Verżjoni Elettronika

L.N. 200 of 2023

COMPETITION ACT
(CAP. 379)

Investigations in Support of the European Commission in the Digital Sector Regulations, 2023

IN EXERCISE of the powers conferred by article 33(2) of the Competition Act, the Minister responsible for competition matters after consultation with the Board of Governors, has made the following regulations:-

Citation and scope.

1. (1) The title of these regulations is the Investigations in Support of the European Commission in the Digital Sector Regulations, 2023.

(2) The scope of these regulations is to implement the requirements of Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act).

Interpretation.

2. (1) In these regulations, unless the context otherwise requires:

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"Act" means the Competition Act;

"Court" shall have the same meaning as assigned to it in the Act;

"Director General" means the Director General (Competition) as defined in the Act;

"gatekeeper" shall have the same meaning as assigned to it in Regulation (EU) 2022/1925;

"Office" shall have the same meaning as assigned to it in the Act;

"Regulation (EU) 2022/1925" means Regulation (EU) 2022/1925 of the European Parliament and of the Council of 14 September 2022 on contestable and fair markets in the digital sector and amending Directives (EU) 2019/1937 and (EU) 2020/1828 (Digital Markets Act);

"undertaking" shall have the same meaning as assigned to it

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in Regulation (EU) 2022/1925.

(2) Words and expressions used in these regulations shall have the same meaning as assigned to them in the Act.

National competent authority Cap. 510.

3. For the purposes of Regulation (EU) 2022/1925, the Office for Competition as established by article 13 of the Malta Competition and Consumer Affairs Authority Act shall be the national competent authority since according to national law it is the entity which exercises the investigative powers mentioned in Article 1(6) of Regulation (EU) 2022/1295.

Investigations.

4. (1) The Director General, as the person heading the national competent authority as referred to in the preceding regulation, shall have the power to carry out investigations on his own initiative **i**n the case of alleged non-compliance with Articles 5, 6 or 7 of Regulation (EU) 2022/1925 on the territory of Malta by an undertaking designated as a gatekeeper in accordance with Article 3 of the said Regulation.

(2) For the purposes of this regulation, the provisions of article 12 of the Act shall apply, *mutatis mutandis*.

Director General to inform the European Commission before taking an investigative measure.

5. Before taking a first formal investigative measure in accordance with these regulations, the Director General shall inform the European Commission in writing.

Director General to report to the European Commission on findings of the investigation.

6. The Director General shall report to the European Commission on the findings of the investigations carried out pursuant to regulation 4 in order to support the European Commission in its role as sole enforcer of Regulation (EU) 2022/1925.

Powers of the Director General and of the Court.

7. The Director General shall have the same powers as prescribed in the Act to institute judicial proceedings against any person, undertaking and, or association of undertakings for failure to comply with the investigative measures of the Office, and the Court shall have the same powers as prescribed in the Act to impose penalties for the said non-compliance, and for this purpose, the provisions of articles 12A(4) and 21(5) to (8) of the Act shall apply, *mutatis mutandis*.

Right of appeal.

8. The Director General and any person, undertaking and, or association of undertakings who feel aggrieved by a judgement of the Court may appeal on points of law and, or of fact before the Court of Appeal by means of an application filed in the registry of the said court within twenty (20) days from the date of the judgement:

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Provided that the Court of Appeal shall appoint the case for hearing by not later than six (6) months from the date of judgement of the Court.

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