

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

The Danish Competition Act (Consolidation Act No. 1150 of 3 November 2024)

Chapter 1

Purpose, scope and definitions

1. The purpose of this Act is to promote efficient resource allocation in society through workable competition for the benefit of undertakings and consumers.
2. (1) This Act shall apply to any form of commercial activity as well as aid from public funds granted to commercial activity.
(2) The provisions in Chapters 2 and 3 shall not apply if an anti-competitive practice is a direct or necessary consequence of public regulation. An anti-competitive practice established by a local council shall only be considered a direct or necessary consequence of public regulation in so far as the practice is necessary for the local council to carry out the tasks assigned to it in accordance with current legislation.
(3) Decisions made by the executive committee of a local authority partnership, cf. Section 60 of the Local Government Act, shall be considered equivalent to decisions made by a local council, cf. subsection (2).
(4) A decision about the extent to which subsection (2) applies to an anti-competitive practice shall be made by the minister responsible for the regulation concerned. If the Competition and Consumer Authority requests the relevant minister to determine whether an anti-competitive practice is covered by subsection (2), the minister must reach a decision no later than four weeks after having received the request from the Authority. The Competition and Consumer Authority may extend the deadline.
(5) If the Competition and Consumer Authority finds that a public regulation or an aid scheme may restrain competition or otherwise may impede efficient allocation of society's resources, the Authority may deliver a reasoned opinion to the relevant minister and to the Minister for Industry, Business and Financial Affairs, pointing out its potentially adverse effects on competition, and present recommendations for promoting competition in the area concerned. After negotiating with the Minister for Industry, Business and Financial Affairs, the relevant minister must reply to the Competition and Consumer Authority no later than four months after receiving the Authority's statement. The Competition and Consumer Authority may extend the deadline.
(6) When an anti-competitive agreement, a decision made by an association of undertakings, a concerted practice between undertakings or an abuse of a dominant position may affect trade between the Member States of the European Union, Article 101 or 102 TFEU shall be applied on a stand-alone basis or in parallel with Section 6 or Section 11. Chapters 5-8 also apply to such agreements etc. or to such conduct.
3. This Act shall not apply to wage and working conditions. For the purposes of its work, the Competition and Consumer Authority may, however, request information from organisations and undertakings concerning wage and working conditions.
4. (Repealed)

5. (1) The provisions in Chapter 2 shall not apply to agreements, decisions and concerted practices within the same undertaking or group.

(2) The Minister for Industry, Business and Financial Affairs shall lay down specific rules on the application of subsection (1), after consultation with the Competition and Consumer Authority, including rules on how to define agreements etc. within the same undertaking or group.

5a. (1) The definition of the relevant market under this Act shall be based on examinations of demand and supply substitutability and of potential competition. The potential competition must be examined when the position on the relevant market of the undertakings involved has been documented and this position gives rise to doubt as to whether this Act has been infringed.

(2) The Competition and Consumer Authority may draw on external expertise in making its assessment under subsection (1).

5b. For the purposes of this Act the following definitions apply:

i) National competition authority: An authority designated by a Member State pursuant to Article 35 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty as being responsible for the application of Articles 101 and 102 TFEU.

ii) National administrative competition authority: An administrative authority designated by a Member State to carry out all or some of the functions of a national competition authority.

iii) National competition law: Provisions of national law that predominantly pursue the same objective as Articles 101 and 102 TFEU and that are applied to the same case and in parallel to EU competition law pursuant to Article 3(1) of Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty, as well as provisions of national law that predominantly pursue the same objective as Articles 101 and 102 TFEU and that are applied on a stand-alone basis as regards Article 31(3) and (4) of Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market, excluding provisions of national law which impose criminal penalties on natural persons.

iv) Review court: A national court that is empowered by ordinary means of appeal to review decisions of a national competition authority or to review judgments pronouncing on those decisions, irrespective of whether that court itself has the power to find an infringement of competition law.

