

In case of any discrepancy between the original Faroese text and the English translation of this Act, the Faroese text shall prevail.

The Competition Act

Consolidated Act. No 72 of 22nd of May 2023 as amended by Act. No 18 of 26th of March 2024

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Part 1 **Purpose, scope of the Act 1**

Purpose

1.

The purpose of this Act is to promote society-wide efficient resource allocation through productive competition, for the benefit of undertakings and consumers.

Scope

2.

- (1) This act shall apply to any form of commercial activity as well as government aid granted to commercial activity.
- (2) The provisions of Parts 2 and 3 of this Act shall not apply where an anti-competitive practice is a direct or necessary consequence of government regulation. An anti-competitive practice established by a local council shall only be considered a direct or necessary consequence of government regulation in so far as the practice is necessary to allow the local council to carry out tasks assigned to it by legislation.
- (3) Decisions made by the executive committee of a local authority partnership cf. section 51 of The Local Government Act, shall be considered equivalent to decisions made by a local council as referred to in subsection (2) above.
- (4) Whether an anti-competitive act or practice is covered by subsection (2) above shall be determined by the minister responsible for the regulation concerned. Where the Competition Authority inquires to the relevant minister to determine whether an anti-competitive act or practice is covered by subsection (2), the minister must reach a decision not later than 4 weeks after having received the inquiry from the Authority. This deadline may be extended by the Competition Authority.
- (5) If the Competition Council finds an aid scheme or public regulation likely to restrain competition or otherwise likely to impede efficient allocation of society's resources, the

Council may deliver a report to the relevant minister and to the Minister for Business and Trade, pointing out its potentially adverse effects on competition and present recommendations for promoting productive competition in the area concerned. The relevant minister, having consulted with the Minister for Business and Trade, is obliged to respond to the Competition Council's report not later than 4 months after receiving the submitted report. This deadline may be extended by the Competition Council.

- (6) If a commercial activity functions fully, partly or in particular fashion under a government monopoly or other protection against competition, the Competition Authority has the power to demand, that the bookkeeping of the parts of operations, that are covered by the monopoly or other protections, are kept separate from the bookkeeping of the parts of operations that function in open competition.

3.

This Act shall not apply to pay and working conditions. However, the Competition Authority may demand information, concerning pay and working conditions, from organisations and undertakings, if the information is important for conducting the Authority's functions.

4.

- (1) The provisions of Part 2 of this Act shall not apply to agreements, decisions and concerted practices within the same undertaking or group of undertakings.
- (2) The Minister for Business and Trade shall lay down specific rules on the application of subsection (1), including rules on how to define agreements etc., within the same undertaking or group of undertakings.

Substitution

5.

- (1) The definition of the relevant market under this Act shall be based on examinations, conducted by the Competition Authority, of demand and supply substitutability and potential competition. The potential competition must be examined, when the position of the relevant undertakings operating on the market has been documented and the position gives rise to doubt as to whether this Act has been infringed.
- (2) The Competition Authority may rely on external expertise when making its assessment under subsection (1) above.

Part 2

Prohibition against certain anti-competitive agreement

6.

- (1) It is prohibited for undertakings and others, to enter into agreements that directly, indirectly, purposefully or consequentially restrict competition.
- (2) Examples of agreements covered by subsection (1) could be, but are not limited to:
- i. fix purchase or selling prices or other trading conditions;
 - ii. limit or control production, sales, technical development or investments;
 - iii. share markets or sources of supply;
 - iv. apply dissimilar conditions to equivalent transactions with trading partners, thereby placing them at a competitive disadvantage;

- v. make the conclusion of contracts subject to acceptance by the other contracting party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts;
 - vi. coordinate the competitive practices of two or more undertakings through the establishment of a joint venture; or
 - vii. determine binding resale prices or in other ways seek to induce one or more trading partners not to deviate from recommended resale prices.
- (3) Subsection (1) shall also apply to decisions made by an association of undertakings and to concerted practices between undertakings.
- (4) The Competition Authority may, in accordance with section 26, issue orders to put an end to infringements of subsection (1). Acting upon any concerns it may have in relation to subsection (1), the Competition Authority may decide that commitments made by an undertaking shall be binding, in accordance with section 27.
- (5) Agreements and decisions that are prohibited under subsections (1) – (3) shall be void, unless otherwise excluded under section 7, exempted under section 8 or section 10, or certified through section 9.

7.

