in order to eliminate the adverse effects of anti-competitive activity may include:

i) An order for the termination of agreements, decisions, trading conditions etc. in full or in part;

ii) A demand that stated prices or profits must not be exceeded, or that the calculation of prices or profits shall be subject to specified calculation rules;

iii) An obligation for one or more of the undertakings concerned to sell to specified buyers on the conditions usually applied by the undertaking in corresponding sales. The undertaking is, however, always entitled to demand cash payment or adequate security;

iv) An order to grant access to an infrastructure facility which is necessary for the marketing of a product or service.

(2) (Repealed)

16 a.–(1) The Council may order commitments (remedies) made by undertakings which accommodate the concerns of the Competition Council in relation to Section 6(1), Section 11(1) or Article 101 or 102 TFEU, cf. Section 24(1), to be binding on the undertakings. A commitment may be limited in time.

(2) The Competition Council may, after having caused a commitment to be binding in accordance with subsection (1) above, issue the orders necessary to ensure timely and correct fulfilment of the commitments made.

(3) The Competition Council may revoke a decision under subsection (1) if

i) The actual conditions have changed on a point of importance for the decision;

ii) The conduct of the parties to an agreement etc. is contrary to the commitments made; or

iii) The decision was made on the basis of incorrect or misleading information from the parties to the agreement etc.

17.–(1) The Competition Council may demand all the information, including accounts, accounting records, transcripts of books, other business documents and electronic data, that it believes necessary for its activity or for deciding whether the provisions of this Act shall apply to a certain situation.

(2) With a view to applying Articles 101 and 102 TFEU or Articles 53 or 54 of the EEA Agreement, the information referred to in subsection (1) may also be demanded for use in the Competition Authority's assistance to the European Commission and other competition authorities of the European Union or the EEA area.

18.–(1) For the use of the Competition Council's activities, the Competition Authority may conduct control investigations, which will give the Competition Authority access to the premises and means of transport of an undertaking or association for the purpose of gaining insight into and making copies of information kept on the site, including accounts, accounting records, books and other business documents, regardless of the information medium used. In connection with control investigations, the Competition Authority may request oral statements and demand that persons who are comprised by the investigations show the contents of their pockets, bags, etc. to enable the Competition Authority to obtain knowledge of such contents and, if necessary, take copies thereof.

(2) If the information of an undertaking or an association is stored or processed by an external data processor, the Competition Authority is entitled to be given access to the premises of the external data processor to gain insight into and make copies of the information stored on the site according to subsection (1). It shall be a precondition for such access that it is not possible for the

Competition Authority to obtain the information concerned directly from the undertaking or association that is the target of the control investigation.

(3) The Competition Authority's control investigations may only be carried out on the basis of a previously obtained court order and against due proof of the investigators' identity.

(4) The Competition Authority may take identical electronic copies (mirror images) of the data content of electronic media comprised by the control investigation, and may take the copied material away for subsequent review. The mirrored material must be sealed when the Authority leaves the premises of the undertaking or the association. The party who is the target of a control investigation may demand that the party or a representative appointed by the party shall be present when the seal is broken and during the Authority's review of the mirrored material. The Competition Authority is obliged, not later than 25 weekdays after the control investigation, to deliver to the party who is the target of the investigation, a set of copies of the information that the Authority may have extracted from the mirrored material. When the review of the mirrored material has been completed, the mirrored material shall be stored in sealed condition. The mirrored material shall be deleted if in the Authority's assessment it does not contain evidence of any infringement of the competition rules. If the Authority decides to proceed with the case, the mirrored material shall be deleted when the case has been finally decided.

(5) If the conditions of the undertaking or association make it impossible for the Competition Authority to get access to or make copies of the relevant information as referred to in subsections (1), (2) and (4) on the day when the control investigation is carried through, the Competition Authority is entitled to seal off the relevant business premises and information for up to 3 (three) weekdays thereafter.

(6) The Competition Authority is entitled on the same conditions as in subsection (5) above to take information or the medium on which it is stored away for copying. The material which the Competition Authority has removed must be returned to the undertaking or association together with a set of copies of the information the Competition Authority has extracted for its further examinations, not later than 3 (three) weekdays after the day of the inspection.

(7) In special cases, the time limits in subsections (4), (5) and (6) may be extended.