v) Enforcement proceedings: The proceedings before a competition authority for the application of Article 101 or 102 TFEU, until that competition authority has closed such proceedings by taking a decision referred to in Article 10, 12 or 13 of Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market, or as long as the competition authority has not concluded that there are no grounds for further action on its part, or in the case of the Commission, until it has taking a decision referred to in Article 7, 9 or 10 of Council Regulation (EC) No 1/2003 of 16 December 2002 on the implementation of the rules on competition laid down in Articles 81 and 82 of the Treaty.

vi) Cartel: An agreement or concerted practice between two or more competitors aimed at coordinating their competitive behaviour on the market or influencing the relevant parameters of competition through practices such as, but not limited to, the fixing or coordination of purchase or selling prices or other trading conditions, including in relation to intellectual property rights, the

allocation of production or sales quotas, the sharing of markets and customers, including bid-rigging, restrictions of imports or exports or anti-competitive actions against other competitors.

vii) Applicant authority: A national competition authority which makes a request for mutual assistance as referred to in Article 24, 25, 26, 27 or 28 of Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market.

viii) Requested authority: A national competition authority which receives a request for mutual assistance and in the case of a request for assistance as referred to in Article 25, 26, 27 or 28 of Directive of the European Parliament and of the Council to empower the competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market the competent public body which has principal responsibility for the enforcement of such decisions under national laws, regulations and administrative practice.

Chapter 2

Prohibition against certain anti-competitive agreements

6. (1) It is prohibited for undertakings etc. to enter into agreements that have restriction of competition as their direct or indirect object or effect.

(2) Agreements covered by subsection (1) may, for example, be agreements

i) to fix purchase or selling prices or other trading conditions;

ii) to limit or control production, sales, technical development or investments;

iii) to share markets or sources of supply;

iv) to apply dissimilar conditions to equivalent transactions with trading partners, thereby placing them at a competitive disadvantage;

v) to 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) to coordinate the competitive practices of two or more undertakings through the establishment of a joint venture; or

vii) to 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, furthermore, apply to decisions made by an association of undertakings and concerted practices between undertakings.

(4) The Competition and Consumer Authority may issue orders to put an end to infringements of subsection (1), cf. Section 16. In order to meet the concerns that the Competition and Consumer Authority may have in relation to subsection (1), the Authority may, furthermore, decide that commitments made by the undertaking shall be binding, cf. Section 16a(1).

(5) Agreements and decisions that are prohibited under subsections (1) - (3) shall be void, unless they are exempted according to Section 7, are exempted according to Section 8 or Section 10, or are covered by a declaration according to Section 9.

7. (1) The prohibition set out in Section 6(1) does not apply to agreements between undertakings, decisions made by an association of undertakings and concerted practices between undertakings, cf., however, subsections (2)-(5), in case

i) the aggregate market share held by the undertakings concerned does not exceed 10 percent on any relevant market affected by the agreement etc., where the agreement etc. is made between

undertakings which are actual or potential competitors on any of those markets (agreements between competitors); or

ii) the market share held by each of the undertakings concerned does not exceed 15 percent on any relevant market affected by the agreement, where the agreement etc. is made between undertakings which are not actual or potential competitors on any of those markets (agreements between non-competitors).

(2) If it is difficult to classify an agreement between undertakings, a decision made by an association of undertakings, or a concerted practice 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 agreement, the decision or the concerted practice has as its object to restrict competition.

(4) The prohibition in Section 6(1) shall, irrespective of subsection (1), apply to an agreement between undertakings, a decision made by an association of undertakings and concerted practices between undertakings if this agreement etc., together with other similar agreements etc., restricts competition.

(5) The exceptions in subsection (1) shall apply even if the aggregate market shares of the undertakings exceed the mentioned thresholds during two successive calendar years.

(6) The Minister for Industry, Business and Financial Affairs may, after consultation with the Competition and Consumer Authority, lay down rules on the calculation of the turnover or other matters that are relevant for the calculation of market shares according to this Act, including rules on minor excesses of the mentioned thresholds.