- (1) The prohibition set out in section 6(1) above shall not apply to agreements between undertakings, decisions made by an association of undertakings or concerted practices between undertakings, cf. however subsection (2) – (5), if:
- i. the aggregate market share held by the parties to the agreement does not exceed 10 percent on any relevant market affected by the agreement, when the agreement has been entered into between undertakings which are actual or potential competitors on any of these markets (agreements between competitors), or
 - ii. the market share held by each of the parties to the agreement does not exceed 15 percent on any relevant market affected by the agreement, when the agreement has been entered into between undertakings which are not actual or potential competitors on any of these markets (agreements between non-competitors).
- (2) In cases where it is difficult to classify the agreement, the decision or the concerted practices between undertakings as covered by subsection 1 (i) or (ii), the market share in subsection 1 (i) shall apply.
- (3) The exceptions in subsection 1 shall not apply if the purpose of the agreement, the decision or the concerted practices is to restrict competition.
- (4) The prohibition in section 6(1), shall despite subsection (1) above, apply to an agreement between undertakings, a decision made by an association of undertakings and concerted practices between undertakings, if the agreement, decision etc., combined with other similar agreements, decisions etc., restrict competition.
- (5) The exceptions in subsection 1 shall apply, even if the market shares of the parties to the agreement exceed the thresholds during two successive calendar years.
- (6) The Minister for Business and trade can after reference from the Competition Authority, lay down rules on the calculation of turnover or other matters that are relevant for assessing the market shares according to this Act, including rules on minor excesses of the mentioned thresholds.

8.

- (1)** The prohibition set out in section 6(1) above shall not apply if an agreement between undertakings, a decision made by an association of undertakings or concerted practices between undertakings:
 - i. contributes to improving the efficiency of production or distribution of goods or services, or to if it promotes technical or economic progress,
 - ii. ensures consumers a fair share of the benefits the restriction of competition provides,
 - iii. does not impose unnecessary restrictions on the undertakings in relation to attaining these objectives, and
 - iv. does not allow such undertakings the possibility of eliminating competition in respect of a substantial part of the products or services in question.
- (2)** The Competition Authority may, upon notification, exempt an agreement between undertakings, a decision within an association of undertakings or a concerted practice between undertakings from the prohibition in section 6(1) if the Authority finds the requirements of subsection (1) have been satisfied. The notification of such an agreement, decision etc., including an application for exemption under subsection (1), must be submitted to the Competition Authority. The Authority shall lay down specific rules on notification, including rules on the use of special notification forms.
- (3)** Decisions made under subsection (2) and (4) shall specify the period for which the exemption is effective. Exemptions may be granted on specific terms.
- (4)** The Competition Authority may extend the exemption, if the Authority finds that the conditions of subsection (1) still apply. Subsection (3) is still considered.
- (5)** The Competition and Consumer Authority may alter or revoke a decision made under subsection (2) or (4) if:
 - i. the underlying facts informing the decision have considerably changed,
 - ii. the parties to the agreement, decision etc. fail to comply with the terms of the exemption, or
 - iii. the decision has been based on incorrect or misleading information from the parties to the agreement, decision etc.

9.

The Competition Authority may attest, upon notification from an undertaking or association of undertakings, that according to the facts in its possession, an agreement, decision or concerted practice is outside the scope of the prohibition set out in section 6(1), and that, accordingly, there is no reason for issuing an order under section 6(4). The Authority shall lay down specific rules on notification, including rules on the use of special notification forms.

10.

- (1)** After a reference from the Competition Authority, the Minister of Business and Trade shall lay down rules on the granting of block exemptions from the prohibition in section 6(1) for groups of agreements, decisions and concerted practices that satisfy the conditions in section 8(1).
- (2)** Where agreements, decisions by an association of undertakings or concerted practices that are comprised by a block exemption issued under subsection (1) above have impact on a concrete case which is incompatible with the conditions in section 8(1), the Competition

Authority may revoke such a block exemption for the undertakings or others, that have entered into the agreement, decision etc.

Part 3 **Abuse of a dominant position**

11.