(8) The police shall provide assistance when the Competition Authority exercises the powers assigned to it under subsections (1), (2) and (4)-(6). The Minister for Economic and Business Affairs may by agreement with the Minister of Justice lay down specific rules on such assistance.

(9) The Competition Authority may conduct control investigations to grant assistance to the European Commission and other competition authorities of the European Union in connection with these authorities' application of Articles 101 and 102 TFEU. The provisions of subsections (1)-(8) above shall apply correspondingly.

18 a.-(1) The Competition Authority may, subject to reciprocity, disclose information covered by the Authority's duty of secrecy to the competition authorities of other countries, if such information is necessary to assist the enforcement of the competition rules of those countries, and if the Authority thereby fulfils bilateral or multilateral obligations of the Kingdom of Denmark.

(2) If such information is disclosed under subsection (1), the Competition Authority shall make the disclosure subject to the following conditions:

- i) The recipient must be under a similar obligation of secrecy;
- ii) The information disclosed may exclusively be used for the purposes set forth in a bilateral or multilateral agreement where the disclosure takes place according to such an agreement; and
- iii) The information disclosed may only be passed on with the express consent of the Competition Authority and only for the purposes covered by the consent.

(3) The Minister for Economic and Business Affairs may lay down specific rules on the Competition Authority's disclosure to foreign authorities of information covered by the Competition Authority's duty of secrecy.

Part 7

Appeals

19.-(1) Decisions according to Section 2(1), Section 3, first sentence, Section 5(1), Section 6(1), Section 6(4), first sentence, Section 7(1)-(3), Section 8(2), first sentence, and subsection (3), second sentence, and subsections (4) and (6), Section 9(1), first sentence, Section 10(2), Section 10 a(1) and (6), Section 11(1) and (2), Section 11(4), first sentence, Section 11(5), Section 11 a(1) and (6), first sentence, Section 11 b(2), Section 12 a (5), Section 12b (1), Section 12c(1), first sentence, Section 12 c (2), (3), (6) and (7), Section 12 d(5), Section 12 e (1) and (3), Section 12 f, Section 12 g, Section 13(4), Section 16, Section 16 a (2) and (3) and Section 24(2), cf. subsection (1), may be appealed to the Competition Appeals Tribunal.

- (2) An appeal according to subsection (1) may be lodged by
 - i) the party to whom the decision is directed; and

ii) other parties who have an individual and substantial interest in the case. This does, however, not apply to decisions made by the Competition Council according to Section 12 a (5), Section 12 b (1), Section 12 c (1), first sentence, Section 12 c (2), (3), (6) and (7), Section 12 d (5), Section 12 e (1) and (3), Section 12 f, Section 12 g, and Section 16 a (2) and (3) of this Act.

(3) Decisions according to Section 14(1) cannot be brought before the Competition Appeals Tribunal for appeal.

(4) An appeal against a decision under Section 13(4) will act as a stay of proceedings. An appeal against other decisions may be granted a stay of proceedings by the Competition Council or the Competition Appeals Tribunal.

(5) The Competition Appeals Tribunal may consider cases and make decisions in English if so requested by the addressees of the decision and the regard for the parties to the case does not decisively make the use of English inadvisable. If the Competition Appeals Tribunal has made a decision in English, a Danish summary of the decision shall be available. If the Competition Council has dealt with a case in English or made a decision in English under Section 15c, these documents shall be relied upon in the Tribunal's hearing of the appeal regardless of whether the Tribunal's hearing and decision are conducted or made in English.

20. -(1) Decisions made by the Competition Council under this Act may not be brought before any other administrative authority than the Competition Appeals Tribunal and may not be brought before the courts of law until the Appeals Tribunal has made its decision.

(2) Appeals shall be lodged with the Competition Appeals Tribunal within 4 (four) weeks after a decision has been communicated to the party concerned. If the time limit is exceeded the Appeals Tribunal may disregard this where special reasons justify it.

(3) Decisions made by the Competition Appeals Tribunal may be brought before the courts of law within 8 (eight) weeks after the decision has been communicated to the party concerned. If this time limit is exceeded, the decision of the Appeals Tribunal shall be final.

(4) Copies of judgments passed by a court concerning the application of this Act or Articles 101 and 102 TFEU shall be submitted to the Competition Authority by the court, though in criminal cases by the State Prosecutor for Serious Economic Crime. The Competition Authority shall inform the European Commission of judgments concerning Articles 101 and 102 TFEU.

