

**The Trade Competition Commission Notice on  
Rules, Procedures, and Conditions for Merger Approval  
B.E. 2561 (2018)**

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By virtue of Section 51, para 2 of the Trade Competition Act B.E. 2560 (2017), a merger of undertakings that may result in a monopoly or may become undertaking(s) with dominant position in a market shall obtain a proper approval from the Trade Competition Commission and Section 51, para 5 of the Act obliges the Trade Competition Commission to announce rules, procedures, and conditions for such merger approval.

By virtue of Section 17 (2) and Section 51, para 5 of the Trade Competition Act B.E. 2560, the Trade Competition Commission, therefore, announces this Notice detailed as follows:

1. This Notice is called “The Trade Competition Notice on Rules, Procedures, and Conditions for Merger Approval B.E. 2561.”

2. This Notice shall be effective on the following day after the day that this Notice being published in the Government Gazette onwards.

3. In this Notice,

“Monopoly” means a sole undertaking in a certain market with a substantial power to independently determine its price and quantity of its product or service and has sales revenue of 1 billion Thai baht or higher.

4. The Chairperson of the Trade Competition Commission shall be in charge of this Notice.

Chapter 1

Application for Merger Approval

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5. Merger of undertakings pursuant to Section 51, para 4 (1), (2), or (3) of the Act which may result in a monopoly or becoming undertaking(s) with dominant position shall submit an application for merger approval along with supporting documents and/or evidences as described in 6 – in person or by an authorized representative with a proper power of attorney – to the Office of the Trade Competition Commission and pay for applicable fees prescribed by respective ministerial regulations.

6. An application for merger approval shall be completed with required information in a form predetermined by the Secretary-General of the Office of the Trade Competition Commission along with supporting documents or evidences as follows:

(1) a proposed merger plan and related timeline;

(2) details of merging and merged undertakings which at least containing shareholding structures, voting and control rights, sales revenues, and market shares;

(3) merger studies and analysis which at least comprising of the following documents:

(a) shareholding structure analysis, voting and control rights of those undertakings to assess policy relations and/or controlling rights, before and after the proposed merger;

(b) market structure analysis of products or services of those undertakings to assess any impact which may arise after the proposed merger in which at least comprising of analyses on:

1) Pre- and post-merger market structure analysis;

2) Market definition;

3) Market share of the undertakings before and after the merger;

4) Sales revenues of the undertakings before and after the merger;

5) Assessment of impacts on competition in relation to following issues:

a) market concentration;

b) entry of new entrants and expansion of competing incumbents by considering factors such as laws and regulations, transportation costs, accessibility to existing patents, and accessibility to raw materials or other essential production inputs;

c) non-coordinated effects on competition from a merged undertaking means effects from a merged entity in the market which lead to its higher profitability through increase in price or reduction of product quality.;

d) coordinated effects on competition means the effects from the proposed merger allowing the higher possibility for undertakings to coordinate with each other to increase the price;

e) impact on general economic welfare and consumers;

f) other impacts that may influence competitive constraints in the market (if any);

6) Assessment of post-merger economic efficiency of the market;

(4) Studies and Analysis of Factors pursuant to Section 52, para 2 that shall cover the following issues:

(a) Reasonable business necessities and benefits for promoting business operations;

(b) Damage or potential competition harm to the economy;

(c) Impact on economic benefit allocation to consumers as a whole.

7. A merger for reorganizing internal structures of undertakings which are considered to be under common policy relations or common controlling interests according to the criteria prescribed by the Trade Competition Commission's Notice is not obliged to apply for an approval as per this Notice.

## Chapter 2

### Acceptance of Merger Application

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8. When the merging undertaking have submitted the application and supporting documents as described in 6 as well as paid for the applicable fees, the Office of the Trade Competition Commission shall issue the receipt bearing the application number for further correspondence with the progress of the application with the Office.

## Chapter 3

### Merger Approval

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9. Upon the receipt of an application for merger approval, the Office shall proceed with the following steps:

(1) The Secretary-General shall propose the application to the Chairperson of the Commission within seven (7) days from the day of the application has been received;

(2) The Commission may request for further relevant information or data from the merging undertaking which seeks the approval in writing or by summoning the Applicant to provide such information;

(3) The Commission may summon any persons to provide information or opinion for supporting the consideration of the application;

(4) The Commission shall consider the application and render its decision within ninety (90) days from the day that the application has been received and, in case when it is necessary, the extension shall be granted for no longer than fifteen (15) days by recording the reason and necessity for extension in its decision.

10. When considering the merger approval, the Commission shall consider the reasonable business necessary, benefits for promoting businesses, any harm that may incur to the economy, and impairment to a fair share of the resulting benefits of general consumers.

If the approval is granted, the Commission may impose any timeline or condition for the approved merging undertaking to comply.

The Commission shall explicitly provide the reason or rationale for its decision to approve or not approve the application – both in factual and legal matters – along with respective signatures of all Commissioners. The Office shall notify the decision to the Applicant within seven (7) days of the day the decision on the application by the Commission is made.

## Chapter 4

### Rights and Duties of Merging Undertaking

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11. Being notified with the decision of the Commission, the merging undertaking, if disagrees with that decision, may appeal that decision to the Administrative Court within sixty (60) days from the day of being notified.

12. The approved merging undertaking shall proceed with the merger within the timeline and comply with the conditions imposed on the Commission's approval.

In case of violation or non-compliance with such timeline or conditions, the Commission has the authority to revoke the whole approval decision or the part thereof and may impose a period for compliance.

## Chapter 5

### Transitional Provision

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13. A merger that has been approved by the shareholders meeting or in the meeting of the board of directors to proceed with legal procedures to merge or in which the merger agreement has been signed prior to the effective date of this Notice shall be exempted from this Notice.

This Notice is announced on 4 October B.E. 2561 (2018)

Sondhirat Sondhijirawong

Minister of Commerce acting as the Chairperson of

The Trade Competition Commission