- (1)** It is prohibited for one or more undertakings or others, to abuse a dominant position in the market.
- (2)** The Competition Authority must upon request, attest whether one or more undertakings hold a dominant position. If the Competition Authority declares that an undertaking does not hold a dominant position, this declaration shall be binding until revoked by the Competition Authority.
- (3)** Abuse as set out in subsection (1) may include but is not limited to:
 - i. directly or indirectly imposing unfair purchase or selling prices or other unfair trading conditions,
 - ii. limiting production, sales or technical development to the prejudice of consumers,
 - iii. applying dissimilar conditions to equivalent transactions with trading partners, thereby placing them at a competitive disadvantage, or
 - iv. making the conclusion of contracts subject to acceptance by the other contracting party of supplementary obligations which, by their nature or according to commercial usage, have no connection with the subject of such contracts.
- (4)** The Competition Authority may issue orders to put an end to infringements of subsection (1), in accordance with section 26. Acting upon any concerns it may have in relation to subsection (1), the Competition Authority may, furthermore, decide that commitments made by an undertaking shall be binding in accordance with section 27.
- (5)** The Competition Authority may declare, upon notification from one or more undertakings, that based on the known circumstances, certain forms of conduct shall be exempt from the prohibition in subsection (1) and that, accordingly, there are no reasons for issuing an order under subsection (4).
- (6)** The Competition Authority may lay down specific rules on the material that has to be submitted for a decision under subsection (2) or (5).

Part 4 **Aid that distorts competition**

12.

- (1)** The Competition Authority may issue orders for the termination or repayment of aid granted from government funds to support certain forms of commercial activity.
- (2)** Orders under subsection (1) may be issued in cases where:
 - i. the direct or indirect purpose or effect of the aid is the distortion of competition, and
 - ii. the aid is not lawful according to government regulation.
- (3)** The decision of whether granted aid is lawful according to government regulation shall be made by the relevant minister or the relevant municipal supervisory authority unless otherwise provided by legislation. Decisions as to the lawfulness of granted aid according to

government regulation shall be made no later than four weeks after the receipt of a request from the Competition Authority. The Authority may extend the time limit.

- (4) An order for repayment of aid under subsection (1) may be issued to private undertakings, self-governing institutions and corporate undertakings that are fully or partly owned by government authorities. The Minister for Business and Trade may lay down specific rules to the effect that orders for repayment of aid under subsection (1) may also be issued to certain quasi-corporate undertakings that are fully or partly owned by government authorities.
- (5) The Competition Authority's powers to order repayment of government aid under subsection (1) above shall be barred after a period of five years since the aid was paid out. The Competition Authority determines the interest relating to repayments according to subsection (1). The interest is determined in accordance with the Interest Act 1977 as amended in 2004. The Competition and Consumer Authority may determine that compound interest shall accrue from the date when unlawful aid was first made available to the recipient, until the date when the aid has been repaid.
- (6) The Competition Authority may, upon notification, attest that based on the conditions known to it, certain grants of government aid are not covered by subsection (2)(i) and accordingly, that the Authority has no reasons for issuing an order under subsection (1). The Authority may lay down specific rules on notification, including rules on the use of special notification forms.

Part 5

Merger control

13.

- (1) For the purpose of this Act, a merger shall mean:
 - i. when two or more previously independent undertakings merge into one undertaking; or
 - ii. when one or more persons who already control at least one undertaking, or when one or more undertakings through agreement purchase shares or assets or by other means acquire direct or indirect control of the entirety or parts of one or more other undertakings.
- (2) The creation of a joint venture performing on a lasting basis all the functions of an independent undertaking shall constitute a merger within the meaning of subsection (1) (ii).
- (3) For the purpose of this Act, control of an undertaking is obtained through rights or agreements or in other ways which will, either separately or in combination, make it possible to exert decisive influence on the operations of said undertaking.
- (4) It shall not be considered a merger according to subsection (1) when:
 - i. credit institution, financial undertakings, insurance companies or others whose normal activity includes temporarily coming into possession of interests which they have acquired in an undertaking with a view to reselling these, provided that they do not exercise the voting rights attached to these interests or only exercise these voting rights with the aim of preparing the disposal of all or part of that undertaking or its assets or shares held and that the disposal takes place within one year of the date of acquisition; or
 - ii. when a relevant authority gains control of the undertaking through the powers of current insolvency legislation.
- (5) The Competition Authority may, upon request, extend the time limit set out in subsection (4)(i), where the credit institution, financial undertaking, insurance company or other is able to substantiate that the disposal was not possible within the time period required.

14.

- (1)** The provisions of Part 5 of this Act shall apply to mergers where:
 - i. the aggregate annual turnover of all the undertakings involved is more than DKK 75 million in the Faroe Islands and the aggregate annual turnover of each of at least two of the undertakings concerned is more than DKK 15 million in the Faroe Islands, or
 - ii. the aggregate annual turnover of at least one of the undertakings involved is more than DKK 75 million in the Faroe Islands and the aggregate annual turnover of at least one of the other undertakings concerned is more than DKK 75 million world-wide.
- (2)** Where a merger is a result of the acquisition of parts of one or more undertakings, the calculation of the turnover referred to in subsection (1) shall only comprise the share of the turnover of the seller(s) that relates to the assets acquired.
- (3)** However, two or more acquisitions as referred to in subsection (2), which take place within a two-year period between the same persons or undertakings, shall be treated as one merger. In such a case, the merger shall be deemed to have taken place on the date of the last transaction.
- (4)** The Minister for Business and Trade, shall after reference from the Competition Authority, lay down specific rules on the calculation of the turnover under subsection (1), including rules on how the turnover regarding financial undertakings is calculated.