21. -(1) The Competition Appeals Tribunal shall consist of a Chairman, who shall be a Supreme Court Judge, and four other members of whom two shall be

legal experts while two shall be economic experts. The Chairman may in case of his own absence authorise one of the members with legal expertise to replace him.

(2) The Chairman and the members shall be appointed by the Minister for Economic and Business Affairs. They shall be independent of commercial interests. Their appointment shall cease by the end of the month in which they will be 70 years old.

(3) The Minister for Economic and Business Affairs shall lay down rules on the activity of the Appeals Tribunal, including rules on the fees chargeable for bringing decisions before the Appeals Tribunal.

Part 8

Penalty and leniency provisions

22.-(1) The Minister for Economic and Business Affairs or an authority empowered by the Minister may impose daily or weekly penalty payments on any party who fails to

- i) submit information demanded by the Competition Council or the Competition Authority under this Act;
- ii) comply with conditions imposed or an order issued under this Act; or
- iii) fulfil a commitment which has been made binding according to Section 16 a(1).

(2) (Repealed)

(3) (Repealed)

23. Provided that a more severe penalty is not applicable under other legislation, a party shall be punished with a fine if, intentionally or with gross negligence, that party

- i) infringes Section 6(1);
- ii) fails to comply with a condition attached to a decision under Section 8(3), second sentence, or subsection (4), second sentence;
- iii) fails to comply with an order issued according to Section 10 a(1) or (6);
- iv) infringes Section 11(1);
- v) fails to comply with an order issued according to Section 11 a(1) or Section 11 b (2);
- vi) fails to notify a merger under Section 12 b(1) or fails to submit a full notification before the expiry of the time limit referred to in Section 12 f(2);

vii) implements a merger despite the prohibition against implementation, cf. Section 12 c(2), or infringes the prohibition against implementation of a merger prior to a clearance, cf. Section 12 c(5), first sentence, fails to comply with a condition imposed or an order issued according to Section 12 c(6) or Section 12 e(1) or (3) or fails to comply with an order issued according to Section 12 g;

viii) fails to comply with an order issued according to Section 6(4), first sentence, or Section 11(4), first sentence, cf. Section 16;

ix) fails to comply with a commitment that has been made binding according to Section 16 a(1);

x) fails to comply with an order issued according to Section 16 a(2);

xi) fails to comply with a requirement according to Section 17;

xii) provides incorrect or misleading information to the Competition Authority, the Competition Council or the Competition Appeals Tribunal or conceals matters of importance for the case or sector inquiry according to Section 15 d for which the information is obtained; or

xiii) infringes Article 101(1) or Article 102 TFEU, cf. Section 24(1) of this Act.

(2) Subsection (1)(i), above shall not apply from the date when an agreement etc. has been notified to the Competition Council according to Section 8(2) or (4) above and until the Council has communicated its decision according to Section 8(2), (4) or (5).

(3) Criminal liability may be imposed on companies etc. (legal persons) under the provisions of Part 5 of the Criminal Code. When a penalty to be imposed under subsections (1) and (2) is determined, the amount of the fine shall be fixed in consideration of the general provisions of Part 10 of the Criminal Code as well as the turnover generated by the legal person in the last year preceding the passing of the judgment or the notice of a fine.

(4) The period of limitation for claiming criminal liability is 5 (five) years.

23 a.-(1) Anyone who acts in breach of Section 6 of this Act or Article 101(1) TFEU by entering into a cartel agreement shall upon application be granted withdrawal of the charge that would otherwise have led to a fine being imposed for participating in the cartel, in case the applicant, as the first one, approaches the authorities about the cartel, submitting information that was not in the possession of the authorities at the time of the application, and

i) before the authorities have conducted a control investigation or a search regarding the matter in question, gives the authorities specific grounds to

initiate a control investigation or conduct a search or inform the police of the matter in question; or

ii) after the authorities have conducted a control investigation or a search regarding the matter in question, enables the authorities to establish an infringement in the form of a cartel.

(2) Withdrawal of the charge shall be granted only if the applicant

i) cooperates with the authorities throughout the entire course of the case;

ii) brings his participation in the cartel to an end no later than by the time of application, and

iii) has not coerced any other party into participating in the cartel.

(3) If an application for withdrawal of the charge does not meet the requirements set out in subsection (1)(i) or (ii), the application shall be treated as an application for reduction of the penalty as set out in subsection (4).

