

## FORM 2

### FURTHER INFORMATION REQUIRED FOR APPLICATIONS FOR GUIDANCE UNDER SECTIONS 43 OR 50 OR FOR DECISION UNDER SECTIONS 44 OR 51 OF THE COMPETITION ACT (CHAPTER 50B)

#### PART 1 INTRODUCTION

This document lists the further information (and supporting documents) which may be required by the Commission after Form 1 has been filed.

If the Applicant(s) considers that the Commission should treat any part of the information submitted under this Form as confidential, the Applicant(s) must provide both a confidential version of this Form, as well as a non-confidential version of this Form with that item of information deemed confidential removed and replaced by square brackets containing the word "CONFIDENTIAL". The non-confidential version should also contain an annex marked "confidential information" identifying each item of information which has been removed from the confidential version and providing a written explanation as to why the information should be treated as confidential. The same treatment should also be extended to supporting documents accompanying this Form containing any information that the Applicant(s) considers should be treated as confidential.

#### NOTES:

- a. In completing this form, applicants are encouraged to refer to the principles outlined in the relevant paragraphs of the *CCCS Guidelines on the Section 34 Prohibition 2016*, the *CCCS Guidelines on the Section 47 Prohibition 2016*, the *CCCS Guidelines on Filing Notification for Guidance or Decision with respect to the Section 34 Prohibition and Section 47 Prohibition 2016* and the *CCCS Guidelines on Market Definition*, where applicable.
- b. Please ensure that all answers are concise and where relevant, supported by reasons, evidence (where possible from independent sources) and pertinent examples.

## FORM 2

### PART 2

#### FURTHER INFORMATION TO BE PROVIDED BY THE UNDERTAKING(S) MAKING THE APPLICATION

##### The Relevant Product and Geographic Market(s)

1. For each of the affected products or services identified in question 7 of Form 1 Part 2:
  - a. give a brief description of the characteristics and intended use;
  - b. state where it is produced;
  - c. state to which customer group it is supplied;
  - d. identify any goods or services that might reasonably be considered as close substitutes on the demand-side (that is, substitutes from the customer's perspective);
    - i. explain the reason(s) why each good or service is considered to be a close substitute;
    - ii. state the price differential (if any) between the substitutes and the affected products or services; and
    - iii. indicate whether any of the substitutes are imported into Singapore and if so, from which country.
  - e. identify any goods or services that might reasonably be considered as close substitutes on the supply-side (that is, substitutes from a supplier's perspective);
    - i. explain the reason(s) for the supply-side substitutability, namely, how suppliers can switch to supplying the affected products or services quickly and easily with little cost.
  - f. provide details of:
    - i. how far customers are willing to travel to purchase the affected products or services (for example, locally, nationally, regionally);
    - ii. how far suppliers are willing to supply the affected products or services (for example, locally, nationally, regionally).
  - g. provide details of the time, cost and resources required to move to a different part of the supply chain, for example, a distributor moving to retail or manufacturer moving to retail activities; and
  - h. describe any differences in supplying different types of customers.
2. For each of the relevant product and geographic market(s) identified in question 8 in Form 1 Part 2, please provide the following data for the last three years:
  - a. Total market size (value and volume);
  - b. Market share estimates (by value and/or volume, where relevant) for each of the parties (and any affiliated or connected undertaking) to the agreement and/or conduct; and
  - c. Market share estimates (by value and/or volume of competitors, where relevant)

For (a-c), please explain any significant year-on-year variations.

3. If the geographic market identified in question 8(b) of Form 1 Part 2 is wider than Singapore, please provide the following data for the last three years in Singapore:
  - a. An estimate of the total value and volume of goods or services; and
  - b. Market share estimates (by value and/or volume where relevant) for each of the parties to the agreement or conduct and their competitors.

For (a-b), please explain any significant year-on-year variations.

4. Please identify the undertakings belonging to the same group (within the meaning of question 10 in Form 1 Part 2) as the parties to the agreement or conduct which are active in the relevant product market(s) identified in question 8 in Form 1 Part 2 and those active in products and/or services which are regarded as imperfect and partial substitutes for those products. Please provide the name, place of incorporation, exact product manufactured and the geographic scope of operation of each member of the group.

## FILING NOTIFICATIONS FOR GUIDANCE OR DECISION WITH RESPECT TO THE SECTION 34 PROHIBITION AND SECTION 47 PROHIBITION 2016

### Barriers to Entry

5. For each of the relevant product and geographic market(s) identified in question 8 of Form 1 Part 2, give an estimate of the capital expenditure and time required to enter the relevant market(s) identified on a scale necessary to gain a five per cent market share, both as a new entrant, and as a company that already has the necessary technology and expertise, and estimate to what extent this cost is recoverable should the firm decide to exit the market.
6. Give an estimate of the scale of annual expenditure on advertising/promotion relative to sales required to achieve a market share of five percent.
7. With specific reference to Singapore, provide details of any other factors affecting entry, for example, planning restraints, technology, R&D requirements, regulatory barriers, import restrictions (tariffs, licensing, quarantine), IP rights, availability of raw materials, length of contracts, etc.
8. Give details of instances of market entry and exit in the past five years.
9. Identify any companies that would be in a position to enter the relevant market(s) identified in the response to question 8 of Form 1 Part 2 in a manner that would be sufficiently timely and likely and of such scope as to adequately constrain the parties to the agreement or conduct.

