

(For information)

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Singapore's Competition Act

Introduction

This paper provides a brief account on the recent development of introducing a competition law in Singapore.

Recent Development

2. The Singapore's Competition Bill was passed in Singapore's Parliament on 19 October 2004. The new legislation, the Competition Act, will be implemented in three phases:

Phase	Time	Provisions coming into force
Phase I	1 Jan 2005	Establishment of the Competition Commission which will be a statutory board under the Ministry of Trade and Industry (MTI)
Phase II	1 Jan 2006	Provisions prohibiting anti-competitive behaviours, except those on mergers and acquisitions, to take effect
Phase III	tentatively Jan 2007	Provisions governing regulation of mergers and acquisitions to take effect

3. In scrutinising the Bill, various Members of the Parliament raised concerns over the exclusion of various "strategic sectors" from the coverage of the legislation. The Singapore Government argued that the exclusions were made because of public interest considerations such as national security, or the fact that some of these service providers began as monopolies and appropriate transitional period would be required for them to evolve to operate in a more competitive environment.

4. The Singapore Government added that whilst the strategic sectors were not covered by the new legislation, they would be governed by sectoral regulators who, with specialised industry knowledge and expertise, were better placed to handle issues relating to competition in these sectors. The Singapore Government undertook to review the sectoral exclusions after the new legislation has been enforced and taking into account market developments.

Background

5. Subsequent to the first round of consultation which ended on 29 May 2004, the MTI of Singapore released the revised draft Competition Bill on 26 July 2004 for a second round of public consultation, which ended on 20 August 2004. The revised draft Bill provided, among other things, clearer standards for the appointment of the Commissioner of Competition Commission (the Commission) who would be appointed on a five-year term instead of three, as well as guidelines on how the financial penalties should be handled by the Commission; exemptions of all anti-competitive agreements which would result in net positive economic benefits; indication by the Commission of the threshold level above which any merger and acquisition activities would become a concern; and drawing up of leniency/whistleblower programmes by the Commission to facilitate the investigation of anti-competitive practices. To facilitate implementation, the MTI also annexed to the consultation document a proposed set of guidelines that the Commission would be developing in the course of 2005.

6. Despite criticism received from the first round of public consultation, almost all public utility services and “strategic sectors” as defined by the Singapore Government, namely electricity and gas, public transportation, telecommunications, postal services, media, cargo terminal operations, armed security services, potable water supply, waste water management services, and activities of clearing houses continued to be excluded from the revised draft Bill. No amendments were made to the revised draft Competition Bill subsequent to the second round consultation, and the Bill was passed in Singapore’s Parliament on 19 October 2004.