15.

- (1)** The Competition Authority decides whether a merger shall be approved or prohibited.
- (2)** A merger that will not significantly impede effective competition, particularly due to the creation or strengthening of a dominant position, shall be approved. A merger that will significantly impede effective competition, particularly due to the creation or strengthening of a dominant position, shall be prohibited.
- (3)** To the extent that the formation of a joint venture that will constitute a merger under section 13 (2) above also has as its purpose or effect to coordinate the competitive conduct of undertakings that remain independent, such coordination shall be assessed in accordance with criteria laid down in S.s 6(1) and 8(1) of this Act in order to establish whether the merger shall be approved.
- (4)** When making an assessment under subsection (3), the Competition Authority will put particular weight on:
 - i. whether two or more founding undertakings have retained significant activities in the same market as the established joint venture, or in a market which is downstream or upstream from that joint venture, or in a related market closely associated with this market; and
 - ii. whether the founding undertakings have the ability to restrict competition for a considerable part of the relevant goods or services
- (5)** A merger covered by this Act cannot be implemented before the Competition Authority has approved the merger, unless dispensation has been granted beforehand.
- (6)** The Competition Authority grant exception to subsection (5), and to ensure effective competition the Competition Authority may further set conditions to any dispensation granted through an order.
- (7)** The Competition Authority may grant approval of a merger, through a simplified procedure, if the Authority, based on the information submitted, finds that the merger will not give rise to any objections on the part of the Authority.

16.

- (1)** A merger covered by this Act shall be reported to the Competition Authority no later than one week after the agreement on the merger has concluded, or when public notice has been given regarding the merger, or a particular person has assumed control of the undertaking. The deadline is one week from when one of the above mentioned has taken place and before the merger is completed.
- (2)** The Competition Authority may publicly report that a merger has been notified. The report published shall include the names of the parties to the merger, the nature of the merger and the economic sectors involved.
- (3)** The Competition Authority lays down rules on the notification of mergers, including rules on the use of special notification forms.

17.

- (1)** A merger may be notified by means of either a simplified or regular procedure.
- (2)** When a merger is notified through a simplified procedure, a fee of DKK 50.000 must be paid.
- (3)** When a merger is notified through a regular procedure, a fee of 0,1% of the aggregate annual turnover of the undertaking in the Faroe Islands, but no exceeding DKK 300.000.
- (4)** If the assessment of a notification submitted through a simplified procedure shows that a notification through a regular procedure should have been used instead, such a notification through the regular procedure together with evidence of payment of a fee calculated in accordance with subsection (3) reduced by the already paid fee according to subsection (2), shall be submitted to the Competition Authority
- (5)** The fees mentioned in subsections (2)-(4) shall be paid to the Competition Authority at the time in which the merger is notified. Documentation of the payment shall be included with the merger notification. Countdown for the time limit in section 18 (1) shall run from the day on which the Authority has received a full notification together with documentation regarding payment of the fee.
- (6)** A notification of a merger is deemed to have not taken place, if the fee mentioned in subsection (2) or (3) is not paid when demanded. The notification of a merger shall be deemed to be repealed if the fee is not paid when demanded or a notification of a merger through the regular procedure has not been submitted, despite a reminder, cf. subsection (4).
- (7)** Fees that are paid according to subsections (2)-(4) shall not be refunded unless:
 - i. there was no duty to notify the transaction,
 - ii. the notification is withdrawn before it is complete,
 - iii. the notification is withdrawn before a decision according to section 15 (1) or (7) has been made and the withdrawal is the result of a government authority refusing to permit the undertakings to merge.

18.

- (1)** The deadline for a decision whether a merger shall be approved through a simplified procedure according to section 15 (5), or whether the merger needs further scrutiny, shall be no later than 30 weekdays after a complete notification has been received.
- (2)** A decision on whether to approve or prohibit a merger shall be decided within 90 weekdays after a confirmation under (1) has been given to the notifier, cf. however (4) – (5).

