

## Caution for businesses post COVID19: Competition Law Best Practices

The Competition Act 2007 will be enforced with much rigor post-COVID19.

The Competition Commission will observe the behavior of businesses very closely.

This is because past experiences internationally have shown that in period of economic downturn businesses may be tempted to form cartels or use their power on the market to act anti-competitively.

Such actions will be reprimanded severely as they not only cause harm to consumers, but they also weaken the economy further and thus impedes our ability to get out of the crisis. The following best practices will enable enterprises to evade the pitfalls of anti-competitive behavior and help the economy recover.



### Enterprises are encouraged to:

- ✓ Decide on their business strategies, marketing plans, target customers and pricing policies **independently without concerting with rival businesses**
- ✓ Establish a competition compliance policy and ensure that staff are familiar with it, especially staff who engage with customers, suppliers and rivals. Make clear that disclosure or discussion of competitively sensitive information such as future prices, costs and list of customers is strictly forbidden between competitors
- ✓ You are encouraged to seek the guidance of the Competition Commission in relation to mergers and acquisitions
- ✓ Consider engaging with the Commission at an early stage for merger guidance
- ✓ You are encouraged to report mergers and acquisitions which may hinder competition
- ✓ Seek legal advice when entering into mergers and acquisitions

### Enterprises should avoid:

- × Colluding with rival businesses to fix selling prices, to allocate market territories, to share customers
- × Exchange of information on price including discounting policies, costs, customers with rival businesses
- × Using trade associations or cooperative societies as platform to fix price, share markets or exchange business sensitive information
- × Co-operating more than is reasonably necessary on goods and services not affected by COVID 19.
- × Taking unnecessary risk by completing important mergers and acquisition without seeking the guidance of the Commission
- × Increasing prices for reasons unrelated to costs
- × Discriminating between customers (e.g. charging different prices or applying different terms), without objective justifications, especially if you are a dominant on the market
- × Refusing to supply existing customers or make purchase of the products/services in demand conditional on the purchase of other goods/service without objective justifications, especially if you are a dominant on the market
- × Leveraging market power to eliminate competition from rivals or prevent new competitors from entering the market through below cost pricing, input foreclosure, exclusivity arrangements with suppliers and customers.