(4) Anyone who acts in breach of Section 6 of this Act or Article 101(1) TFEU by entering into a cartel agreement shall be granted a reduction of the fine that would otherwise have been imposed for participation in the cartel, if the applicant

i) submits information about the cartel that constitutes significant added value compared to the information already in the possession of the authorities, and

ii) satisfies the requirements specified in subsection (2).

(5) The penalty reduction for the first applicant who satisfies the requirements set out in subsection (4) shall be 50 per cent of the fine that would otherwise have been imposed on the party concerned for participating in the cartel. The penalty reduction for the second applicant who satisfies the requirements of subsection (4) shall be 30 per cent. The penalty reduction for subsequent applicants who satisfy the requirements of subsection (4) shall be up to 20 per cent.

(6) Applications for leniency shall be submitted to the Competition Authority. In cases where the State Prosecutor for Serious Economic Crime has charged persons or undertakings or initiated criminal investigations into an alleged infringement in the form of a cartel, an application for leniency may also be submitted to the State Prosecutor for Serious Economic Crime.

(7) An application filed under subsection (6) shall be considered according to the following procedure:

i) The authority that receives the application as set out in subsection (6) shall issue an acknowledgement of receipt.

ii) The competent authority, as referred to in subsection (8) below, shall issue a conditional assurance containing a statement of whether the requirements in subsections (1) or (4) are satisfied, and stating whether at this point there is reason to reject the application because the requirements in subsection (2) are not found satisfied.

iii) When the case has been finally examined and assessed, the competent authority shall indicate, as set out in subsection (9), whether the applicant satisfies the requirements in subsection (2) and, if so, grant leniency in accordance with the conditional assurance issued to the applicant under paragraph ii).

(8) The conditional assurance shall be issued by the authority that received the application under subsection (6). Before the conditional assurance is issued under subsection (7)(ii), it shall have been discussed between the Competition Authority and the State Prosecutor for Serious Economic Crime. A conditional assurance for withdrawal of the charge may only be issued if the authorities agree to do so.

(9) An assurance of withdrawal of the charge under subsection (7)(iii), shall be issued by the State Prosecutor for Serious Economic Crime after consultation with the Competition Authority. An assurance of a penalty reduction under subsection (7)(iii), shall be issued by the authority that, in the case in question, issues an administrative notice of a fine or brings the case before the courts. Before an assurance of a penalty reduction may be issued, the other authority shall be consulted.

(10) Different undertakings cannot submit a joint application for leniency, unless the applicants are associated members of a group of companies and the application specifies the companies that it is intended to comprise.

(11) An application from an undertaking or an association shall automatically cover current and former board members, senior managers and other employees, provided that each person satisfies the requirements in subsection (2). When the case has been finally examined and assessed, the competent authority as set out in subsection (9) shall indicate whether each party satisfies the requirements in subsection (2) and, if so, grant leniency in accordance with the conditional assurance issued to the undertaking or association under subsection (7)(ii).

23 b.-(1) In cases concerned with infringement of this Act in which the maximum penalty is a fine, the competition authority may with the consent of the State Prosecutor for Serious Economic Crime, issue an administrative notice of a fine, indicating that the case may be settled without a trial if the offender admits being guilty and is willing to pay the fine within a specified time limit.

(2) The rules of the Administration of Justice Act setting requirements for the contents of an indictment and stipulating that anyone who has been charged has the right to remain silent shall apply correspondingly to the notice of a fine.

(3) If the fine is accepted, further proceedings shall be discontinued.

Part 9

EU competition rules

24.-(1) Cases concerning infringement of Articles 101 and 102 TFEU, including cases involving parallel application of Sections 6 and 11 of this Act, may be dealt with by the national competition authority if the case has ties to Denmark. Ties to Denmark exist if agreements between undertakings, decisions within an association, concerted practices between undertakings or the conduct shown by an undertaking have anti-competitive effects on the Danish market, or if an undertaking located in Denmark is involved in an agreement etc. which has anti-competitive effects in the European Union.

(2) The provisions set out in Parts 5 - 8 of this Act are, in addition, applicable to the exercise of the powers assigned to the Competition Council under subsection (1) above, to the extent that it is compatible with regulations and directives issued under Article 103 TFEU.

(3) The assistance granted to the European Commission and other Member States pursuant to regulations and directives under Article 103 TFEU shall be provided by the Competition Authority.