8. (1) The prohibition in Section 6(1) shall not apply if an agreement between undertakings, a decision made by an association of undertakings or a concerted practice between undertakings

i) contributes to improving the efficiency of the production or distribution of goods or services or promotes technical or economic progress;

ii) allows consumers a fair share of the resulting benefits;

iii) does not impose on the undertakings restrictions that are not indispensable to attain these objectives; and

iv) does not afford such undertakings the possibility of eliminating competition in respect of a substantial part of the products or services in question.

(2) The Competition and Consumer Authority may, upon notification, exempt an agreement between undertakings, a decision made by an association of undertakings or a concerted practice between undertakings from the prohibition in Section 6(1) if the Authority finds that the conditions in subsection (1) are fulfilled. The notification of the agreement etc. in question, including an application for exemption under subsection (1), may be submitted to the Competition and Consumer Authority. The Authority shall lay down specific rules on notification, including rules on the use of special notification forms, and on the submission of a non-confidential version of a notification.

(3) Decisions made under subsection (2) shall specify the period for which the exemption is effective. The exemption may be granted on conditions.

(4) The Competition and Consumer Authority may, upon notification, extend an exemption if the Authority finds that the conditions in subsection (1) are still in place. Subsection (3) shall apply correspondingly.

(5) The Competition and Consumer Authority may refrain from processing a notification under subsection (2) or subsection (4) if the agreement etc. may appreciably affect trade between the Member States of the European Union.

(6) The Competition and Consumer Authority may alter or revoke a decision made under subsection (2) or subsection (4) if

- i) the facts of the situation have changed in any respect that was important for the decision;
- ii) the parties to the agreement etc. fail to comply with the conditions attached; or
- iii) the decision has been based on incorrect or misleading information from the parties to the agreement etc.

9. (1) The Competition and Consumer Authority may declare, upon notification from an undertaking or association of undertakings, that according to the facts that are known to the Competition and Consumer Authority, an agreement, decision or concerted practice does not fall under the prohibition in Section 6(1), and that, accordingly, there are no grounds 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, and on the submission of a non-confidential version of a notification.

(2) The Competition and Consumer Authority may refrain from processing a notification under subsection (1) if an agreement etc. may appreciably affect trade between the Member States of the European Union.

10. (1) The Minister for Industry, Business and Financial Affairs shall, after consultation with the Competition and Consumer Authority, lay down rules on 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 made by an association of undertakings or a concerted practice covered by a block exemption issued under subsection (1) in a concrete case have effects that are incompatible with the conditions in Section 8(1), the Competition and Consumer Authority may revoke the block exemption for the undertakings etc. which are involved in the agreement etc.

Chapter 2a

Trading terms of dominant undertakings

10a. (1) The Competition and Consumer Authority may order a dominant undertaking to submit its general trading terms if

- i) a competitor has filed a not unfounded complaint;
- ii) there are exceptional market conditions; and
- iii) due to these conditions, there is a special need for the Competition and Consumer Authority to acquire further insight into the ways in which the dominant undertaking fixes its prices, discounts, etc.

The order may exclusively comprise the trading terms for the markets with which the complaint is concerned.

(2) Orders under subsection (1) shall apply for 2 years from the date when the decision is final.

(3) “Trading terms” shall mean the basis on which an undertaking at any time generally fixes its prices, discounts, marketing contributions and free services, and the terms and conditions on which the undertaking will grant these financial benefits to its trading partners.

(4) Undertakings that have submitted trading terms under subsection (1) may ask the Competition and Consumer Authority for an assessment of these terms. The Competition and Consumer Authority shall make its decision within 6 months. The time limit runs from the date when the Competition and Consumer Authority has received the information from the undertaking that is necessary to assess the trading terms. If no decision has been made by the Competition and Consumer Authority within this time limit, the trading terms shall be considered as approved.

(5) The Competition and Consumer Authority may refrain from making a decision in case such a decision may have implications for whether one or more undertakings abuse a dominant position in the common market or a substantial part hereof, and trade between the Member States of the European Union may be appreciably affected thereby.