- (3) The time limit referred to in subsection (2) above may be extended by up to 20 weekdays in cases where one or more of the undertakings involved propose new or revised commitments. The time limit may only be extended if, at the time when the commitments are proposed, there are less than 20 weekdays left until a decision should have been made under subsection (2) above.
- (4) The time limit set out in subsection (2) can also be extended by 20 weekdays upon a decision of the Competition Authority, provided that the undertakings which have notified, asked for or approved this extension.
- (5) If no decision has been made within the time limits provided by subsections (1) – (4) above, this shall be considered as a decision to approve the merger, cf. however subsection (6) below.
- (6) If an undertaking involved submits an appeal against having to notify through the regular procedure according to section 17 (4), the time limits in subsections (1)-(4) shall not take effect until a decision regarding the appeal has been made.

19.

- (1) The Competition Authority may attach conditions to its approval of a merger under section 15 (2), or issue orders to ensure, that the undertakings involved comply with the commitments they have accepted, amongst other assurances.
- (2) The Competition Authority may, after its approval of a merger, issue orders that are necessary to ensure due and correct fulfilment of the commitments made by the undertakings involved.

20.

- (1) The Competition Authority may revoke its approval of a merger, where its approval is largely based on incorrect or misleading information, for which one or more of the undertakings concerned are responsible.
- (2) The Competition Authority may revoke its approval of a merger, where the undertakings concerned fail to comply with conditions or orders imposed under section 19, (1) and (2).
- (3) The Competition Authority may revoke its approval of a merger under section 15 (7), if a concerned undertaking has submitted incorrect or misleading information and if the conditions in under section 17 (4) are met, the Authority may demand a notification through the regular procedure within 2 weeks.

21.

The Competition Authority can, issue an order that requires separation of the undertakings or assets that have been taken over or merged or cessation of joint control, if a merger is made without the necessary approval, furthermore, the Competition Authority may use other necessary measures in order to restore effective competition.

Part 6
Access to documents

22.

- (1) The Act on Public Access to Documents in Administrative Files shall not apply to cases and investigations under this Act other than cases concerning the definition of rules under section 4 (2), section 7 (6), 8 (2), 3rd sentence, section 9 (1), 2nd sentence, section 10 (1), section 11 (6), section 12 (4), 2nd sentence and (6), 2nd sentence, section 14 (4), section 16 (3), section

23 (4), section 30 (15), 2nd sentence and section 31 (3). However, section 4 (2) and section 6 of the Act on Public Access to Documents in Administrative Files shall also apply to cases covered by this Act. In addition, the 1st and 2nd sentences are applicable if information obtained under this Act has been disclosed to another administrative authority.

(2) The Competition Authority shall publish:

- i. Decisions made by the relevant authority according to section 2 (4) and section 12 (3) as well as reports from the Competition Authority,
- ii. decisions in accordance with section 2 (5) and the responses by the relevant minister,
- iii. decisions made by the Competition Council under this Act,
- iv. decisions made by the Competition Authority under this act and summaries thereof, unless it is deemed not important for legislative work or the wider public,
- v. judgements, settlements of fines or a summary thereof, where a fine is imposed or accepted by an undertaking,
- vi. decisions made by the Faroese Appeals Tribunal,
- vii. judgments passed in court proceedings, where the Competition Authority, the Competition Council or the Faroese Appeals Tribunal are parties to the proceeding.

(3) The Competition Council may publish information concerning its activity as well as general reports.

(4) Publication of information according to subsections (2) and (3) shall not include information on technical matters, amongst which information on research, production methods, products including operating and business secrets, where such information is of substantial financial importance to the person or undertaking concerned. Nor shall customer-related information from undertakings, which fall under the jurisdiction of the Financial Supervisory Authority, be disclosed.

(5) Any party who is required to submit information to the Competition Council may request of the President of the Council, that information that may not be disclosed or made available to the public pursuant to subsection (4) is not to be disclosed to other members of the Council either. The President shall make the final decision as to the extent and form in which the information may be disclosed to other Council members.

Part 7

The Competition Authority, organisation and powers

23.

(1) The Competition Council holds the general responsibility regarding the Competition Authority's administration of this Act. Furthermore, decisions in cases of particularly high or principled significance. The Council also confirms investigations conducted by the Competition Authority according to section 29.

(2) The Competition Council may delegate its competence to decide cases of high or principled importance to the Competition Authority.

(3) The Competition Council consists of one President and four council members. The Minister for Business and Trade appoints the Council's President and members. The Competition Council has two deputy members. The President, members and deputies are appointed for on a 4-year term. The Council shall receive comprehensive information into public as well as private enterprise activity, including expertise in legal, economic, financial and consumer-

related matters. The President and two Council members shall be independent of commercial and consumer interests.

