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CLIENT UPDATE



Coronavirus: Announcement by the Israeli Competition Authority

22/03/2020

We would like to update you that the Israeli Competition Authority (hereinafter: the "ICA") has issued on March 17, 2020, a clarification document on the background of the economic and operational difficulties that are expected in various sectors of the Israeli economy, in light of the Coronavirus crisis in Israel. The purpose of the document is to clarify how certain transactions can be facilitated while safeguarding consumers and competition:

Facilitation of Collaborations between Business Entities:

The Antitrust Rules (Block Exemption for Joint Ventures) 2006 (hereinafter: the "**Block Exemption**") determine when collaborations between business entities, including competitors, is permissible. These rules allow the parties to an agreement to review the arrangement without having to apply for an exemption from the Competition Commissioner, prior to entering into the arrangement.

Due to the exceptional and unforeseen circumstances facing the Israeli economy, the consequences of which for some of the business entities in the economy are the decline in production capacity or a closure of its activity, the reduction of workers' activity, the interruption of regular activities in accordance with regulatory bodies' guidelines etc., the Competition Commissioner clarified that emergency communications intended for the continued functioning of business entities affected by the threat of the Coronavirus, may ensure the continued existence of effective competition in the long run. Therefore, such engagements will, in most cases, meet the

necessity requirement in the Block Exemption; and will not be considered collaborations aimed at reducing competition and/or preventing it, provided such agreements comply with all other stipulations of the Block Exemption.

It should be emphasized that competing business entities that intend to cooperate due to the need to deal with the consequences of the crisis are responsible for ensuring its legality and compliance with the Block Exemption. Therefore, we are at your disposal for advice to ensure compliance concerning such cooperation, as explained above.

Prevention of Damage to Businesses with regard to Merger Transactions:

The Merger Chapter in the Economic Competition Law, 1988 (hereinafter: the "**Competition Law**") prohibits companies engaged in a merger transaction, which requires reporting to the ICA and its approval, from taking any action to consummate the transaction between the date of signature and the date of its full execution (closing), until the Commissioner's approval of the transaction (hereinafter: the "**Interim Period**").

Given the crisis in the economy and the realization that this Interim Period may be sensitive to businesses and that the waiting period may cause irreparable harm, the ICA announced that it would allow parties submitting merger notifications, or intending to submit merger notifications, to contact it with a view to finding solutions for the difficulties emerging from the exceptional state of the economy, during the Interim Period.

As noted above, generally the parties to a merger transaction may not take any action that arises to the consummation of a merger transaction prior to the approval of the Commissioner. Therefore, the opportunity, at this time, to approach the ICA in order to seek a solution to meet the challenges facing business owners in the Interim Period, is significant. Accordingly, we are at your service to advice on the options and solutions available to parties to a merger transaction to prevent damage in the Interim Period.

Notwithstanding the above, it should be made clear that business owners must be wary of actions that could harm competition and the public during this difficult time, as the Commissioner has stated clearly that the provisions of the Competition Law apply in full force these days, and that it will not hesitate to take measures against business entities that will take advantage of this crisis period and act in a manner that may harm competition, consumers or the public.

We are at your service for any questions and wish everyone good health.

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