### Competitors

10. With specific reference to Singapore, for each of the relevant markets identified in question 8 of Form 1 Part 2:
  - a. Identify the five largest competitors of each party to the agreement or conduct which is the subject of the application, providing each competitor's name, address, telephone and fax numbers, and, where possible, a contact name;
  - b. For the competitors identified in question 10a, give the best estimates of their market shares in the goods or services;
  - c. Describe the nature of competition (for example, do firms compete on price quality, innovation, tender process);
  - d. Describe the cost and the time it takes for a customer to switch between suppliers;
  - e. Describe and name any local or overseas firms that are not currently providing goods or services in Singapore, but which could do so relatively quickly on a material scale;
  - f. Describe the ability of actual or potential competitors to expand or utilise existing productive capacity; and any other material factors;
  - g. Provide details of any shareholding, agreement, or joint ventures with existing competitors that may affect Singapore; and
  - h. For the competitors identified in question 10g, please provide the best estimates of their market shares in the goods or services.
11. For bidding markets only, in respect of the relevant market(s), give details:
  - a. Of any bids made by each party to the agreement in the last five years; and
  - b. The outcomes of those bids (for example, whether the bids were won or lost) and the reasons why, if known).

### Countervailing Buyer Power

12. With specific reference to Singapore, for each of the relevant markets identified in question 8 of Form 1 Part 2:
  - a. Identify the five main customers of each party to the agreement or conduct which is the subject of the application, in the relevant product and geographic market(s), giving the customer's name, address, telephone and fax numbers, and, where possible, a contact name.
  - b. To what extent, and why, would each party to the agreement or conduct (and if applicable, the parties to the agreement as a collective entity) be constrained by the conduct of buyers following the implementation of the agreement or conduct.

## FILING NOTIFICATIONS FOR GUIDANCE OR DECISION WITH RESPECT TO THE SECTION 34 PROHIBITION AND SECTION 47 PROHIBITION 2016

### **Vertical Agreements** *(To be completed if there is (potentially) a vertical relationship amongst the parties to the agreement or conduct)*

13. Describe any vertical relationship(s) between the parties before and after the agreement or conduct, including the following information:
  - a. the extent of vertical integration before the agreement or conduct; and how this is created or strengthened by the agreement or conduct; and
  - b. any existing supply arrangements amongst the parties to the agreement or conduct.
14. For the competitors identified in question 10, provide details on the extent to which they are vertically integrated.

### **Agreements with Net Economic Benefits**

15. If the agreement or conduct has net economic benefits that would not be achieved except for the agreement:
  - a. Describe how the agreement or conduct contributes to improving production or distribution, or promotes technical or economic progress. In addition, please explain:
    - i. How the claimed efficiencies are achieved;
    - ii. A direct causal link between the agreement and the claimed efficiencies; and
    - iii. The value of the claimed efficiencies and how it outweighs the anti-competitive effects of the agreement.
  - b. Explain whether the agreement or conduct, and the individual restrictions of the agreement or conduct are indispensable to attaining the efficiencies described above in paragraph 15a. In addition, please explain:
    - i. If there are other means of achieving the claimed efficiencies;
    - ii. If there are economically practical and less restrictive means of achieving the claimed efficiencies than the agreement/ conduct notified; and
    - iii. If more efficiencies are produced with the agreement/conduct notified in place than its absence.

### **SUPPORTING DOCUMENTS**

Please ensure that the Applicant(s) has attached the following documents (where relevant to the application):

16. All relevant documents to support the claims made in this Form 2.
17. Source or sources of the information should also be given and one copy should be provided of any document, where available, from which information has been taken.
18. Where documents submitted are not in the English language, they should be accompanied by a translation certified by a court interpreter or a translation verified by the affidavit of a qualified translator.

FILING NOTIFICATIONS FOR GUIDANCE OR DECISION WITH RESPECT TO THE SECTION 34 PROHIBITION AND SECTION 47 PROHIBITION 2016

**PART 2A:  
DECLARATION**

Under section 77 read with section 83 of the Act, it is an offence, punishable by a fine or imprisonment or both to provide information which is false or misleading in a material particular if the undertaking or person providing it knows that it is false or misleading, or is reckless as to whether it is. If the undertaking or person is a body corporate, its officers may be guilty of an offence under section 81 of the Act.

**Declaration**

The undersigned declare and confirm that all information given in the Form 2 and all pages annexed hereto are correct to the best of their knowledge and belief, and that all estimates are identified as such and are their best estimates based on the underlying facts.

Signature(s)

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Name(s) as in NRIC or Passport (in block capitals):

Company Name and Designation(s):

Date:

**FORM 2**

**PART 3  
ACKNOWLEDGEMENT OF RECEIPT**

This acknowledgement of receipt will be returned to the address inserted below if the Applicant(s) provides the information requested below.

*To be completed by the Applicant(s)*

To: (name and address of Applicant(s))

Re: The application dated (date of application) concerning (brief description of subject matter) involving the following undertakings: (names of undertakings) [and others]

*To be completed by the Commission*

Received on:

Registered under reference number:

**Please quote this reference number in all correspondence with the Commission.**