- (4) The Competition Council creates its own rules regarding meeting arrangements and work structure for the Competition Authority. The Minister for Business and Trade confirms the rules regarding meeting arrangements and work structure for the Competition Authority.

24.

- (1) The Competition Authority makes decisions according to this Act and according to rules authorised using powers in this Act.
- (2) The Competition Authority may take up cases of its own accord, through notifications, through complaints or by request from other Competition Authorities according to section 28 (4), section 30 (15) and section 31 in this Act.
- (3) The Competition Authority decides whether there are reasons to take a case or start an investigation, or whether a case should stop or be put on temporary hold. Furthermore, the Competition Authority may decide to withhold from handling a case, where undertakings have made commitments in accordance with section 27.

25.

The Minister for Business and Trade may lay down specific rules on the use of electronic communication with the Competition Council, the Competition Authority and the Faroese Appeals Tribunal, including rules on the use of digital signatures.

26.

The orders which the Competition Authority may issue under section 6 (4) and 11 (4) in order to eliminate the adverse effects of anti-competitive activity may include:

- i. the termination of agreements, decisions, trading conditions etc. in part or in full,
- ii. demands regarding ceilings on stated prices or profits or rules regarding how prices and profits should be calculated,
- iii. obligations for one or more of the undertakings concerned to sell to specified buyers on the conditions usually applied by the undertaking in corresponding sales. The undertaking shall regardless, always be entitled to demand cash payment or adequate security,
- iv. to grant access to the infrastructure of facilities which is necessary for providing a product or service.

27.

- (1) Commitments made by undertakings which accommodate the concerns of the Competition Authority in relation to section 6 (1) and section 11 (1), may be deemed binding on the undertakings. A commitment may be given a time limit for expiry.
- (2) If a commitment has been deemed binding in accordance with subsection (1) above, the Competition Authority may issue orders necessary to ensure timely and correct fulfilment of the commitments made.
- (3) The Competition Council may revoke a decision under subsection (1), if:
- i. The factual conditions which have importance for the decision have changed,
 - ii. The conduct of the parties to an agreement and others. is contrary to the commitments made, or

- iii. when a decision has been taken grounded on incomplete, incorrect or misleading facts provided by the parties to the agreement and others.

28.

- (1) The Competition Authority may demand all the information the Authority deems necessary in order to conduct its work, or to determine whether certain activity falls within the scope of this Act. The information may include accounts, accounting records, transcripts of books, other business documents etc.
- (2) The responsibility to provide information in accordance with subsection (1) above, lies with the asked undertaking, association of undertakings and all legal and natural persons.
- (3) The Competition Authority can through its work demand access to the information and documents of another authority, such as the Tax Authority or Toll Authority, regardless of confidentiality.
- (4) Information obtainable through subsection (1), may also be obtained in order to provide help to Competition Authorities in other Nordic countries in administering their competition laws.

29.

- (1) The Competition Authority may investigate an industry or certain agreements within different industries with the purpose of retrieving knowledge or insight in to the competitive conditions within the a certain industry or industries.
- (2) The provisions of section 28 (1) and (2) and section 30 are also applicable for investigations made in accordance with subsection (1) above.
- (3) The Competition Authority may publish such an investigation, but with the limitations contained in section 22, (4).

30.

- (1) In connections with its activities with this Act, the Competition Authority may conduct supervisory investigations, which will give the Competition Authority access to the premises and means of transport of an undertaking or association. The Competition Authority may for the purpose of gaining the insight necessary for supervision in accordance with this Act, make copies of information kept on the site. This may include accounts, accounting records, books and other business documents, regardless of the information medium used.
- (2) In connections with supervisory investigations, the Competition Authority may request in-person statements and demand that persons who are subject to the investigations show the contents of their pockets, bags, etc. to enable the Competition Authority to obtain knowledge of and, if necessary, take copies of said content.
- (3) If the information of an undertaking or an association is stored or processed by an external data processor, the Competition Authority is entitled to access the premises of the external data processor to gain insight into and make copies of the information stored on the site according to subsection (1). A precondition for such access is that it is not possible for the Competition Authority to obtain the information concerned directly from the undertaking or association that is the target of the supervisory investigation.
- (4) The supervisory investigations may only be carried out on the basis of a previously obtained court order and with proof of the investigators' identity.

