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COMPETITION LAW

PREAMBLE

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- (a) manufacturing, producing, transporting, acquiring, supplying, storing, or otherwise dealing in goods; and
- (b) acquiring, supplying or otherwise dealing in services.

- (f) a business organization that is not a corporation or body corporate controlled by a person if the person holds an interest in the organization that entitles the person to receive more than 50% of the profits of the organization or more than 50% of its assets on dissolution.

Section 5: Application of Act

5.1 This Act

- (q) a representation to the public in a form that purports to be (i) a warranty or guarantee of a product, or (ii) a promise to replace, maintain or repair a good or any part thereof or to repeat or continue a service until it has achieved a specified result, if the form of purported warranty, guarantee or promise is materially misleading or if there is no reasonable prospect that it will be carried out.

8.2 If a person contravenes section 10, the Court may make an order prohibiting the person from continuing to make the false, misleading or otherwise improper representation.

8.3 For the purpose of section 10, a representation includes any statement:

- (r) expressed on a good offered or displayed for sale, or on its wrapper or container;
- (s) expressed on anything attached to, inserted in or accompanying a good offered or displayed for sale, including its wrapper or container;
- (t) made in the course of in-store, door-to-door, telephone or any other direct selling to a person as ultimate user; or
- (u) contained in or on anything that is sold, sent, delivered, transmitted or made available in any other manner in connection with the sale or offering for sale of a product;

and any such statement is deemed to be made to the public.

8.4 For purposes of determining whether a contravention of section 10 has occurred

- (v) the general impression conveyed by a representation as well as its literal meaning shall be taken into account by the Court in determining whether the representation is false or misleading in any material respect; and
- (w)

trade, industry or profession, or among the sources from which, or the outlets through which, a trade, industry or profession obtains or disposes of a product, or otherwise, the Court may order any party to the merger to:

- (kk) dissolve the merger or dispose of assets or shares on such terms as the Court directs;
- (ll) not proceed with all or part of the merger if it has not then been completed;
- (mm) cease doing or refrain from taking any act to ensure that the merger or part thereof does not prevent or lessen competition substantially or
- (nn) take any other action the Court considers necessary or advisable in the circumstances to prevent or lessen the competitive effects of the merger.

11.3 In determining whether or not a merger or proposed merger prevents or lessens, or is likely to prevent or lessen, competition substantially, the Court may have regard to the following factors:

- (oo) the extent to which foreign products or competitors provide or are likely to provide effective competition to the business of the parties to the merger or proposed merger;
- (pp) whether the business or part of the business of a party to the merger or proposed merger has failed or is likely to fail;
- (qq) the extent to which there are acceptable substitutes for products supplied by parties to the merger or proposed merger;
- (rr) any barriers to entry into a market, including tariff and regulatory barriers, and the effect of the merger or proposed merger on such barriers;
- (ss) the extent to which competition remains or would remain in a market following completion of the merger or proposed merger;
- (tt) the likelihood that the merger or proposed merger would result in the removal of a vigorous and effective competitor; and
- (uu) the nature and extent of change and innovation in a relevant market.

11.4 A Court shall not make an order under section 87 in respect of a merger where

- (vv) all of the parties are, in relation to every one of the other parties, affiliates; or
- (ww) there is an acquisition of collateral or receiv

- (xx) the merger will bring or is likely to bring gains in efficiency that will be greater than, and will offset, the effects of any preventing or lessening of competition that will result or is likely to result from the merger or proposed merger, and that the gains in efficiency would not likely be attained if the order were made.

11.5 No action may be commenced under section 10 more than one year after a merger has been substantially completed.

PART V NOTIFICATION OF A MERGER

Section 12: Application

12.1 This Part V applies to any proposed merger as defined in section 10.

Section 13: Notification

13.1

- (ccc) apply to a Court for an order to compel the production of documents or records, the appearance of persons or the provision of affidavits in accordance with paragraphs (a) and (b) of this section, or for any other order the Minister considers would facilitate the conduct of the investigation, including an order issuing a search warrant; and
- (ddd) take any other action that is considered necessary and advisable in furtherance of the investigation.

16.4 Any person who is required by the Minister or ordered by a Court to produce documents or records pursuant to section 10 is entitled to claim solicitor-client privilege in respect of any document or record produced and any such claim shall be adjudicated upon by a Court within 30 days of an application to the Court by the person asserting the claim, or in default of any such application, within 30 days of an application to the Court by the Minister.

16.5 If the Minister, having received information, a request to investigate or a complaint from any person, determines not to conduct an investigation, the Minister shall inform the person providing such information, request or complaint in writing of the reasons for the decision.

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17.2 A Court

18.2 The settlement agreement referred to in section