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## Guidance to business on proposed Covid19-related collaboration

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In the context of the current Covid19 situation affecting businesses and with the view to spur recovery of the economy in general and to ensure that markets continue to deliver for consumers, The Executive Director of the Competition Commission will entertain requests for guidance from businesses intending to collaborate in response to the Covid19 situation (hereinafter ‘Guidance Programme’).

Under the Guidance Programme The Executive Director will review the proposed collaborations within the ambit of sub part I of Part III of the Competition Act 2007 (the Act) which deals with collusive agreements including price fixing, market sharing, restriction of supply, bid rigging and resale price maintenance.

The Executive Director will thus provide informal and non-binding guidance as to whether the proposed collaboration (agreement) may be pursued or whether it is likely to be contrary to the prohibition on cartels. The Guidance Programme is provided on an exceptional basis and for a limited period, thus ending on 11 December 2020. The Executive Director will give guidance only in respect of proposed Covid19 related collaborations and will base his review only on the information submitted in the application, and without having to pursue an independent investigation or undertake an extensive market or technical analysis.

The Executive Director is conscious to the fact that Covid19 collaborations between businesses may only be effective if implemented at the right time, as such requests for review and guidance will be on a fast-track basis and will be dealt as far as practicable within 21 working days. The conditions for the Guidance Programme are as follows -

1. **Requests only in respect of proposed collaboration** - Guidance by the Executive Director is limited to proposed conduct (collaboration). The Executive Director will not provide Guidance for collaborations which have already been implemented (ongoing conduct).
2. **The proposed collaboration must be in response and directly related to Covid19 situation** - The Executive Director will only consider a request under this programme if the proposed collaboration is Covid19-related. In other words, the collaboration must aim to address issues caused by Covid19 in respect of production, acquisition, and supply of goods and services in Mauritius.

The Executive Director will review whether the proposed collaboration is necessary and that it does not exceed what is strictly necessary to achieve their legitimate objectives and strays into illegal collusion.

3. **The request must be made jointly by all parties to the proposed collaboration** - A request will only be considered if it is acknowledged by all parties to the proposed collaboration. Any guidance issued by the Executive Director shall have no application to any party which does not join in the request.
4. **Submit the Application ‘Form on Guidance Programme’** - The information that must be submitted under the Guidance Programme and as set out in the Application Form includes, amongst others; details of participants to the proposed collaboration; nature of business, product/service concerned; a complete description of the proposed course of action/collaboration, its scope, structure, purpose, and operationalization and an explanation of why the cooperation is necessary in the current circumstances. In addition, a proposed course of conduct for which guidance is sought must be sufficiently concrete and detailed so as to be more than merely hypothetical; it must be sufficiently defined to enable an in-depth evaluation of the proposed collaboration.
5. **Guidance is informal and non-binding** – Guidance provided under this Programme is informal and non-binding, and does not preclude the Executive Director from investigating a collaboration, if he believes that there are reasonable grounds to do so as per section 51 of the Competition Act 2007.