

**ANNEX A****PROPOSED GUIDELINES<sup>1</sup>****1.     *The Major Provisions***

- The Commission
  - Functions and duties of the Commission
  - Co-operation between Commission and other regulatory authorities on competition matters
- Scope of Application
  - Government and statutory bodies etc.
  - Extra-territorial application
- Section 34 Prohibition – Agreements, etc., Preventing, Restricting or Distorting Competition
- Section 47 Prohibition – Abuse of Dominant Position
- Section 54 Prohibition – Mergers
- Third Schedule – Exclusions from section 34 prohibition and section 47 prohibition
- Fourth Schedule – Exclusions from section 54 prohibition
- Procedures
- Confidentiality and disclosure of information
- Investigation and enforcement
- Consequences of infringement
- Appeal procedures
- Rights of private action

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<sup>1</sup> This is an indicative list of the guidelines, and proposed scope, to be developed by the Commission in the course of 2005.

## **2.     *The Section 34 Prohibition – Agreements, etc., Preventing, Restricting or Distorting Competition***

- What is meant by:
  - Undertaking
  - Agreement
  - Decision by association of undertakings
  - Concerted practice
  - Prevention, restriction or distortion of competition
- Appreciable adverse effect
- Examples of anti-competitive agreement
- Excluded agreements
- Vertical agreements
- Block exemptions
- Consequences of infringement

## **3.     *The Section 47 Prohibition – Abuse of Dominant Position***

- What is meant by:
  - Undertaking
  - Dominance
  - Abuse of dominant position
- Examples of abuse of dominant position
- Exclusions
- Consequences of infringement

#### **4.     *Market Definition***

- Market definition
  - Product market
  - Geographic market
  - Relevant market

#### **5.     *Powers of Investigation***

- Trigger for the use of the powers of investigation
- Production of specified documents and information
- Power to enter premises without a warrant
- Power to enter premises with a warrant
- Offences created by the Competition Act relating to the powers of investigation

#### **6.     *Enforcement***

- Interim measures/directions
- Decisions
- Sanctions
- Leniency programmes

**7.      *Transitional Arrangements***

- Phased approach
- Procedures

**8.      *Cross-sectoral Competition Case Management***

- Procedural guidelines on co-operation between the Commission and other regulatory authorities on competition matters
- Confidentiality and disclosure of information

**9.      *Treatment of Intellectual Property Rights*****10.    *The Section 54 Prohibition - Mergers (To be developed in 2006)***