(6) If the trading terms are contrary to Section 11(1) or administered in contravention of Section 11(1), the Competition and Consumer Authority may issue an order stipulating that one or more provisions in the trading terms must be revoked or altered. If the trading terms are prepared in such a manner that the Competition and Consumer Authority will have an inadequate basis for assessing whether they are contrary to Section 11(1), the Competition and Consumer Authority may issue an order stipulating that one or more of the provisions must be further specified.

(7) If a dominant undertaking against which an order under subsection (1) has been issued deals with trading partners on the Danish market using prices, discounts, financial benefits or other terms that do not appear or deviate to a not insignificant extent from the trading terms submitted to the Competition and Consumer Authority, this can be accorded importance in connection with the general presentation of evidence in proceedings under Section 11.

(8) The provision in subsection (7) shall also apply if a dominant undertaking acts in breach of an order under subsection (6). This shall not apply, however, if an appeal against the order is granted suspensive effect, cf. Section 19(4).

Chapter 3

Abuse of dominant position

11. (1) It is prohibited for one or more undertakings etc. to abuse a dominant position.

(2) The Competition and Consumer Authority must declare, upon request, whether one or more undertakings hold a dominant position, cf., however, subsection (7). If the Competition and Consumer Authority declares that an undertaking does not hold a dominant position, this declaration shall be binding until revoked by the Competition and Consumer Authority.

(3) Abuse as set out in subsection (1) may, for example, consist of

- 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 and Consumer Authority may issue orders to put an end to infringements of subsection (1), cf. Section 16. In order to meet the concerns that the Competition and Consumer Authority may have in relation to subsection (1), the Authority may, furthermore, decide that commitments made by an undertaking shall be binding, cf. Section 16a(1).

(5) The Competition and Consumer Authority may declare, upon notification from one or more undertakings, that based on the facts that are known to the Competition and Consumer Authority, a

certain form of conduct is not covered by subsection (1) and that, accordingly, there is no grounds for issuing orders under subsection (4).

(6) The Competition and Consumer Authority may lay down specific rules on the materials necessary to make a decision under subsection (2) or (5), including the submission of a non-confidential version of a request or notification.

(7) The Competition and Consumer Authority may refrain from making a decision under subsection (2) or subsection (5) in case such a decision may have implications for whether one or more undertakings abuse a dominant position in the common market or a substantial part hereof, and trade between the Member States of the European Union may be appreciably affected thereby.

Chapter 3a

Aid that distorts competition

11a. (1) The Competition and Consumer Authority may issue orders for the termination or repayment of aid granted from public funds to the advantage of certain forms of commercial activity.

(2) Orders under subsection (1) may be issued in case the aid

- i) directly or indirectly has as its object or effect to distort competition; and
- ii) is not lawful according to public regulation.

(3) The decision of whether granted aid is lawful according to public regulation shall be made by the relevant minister, respectively the relevant municipal supervisory authority, unless otherwise provided by other legislation. Decisions as to the lawfulness of granted aid according to public regulation shall be made no later than four weeks after receipt of a request from the Authority. The Competition and Consumer Authority may extend the time limit.

(4) Orders under subsection (1) for repayment of aid may be issued to private undertakings, self-governing institutions, and in full or in part publicly owned undertakings operated in the form of companies. The Minister for Industry, Business and Financial Affairs may lay down specific rules to the effect that orders under subsection (1) for repayment of aid may also be issued to certain in full or in part publicly owned undertakings operated in company-like form.

(5) The Competition and Consumer Authority's powers under subsection (1) to order repayment of public aid shall be barred by limitation 5 years after the aid was paid out. The Competition and Consumer Authority shall determine the interest to be paid in connection with orders for repayment of unlawful aid according to subsection (1). Interest shall be paid at the interest rate fixed at any time under the European Union's state aid rules which is applied in connection to the repayment of state aid. The Competition and Consumer Authority may stipulate that compound interest shall accrue from the date when the unlawful aid was first made available to the recipient and until the date when the aid has been repaid. The sum of interest which has accrued the preceding year shall accrue interest each subsequent year.