- (5) The Competition Authority may take electronic copies (mirror images) of the data content of electronic media comprised by the supervisory investigation and may keep the copied material for subsequent review.
- (6) The mirrored material must be sealed when the Competition Authority leaves the premises of the undertaking or the association.
- (7) The party who is the target of a supervisory investigation may demand that the party or a representative appointed by the party shall be present when the seal is broken and during the Authority's review of the mirrored material.
- (8) The Competition Authority is obliged, not later than 25 weekdays after the control investigation, to deliver to the party who is target of the investigation, a set of copies of the information that the Authority may have extracted from the mirrored material.
- (9) When the review of the mirrored material has been completed, the mirrored material shall be stored under seal.
- (10) The mirrored material shall be deleted if in the Authority's assessment it does not contain evidence of any infringement of the competition rules.
- (11) If the authority decides to proceed with the case, the mirrored material shall be deleted when a final decision has been made.
- (12) If the conditions of the undertaking or association make it impossible for the Competition Authority to get access to or make copies of the relevant information as referred to in subsection (1) and (2) on the day when the supervisory investigation is carried through, the Competition Authority is entitled to seal off the relevant business premises and information for up to 3 (three) weekdays thereafter.
- (13) The Competition Authority may under the same terms as in subsection (12) above, take information or the medium on which it is stored away for copying. The material which the Competition Authority has removed must be returned to the undertaking or association together with a set of copies of the information the Competition Authority has extracted for further examinations, no later than 3 weekdays after the day of the inspection.
- (14) The deadlines in subsection (8), (12) and (13), may under certain circumstances be extended.
- (15) The Competition Authority may upon request from Competition Authorities from other Nordic countries, conduct supervisory investigations for the purpose of carrying out and enforcing the competition law of said countries. As a condition, the Competition Authorities in other Nordic countries may conduct supervisory investigations, in order to carry out and enforce the Faroese competition law. Subsections 1-14 are used in this regard.
- (16) The police shall provide assistance when the Competition Authority exercises powers assigned to it under subsection (1) – (3), (5), (12) and (13). The Minister for Business and Trade may by agreement with the Police Authority lay down specific rules on such assistance.

31.

- (1) The Competition Authority may, disclose information covered by confidentiality to the competition authorities of other countries, if such information is necessary to assist the enforcement of the competition rules of those countries. It is a requirement to treat with caution, that such confidential information is handled fulfilling obligations in bi-lateral or multi-lateral way.
- (2) If such information is disclosed under subsection (1), the Competition Authority shall make the disclosure subject to the following conditions:

- i. The recipient must be placed under confidentiality obligations, on the equal terms as the Competition Authority;
 - ii. The information disclosed may exclusively be used for the purposes set forth in a bilateral or multilateral agreement where the disclosure takes place in accordance to such an agreement; and
 - iii. The information disclosed may only be passed on with the express consent of the Competition Authority and only for the purposes outlined by said consent.
- (3) The Minister for Business Affairs may lay down specific rules on the Competition Authority's disclosure to foreign authorities of information covered by the Competition Authority's duty of secrecy.

Part 8 Appeals

32.

- (1) Decisions taken by the Competition Authority in accordance with section 2 (1), section 3, 1st sentence, section 4, section 6 (1) and (4), 1st sentence, section 7 (1) – (4), section 8 (2), (4), 2nd sentence, (5) and (6), section 9 (1), 1st sentence, section 10 (2), section 11 (1), (2), (4), 1st sentence and (5), section 12 (1) and (6), 1st sentence, section 15 (1) – (3), section 16 (1), section 17 (4), section 18 (5), section 19 (1) – (5), section 22 (4), section 26 and section 27 (2) and (3) can be appealed to the Faroese Appeals Tribunal.
- (2) An appeal may only be lodged by
 - i. The party to whom the decision is directed; and
 - ii. Other parties who have an individual and substantial interest in the case. This does not apply to decisions by the Competition Authority using section 15 (1) – (3), section 16 (1), section 17 (4), section 18 (5), section 19 (1) and section 27 (2) and (3)
- (3) Decisions made using section 24 (3) cannot be appealed to the Faroese Appeals Tribunal.
- (4) An appeal against a decision made using section 22 (4) will cause a stay of proceedings. The Competition Authority or the Faroese Appeals Tribunal may grant a stay of proceedings regarding appeals to other decisions.
- (5) The Faroese Appeals Tribunal shall decide cases appealed to it, no later than 8 weeks after submission of the appeal.

33.

- (1) Decisions made by the Competition Authority under this Act may not be brought before any other administrative authority than the Faroese Appeals Tribunal and may not be brought before the courts until the Appeals Tribunal has made its decision.
- (2) Decisions by the Competition Authority, made in accordance with this Act, may be appealed to the Faroese Appeals Tribunal within 4 weeks, after the decision has been communicated to the party concerned. The Appeals Tribunal may disregard this deadline if special circumstances make it reasonable to do so.

