

COMPETITION LAW
(Laws numbered 36/2009, 42/2010 and 3/2012)

Communication under Article 21(5)

Competition Board shall publish the Communication below with the power given by Article 5(5) of the Competition Law:

Short Name 1. This Communication shall be cited as “Exemption Applications and Evaluations Communication.

CHAPTER ONE
General Rules

Definitions 2. Unless the text requires otherwise within this Communication;
36/2009 “Agreement” shall mean oral or written agreements, decisions of
42/2010 associations of undertakings and the co-signed text which the
3/2012 relevant parties use for their notifications within compliant actions
 and oral agreements.

 “Board” shall mean Competition Board which is established with
Competition Law.

 “Complete Application” shall mean the situation when notification
is submitted to the Board and no necessity of additional information
required by the Board or when additional information is required,
completion of additional information.

 “Certified translation” shall mean a translation done by real or legal
persons that are authorised by the Board or approved by TRNC
Representatives abroad, a TRNC representative approved by TR
Embassies or Commercial Attaché of Consulates does not exist in
the relevant country.

 “Law” shall mean Competition Law.

Purpose 3. The purpose of this Notification is to identify the exemption
applications to be submitted to the Board and evaluation criteria of
applications.

Scope 4. This Notification shall enter the scope of Article 4 of the Law and
regulate the methods and evaluation criteria of exemption
applications for agreements, undertaking associations and for
compliant activities that should not be evaluated within the scope of
relevant article because of specific conditions.

CHAPTER TWO
Exemption Applications

Exemption 5. Undertakings or Associations of undertakings seeking an
Demand exemption shall make an application to the Board in order to prove
Application that an agreement is in compliance in terms of law and can be
 exempted in accordance with the article 5 paragraph 1 of the Law.
 In order to get an exemption, an agreement shall meet all of the
 following conditions:

(1) It should contribute to promote production of the products
and/or improvement of the distribution and/or technical

and/or economic development;

- (2) Consumers should equally benefit from the emerging benefits as a result of the agreement;
- (3) Restrictions included in the agreement shall be indispensable in order to reach the goals stated in subparagraphs (1) and (2) of this article;
- (4) The Agreement should not grant the possibility of eliminating competition in an important part of the product markets in question.

Required Documents in the Application

6. (1) Within the application to get an exemption for an agreement in accordance with article 5 of the Law, documents listed below shall be presented:
 - (A) Original versions of the Agreements or a copy confirmed by the Board or - if the agreement text is not written in official language of TRNC - a certified translation,
 - (B) Last annual financial report and tables, inspected and approved by the Tax and Revenue Department, and other relevant accounting documents of all the agreement parties,
 - (C) Promotion documents showing that signatures on the agreement presented belong to the authorised persons,
 - (C) A common notification address given by the parties of an agreement,
 - (D) Evaluation of the relevant market; if applicable: market shares of agreement parties and their competitors or relevant estimations,
 - (E) Information and documents which prove that the agreement in question meets any and all of the conditions stated in the Article 5 of this Communication.
 - (F) Other information and documents that the Board shall require.
- (2)
 - (A) When additional information is asked from a party or from the parties in question, the Board shall give 15 days. If valid reasons exist, the Board may prolong this period by another 15 days.
 - (B) When additional information is not presented or presented missing within this period to the Board, it shall be considered that the application is withdrawn and the Board shall inform the relevant parties related with the situation in written.
 - (C) When an application is prepared completely and as required, the Board shall inform the party or parties that submitted the application concerning the complete receipt of the application and - if it is necessary - it may ask for a report related to the subject by delegating sufficient number of Service Unit personnel within an appropriate period to be defined by itself.

Evaluation of the 7. (1) The Board shall evaluate and decide within the following 30

- Notification (thirty) days after it has taken the full application decision in which the application file is completed. The Board may give an exemption by approving the application or may reject the application of an exemption. Exemptions given by the Board may be given for specific period, or may be given conditionally until specific conditions and/or obligations are fulfilled.
- (2) The Board may cancel the exemptions given or change the conditions under the following circumstances:
- (A) If conditions shown as a reason for getting the exemption are changed; or
 - (B) If the exemption has been given as a result of a wrong or missing notification; or
 - (C) a violation of the exemption conditions by the relevant undertaking.
- De minimis Agreements 8. (1) De minimis agreements shall be explained as agreements that the total market share of the parties of this kind of agreement and establishments under their controls are not important for the market in question.
- (2) Under this article, de minimis agreements are as follows:
- (A) When within the framework of an agreement (agreement between competitors) the total market share of the establishments that carry out same production or commercial activities of all parties of the agreement together does not exceed 10%;
 - (B) When the market shares of each establishment which carries out an activity in different levels of production and commerce (agreement between non- competitors) takes part in an agreement do not exceed 15%;
 - (C) When it is difficult to make identification whether an agreement is between competitors or not, a threshold of 15 % related to total market shares within the relevant market shall apply.
- (3) Agreements that include serious competition violation (“hard-core restrictions”) shall not be considered as de minimis cases without looking at their market shares within the framework of activities laid down in article 4 of the Law.
- Penalties 9. The Board may impose an administrative penalty and/or proportional administrative fines to the party or parties that act against the rules of Law and this Communication in accordance with Articles 31 and/or 32 of the Law.

CHAPTER THREE Final Provisions

- Publishing Decision the 10. The Board shall inform the parties related to the final decision taken and publish in the Official Gazette of Turkish Republic of Northern Cyprus and web site of the Board.

- Provisional Article
1. Parties to the agreements that are in effect in the publication date of this Communication shall submit exemption applications as of the publication date of this Communication within the scope of the Article 5 of this Communication.
- Execution Power
11. This Communication shall be executed by the Competition Board.
- Entry into Force
12. This Communication shall enter into force as of the date of its publication in the Official Gazette.