(6) The Competition and Consumer Authority may, upon notification, declare that, based on the facts that are known to the Competition and Consumer Authority, public aid is not covered by subsection (2)(i) and that, accordingly, there is no grounds for issuing an order under subsection (1). The Authority may lay down specific rules on notification, including the use of special notification forms.

(7) The Competition and Consumer Authority may refrain from processing a case under subsections (1)-(6) if the aid scheme in question may affect trade between the Member States of the European Union.

(8) An order that aid shall be terminated, cf. subsection (1), may be issued regardless of when the decision to grant the aid in question was made.

(9) Aid which, pursuant to subsection (1), is ordered to be repaid shall be paid to the state treasury.

11b. (1) The Competition and Consumer Authority may investigate the extent to which a public authority offers private providers of services covered by the Free Choice scheme a settlement price fixed in accordance with the rules established in other legislation on the Free Choice scheme, cf. subsection (5).

(2) If the settlement price referred to in subsection (1) is lower or estimated to be lower than the price which the public authority should have used according to the relevant rules for the Free Choice scheme, the Competition and Consumer Authority may issue an order to the public authority to the effect that the public authority shall

i) stop calculating and stipulating settlement prices that are contrary to the rules for the Free Choice scheme;

ii) use specified bases of calculation, calculation methods or settlement prices in respect of private providers of services covered by the Free Choice scheme; and

iii) carry out post-payment of an amount to private providers of services covered by the Free Choice scheme corresponding to the difference between the settlement price that the authority has used and the settlement price that the authority should have used, cf. point (i).

(3) Unless otherwise specified in the rules for the Free Choice scheme in question, the order to carry out post-payment may not relate to payments that were made more than 1 year prior to the date on which the Competition and Consumer Authority launched an investigation into the public authority in question.

(4) The Competition and Consumer Authority may refrain from processing a case under subsections (1)-(3) if the scheme in question may affect trade between the Member States of the European Union.

(5) The Minister for Industry, Business and Financial Affairs shall, after negotiation with the relevant minister, lay down rules to specify which Free Choice schemes are covered by the competence of the Competition and Consumer Authority.

11c. The Minister for Industry, Business and Financial Affairs may lay down rules on the implementation of the Commission Directive on the transparency of financial relations between Member States and public undertakings and on financial transparency within certain undertakings.

Chapter 4

Merger control

12. (1) The provisions of this chapter shall apply to mergers where

i) the combined aggregate annual turnover in Denmark of the undertakings concerned is at least DKK 900 million and the aggregate annual turnover in Denmark of each of at least two of the undertakings concerned is at least DKK 100 million;

ii) the aggregate annual turnover in Denmark of at least one of the undertakings concerned is at least DKK 3.8 billion and the aggregate annual worldwide turnover of at least one of the other undertakings concerned is at least DKK 3.8 billion;

iii) the Business Authority in accordance with the Act on electronic communications networks and services has referred a merger between two or more commercial providers of electronic communications networks in Denmark to the Competition and Consumer Authority; or

iv) The Competition and Consumer Authority has required a merger must be notified pursuant to subsection (6). For a merger that is required notified pursuant to subsection (6), Section 12c(5) shall apply to the extent that the merger is not implemented on the date when the merger is required notified.

(2) Where a merger consists of the acquisition of one or more undertakings, the calculation of the turnover referred to in subsection (1) with regard to the seller or sellers shall only take account of the share of the turnover 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 and the same merger arising on the date of the last transaction.

(4) The Minister for Industry, Business and Financial Affairs shall, after consultation with the Competition and Consumer Authority, lay down specific rules on the calculation of the turnover under subsection (1), including rules prescribing that the mentioned turnover thresholds shall be calculated on the basis of other assets in the case of financial institutions.

