



Amendments to Competition Commission Guidelines on Mergers

The Competition Commission has today amended its Guidelines on Mergers – Competition Commission Guidelines 5 (the “Guidelines”) under section 38 of the Competition Act 2007 (the “Act”). The amendments relate to the respective sections of the Guidelines on “control” and “failing firms”.

The Act mandates the Competition Commission to review certain merger situations. As required under the Act, the Competition Commission has issued the Guidelines, which lay down the assessment framework for the review of merger situations under the Act.

Certain shortcomings were identified in the application of the Guidelines and the Competition Commission has addressed same through amendments to the Guidelines to ensure that the provisions are clear and properly aligned with the Act. A public consultation was held on the proposed amendments.

The amendments introduce a new section in the Guidelines on “Acquisition of control” at paragraphs 2.7 to 2.25. The latter amendments clarify how a person may bring an enterprise under his control within the meaning of the Act, and consequently which transactions may constitute a merger situation. A minor amendment to clarify the provisions of paragraph 3.19 has also been brought to the Guidelines.

The amendments do not emanate, nor do they imply a change in the Act. They aim at clarifying the existing provisions of the Act.

The amended Guidelines can be accessed on our [website](#).

The Executive Director
3rd August 2020