- (3) Decisions made by the Faroese Appeals Tribunal may be brought before the courts within 8 (eight) weeks after the decision has been communicated to the party concerned. If this deadline is exceeded, the decision of the Appeals Tribunal shall be final.

Part 9 Penalties

34.

- (1) The Competition Authority may impose daily or weekly fines on any party who fails to submit information to the Competition Authority when demanded through this Act, or who fails to comply with any conditions or orders issued under this Act, or fulfil a commitment which has been made binding in accordance with section 27 (1).
- (2) A fine imposed in accordance with subsection (1) may be recovered by distress combined with the costs collecting this debt. The Faroese Tax Authorities carry out the distress in subsection (2) in accordance with the law on collection of taxes.

35.

- (1) Provided that a more severe penalty is not applicable in accordance with section 3. or through other legislation, a party shall be punished with a fine if intentionally or with gross negligence, that party:
- i. infringes section 6 (1);
 - ii. fails to comply with terms imposed through section 8 (2), 1st sentence or (4), 2nd sentence;
 - iii. infringes section 11 (1);
 - iv. fails to comply with an order issued according to section 12 (1);
 - v. fails to comply with a duty to notify under section 16 (1) or fails to comply with the notification deadline in accordance with section 20 (3);
 - vi. implements a merger despite an imposed prohibition in accordance with section 15 (2), 2nd sentence, infringes on the prohibition regarding a merger before authorisation has been given in accordance with section 15 (2), 1st sentence, or without having received permission in accordance with section 15 (6), fails to comply with terms or orders given through section 19 (1) – (2), or fails to comply with orders given in accordance with section 21;
 - vii. fails to comply with orders given in accordance with section 6 (4), 1st sentence, or section 11 (4), 1st sentence, as regards to section 26;
 - viii. fails to comply with a commitment, which has been made binding in accordance with section 27 (1);
 - ix. fails to comply with orders given in accordance with section 27 (2);
 - x. fails to satisfy the requirements set by section 28 (1) – (3); or
 - xi. provides incomplete, wrong or misleading information to the Competition Authority, the Competition Council or the Faroese Appeals Tribunal, or stays quiet about circumstances important to a case or investigation regarding section 29, as information is being gathered.
- (2) Subsection (1) (i) above, shall not apply from the date when an agreement has been notified to the Competition Authority in accordance with section 8 (2) or (4) above and until the Authority has communicated its decision in accordance with section 8 (2) or (4).
- (3) The penalty for parties who infringe on section 6 (1), through a cartel agreement according to the 2nd sentence bellow, can increase to a jail sentence of up to 1 year and 6 months, if the infringement is carried out deliberately and with severe negligence as to the size of the

impact and harmful consequences which the infringement causes. Cartel agreement in the 1st sentence above, is to be understood as agreements, decisions made by an association of undertakings and to concerted practices between undertakings which:

- i. determines prices, profits and other things in relation to the sales of goods and services;
 - ii. limits or controls sales or production;
 - iii. distributes the market or consumers among each other; or
 - iv. organises communication
- (4) Criminal liability may be imposed on companies, legal persons and equivalent under the provisions of Part 5 of the Criminal Code.
- (5) Profit achieved through a breach of subsection (1) and (2) will be confiscated in accordance with Part 9 of The Criminal Code. If it is not possible to confiscate the profit, the determination of a penalty must consider the value of an achieved or an intended economic profit.
- (6) The period of limitation for claiming criminal liability is 5 years.

Administrative fines

36.

- (1) If an infringement upon this Act or upon rules created through the authority of this Act, constitutes no greater penalty than a fine, then the Competition Authority may notify through a suggestion of administrative fines, that a case should be decided out of court, only if the infringing party admits to the infringement and accepts the suggestion of administrative fines within an allotted time.
- (2) Provisions in the Criminal Law regarding indictments, that the accused does not have a duty to admit guilt apply for suggestions of administrative fines.
- (3) By accepting a suggestion of administrative fines, the right to prosecute for the same infringement expires.

Part 10

Commencement

37.

- (1) This Act comes into force the day after it is promulgated and at the same time, the Competition Act nr. 35 from 3. May 2007 is repealed.
- (2) Cases which have been brought to the Competition Authority before this Act came into force will be processed using the Competition Act nr. 35 from 3. May 2007.
- (3) Rules which are in force by the authority of the Competition Act nr. 35 from 3. May 2007 are in force until they are expressly repealed or replaced.

Prime Minister's office, 22. May 2023

Aksel V. Johannesen (sign.)
Prime Minister of Faroe Islands

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