(5) Even if the aggregate turnover of the undertakings concerned is lower than the turnover thresholds referred to in subsection (1), the provisions of this chapter shall apply to a merger which the European Commission refers for assessment in Denmark according to the EU Merger Regulation.

(6) Even if the aggregate turnover of the undertakings concerned is lower than the turnover thresholds referred to in subsection (1), the Competition and Consumer Authority may require a merger notified if the combined aggregate annual turnover in Denmark of the undertakings concerned is at least DKK 50 million and if the Competition and Consumer Authority assesses that there is a risk that the merger will significantly impede effective competition, in particular due to the creation or strengthening of a dominant position. The Competition and Consumer Authority may set a deadline for the notification of the merger. The Competition and Consumer Authority must, no later than 15 working days after the Authority has been made aware of a merger pursuant to first sentence, decide whether the merger must be notified. The Competition and Consumer Authority may not require a merger notified later than 3 months after a merger agreement has been concluded, a takeover bid has been published or a controlling interest has been acquired, unless there are exceptional circumstances. The three-month time limit pursuant to fourth sentence shall begin to run on the earliest of these dates. The merger may be required notified no later than 6 months after the implementation of the merger.

12a. (1) For the purpose of this Act, a merger shall mean:

i) where two or more previously independent undertakings amalgamate into one undertaking; or
ii) where one or more persons already controlling at least one undertaking, or one or more undertakings - by an agreement to purchase securities or assets or by any other means - acquires direct or indirect control of the whole 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 autonomous economic entity shall constitute a merger within the meaning of subsection (1)(ii).

(3) For the purpose of this Act, control shall be constituted by rights, contracts or any other means which, either separately or in combination, confer the possibility of exercising decisive influence on an undertaking.

(4) A merger shall not be deemed to arise under subsection (1):

i) where credit institutions or other financial institutions or insurance companies, the normal activity of which include transactions and dealing in securities for their own account or for the account of others, hold on a temporary basis securities which they have acquired in an undertaking with a view

to reselling them, provided that they do not exercise voting rights in respect of those securities with a view to determining the competitive behaviour of that undertaking or provided that they exercise such voting rights only with a view to preparing the disposal of all or part of that undertaking or of its assets or the disposal of those securities and that any such disposal takes place within one year of the date of acquisition;

ii) where control is acquired by an office-holder who has powers under insolvency legislation etc. to deal with and dispose of the undertaking; or

iii) where the transactions referred to in subsection (1)(ii) are carried out by holding companies as defined in the Annual Accounts Directive, provided however that the voting rights in respect of the holding are exercised, in particular in relation to the appointment of members of the management and supervisory bodies of the undertakings in which they have holdings, only to maintain the full value of those investments and not to determine directly or indirectly the competitive conduct of those undertakings.

(5) The Competition and Consumer Authority may on request extend the time limit set out in subsection (4)(i), if the credit institute, financial institute or insurance company can show that the disposal was not reasonably possible within the period set.

12b. (1) A merger covered by this Act shall be notified to the Competition and Consumer Authority after a merger agreement has been concluded, a takeover bid has been published or a controlling interest has been acquired and before the merger is implemented.

A merger that is required notified by the Competition and Consumer Authority pursuant to Section 12(6) must be notified irrespective that it has already been implemented.

(2) The Competition and Consumer Authority may publish that a merger has been notified. The publication shall include the names of the parties to the merger, the nature of the merger and the economic sectors involved.

(3) The Minister for Industry, Business and Financial Affairs shall, after consultation with the Competition and Consumer Authority, lay down specific rules on the notification of mergers, including rules on the use of special notification forms, and on the submission of a non-confidential version of a merger notification.

12c. (1) The Competition and Consumer Authority shall decide whether to approve or prohibit a merger.

(2) A merger that will not significantly impede effective competition, in particular due to the creation or strengthening of a dominant position, shall be approved. A merger that will significantly impede effective competition, in particular due to the creation or strengthening of a dominant position, shall be prohibited.