Part 9a

Limitation in civil law

25.-(1) A creditor's claim for compensation as a result of failure to comply with the provisions of this Act or Articles 101 and 102 TFEU shall be subject to limitation according to the rules set out in the Time Limitation Act.

(2) Section 21(2) of the Time Limitation Act shall apply accordingly to claims as referred to in subsection (1) where the creditor has lodged a complaint with the Competition Council in a case concerned with violation of provisions as referred to in subsection (1) and the complaint is included in the Council's consideration of the case.

(3) Where the case is brought before the Competition Appeals Board, Section 21(2) of the Time Limitation Act shall apply correspondingly to claims as referred to in subsection (1) where the creditor

1) has brought the case before the Competition Appeals Board or

- 2) has joined the appeal proceedings as an intervener.

Part 9b

Class action

26. In case several persons have raised claims for damages due to infringements of this Act or Articles 101 and 102 TFEU, the Consumer Ombudsman may be appointed as a representative for the class for the purpose of the class action to recover these damages, cf. Part 23a of the Administration of Justice Act.

Part 10

Commencement and interim provisions etc.

27.-(1) This Act shall enter into force on 1 January 1998, apart from the provisions of Sections 14(3) and 15 which shall enter into force on 1 July 1997.

(2) The entry into force of this Act shall mean the repeal of the Competition Act, i.e. Consolidation Act No. 114 of 10 March 1993, and the Act on Control of Compliance with the Regulations of the European Economic Community on Monopolies and Restrictive Practices, i.e. Consolidation Act No. 449 of 10 June 1991. An approval granted under Section 14(1) of the Competition Act, i.e. Consolidation Act No. 114 of 10 March 1993, shall remain in force until the Competition Council may decide to withdraw the approval, but cf. subsection (6) below. Such a decision shall be made according to the rules then in force.

(3) Proceedings conducted under the Competition Act, i.e. Consolidation Act No. 114 of 10 March 1993, that have not been completed at the date when this Act enters into force shall lapse, except for complaints and cases pending before the Competition Appeals Tribunal.

(4) Anti-competitive agreements, decisions and concerted practices which are in existence at the date when this Act enters into force and come under the prohibition set out in Section 6(1), may, if an application for exemption under Section 8 is submitted before 1 July 1998, be maintained for up to three months after the Competition Council has made its decision in the case, even if the Council rejects the application. The Competition Council may extend the three month time limit.

(5) (Repealed.)

(6) Irrespective of the provisions of subsection (2), second and third sentence, above, Part 2 of this Act shall apply to agreements and concerted

practices between undertakings as well as decisions made in an association of undertakings concerning fixed resale prices for the retail sale of books.

28. The Price Marking and Display Act, i.e. Consolidation Act No. 456 of 17 June 1991, as amended by Act No. 429 of 1 June 1994, shall be amended as follows:

1) In Section 4 the following shall be inserted as subsection (3):

“(3) In product and service markets in which it may be assumed to be of special importance as price guidance to consumers, the National Consumer Agency may lay down rules on invoicing and other documentation of price calculations.”

2) After Section 9 the following shall be inserted:

“**10.** In product and service markets of special importance to consumers, the National Consumer Agency may carry out and publish comparative reviews of prices, discounts, bonuses, etc.”

29. This Act shall not extend to the Faeroe Islands and Greenland.

Act No. 523 of 6 June 2007, by which Part 9a is inserted into this Act, includes the following commencement provision:

47.

This Act shall enter into force on 1 January 2008.

Act No. 495 of 12 May 2010, by which amendments have been inserted into this Act, includes the following commencement provisions:

3.

(1) This Act shall enter into force on 1 October 2010, but subject to subsection (2) below.

(2) Subsections (2) and (6) of Section 27 of the Competition Act as drafted by Section 1(23) and (24) of this Amendment Act shall enter into force on 1 January 2011.

(3) The Competition Council’s directions as to payment of compound interest under Section 11a(5) of the Competition Act, as inserted by Section 1(2) of this Amendment Act, may solely be given in respect of aid which has been made available to a recipient after the Act has entered into force.

(4) The consideration of mergers that had been notified before 1 October 2010 shall be completed according to the rules in force up to that date.

The Ministry of Economic and Business Affairs, August 2010

Brian Mikkelsen

Kim Sparlund