(3) To the extent that the creation of a joint venture constituting a merger under Section 12a(2) also has as its object or effect the coordination of the competitive behaviour of undertakings that remain independent, such coordination shall be appraised in accordance with the criteria of Section 6(1) and Section 8(1) or Article 101(1) and (3) TFEU, with a view to establishing whether or not the transaction shall be approved.

(4) In making the appraisal under subsection (3), the Competition and Consumer Authority shall take into account in particular:

i) whether two or more parent companies retain, to a significant extent, activities in the same market as the joint venture in question or in a market which is downstream or upstream from that market or in a neighbouring market closely related to this market; and

ii) whether the coordination which is the direct consequence of the creation of the joint venture in question affords the undertakings concerned the possibility of eliminating competition in respect of a substantial part of the products or services in question.

(5) A merger that is subject to this Act shall not be implemented either before it has been notified or until the Competition and Consumer Authority has approved it under subsection (1). This shall not prevent the implementation of a public bid or of a series of transactions in securities including those convertible into other securities admitted to trading on a market such as a stock exchange, by which control, cf. Section 12a, is acquired from different sellers, provided that the merger is notified to the Competition and Consumer Authority without delay and the acquirer does not exercise the voting rights attached to the securities in question or does so only to maintain the full value of its investments and on the basis of a derogation granted by the Competition and Consumer Authority according to subsection (6).

(6) The Competition and Consumer Authority may grant a derogation from the provision set out in subsection (5) and in that connection make it subject to conditions or issue an order for the purpose of ensuring effective competition.

(7) The Competition and Consumer Authority may grant approval of a merger based on a simplified procedure if the Authority, based on the information available, finds that the merger will not give rise to any objections on the part of the Authority.

12d. (1) It shall be decided, no later than 25 working days after the receipt of a complete notification, cf., however, Section 12h(5), third sentence, whether a merger shall be approved, including whether the merger may be approved on the basis of a simplified procedure. The time limit referred to in first sentence may be extended by up to 35 working days in case one or more of the undertakings concerned offer commitments, including revised commitments. Within the time limit referred to in first or second sentence it can be decided to initiate a separate investigation of the merger.

(2) If a separate investigation of a merger, cf. subsection (1), third sentence, is initiated, it shall be decided within 90 working days after the decision to initiate a separate investigation whether to approve or prohibit the merger.

(3) The time limit referred to in subsection (2) shall be extended by 20 working days in case one or more of the undertakings concerned offer commitments, including revised commitments, and 70 working days or more have elapsed from the decision according to subsection (1), third sentence, to initiate a separate investigation.

(4) The time limit set out in subsection (2) may, furthermore, be extended upon a decision of the Competition and Consumer Authority provided that the undertaking or undertakings that has or have filed the notification has or have requested or consented to the extension. An extension may not exceed 20 working days.

(5) The Competition and Consumer Authority must receive commitments no more than 90 working days from the decision according to subsection (1), third sentence, to initiate a separate investigation, cf., however, subsection (9). The Competition and Consumer Authority may in exceptional cases assess amendments to already made commitments that are received after the expiry of the 90 working days.

(6) If no decision has been made within the time limits that follow from subsections (1)-(4), this shall be considered to be a decision to approve the merger, cf., however, subsections (7) - (9).

(7) If an undertaking concerned submits an appeal to the Competition Appeals Tribunal against the procedure in a merger case in which a decision under Section 12c(1) or (3) has not yet been made,

the time limits in subsections (1)-(4) are interrupted until the Competition Appeals Tribunal has made a decision regarding the appeal.

(8) If an undertaking concerned submits an appeal to the Competition Appeals Tribunal against the requirement for submission of a full notification, cf. Section 12h(4), the time limits in subsections (1)-(4) are interrupted until the Competition Appeals Tribunal has made a decision regarding the appeal.

(9) The time limits set by subsections (1)-(5) shall exceptionally be suspended where, owing to circumstances for which one of the undertakings involved in the concentration is responsible, the Competition and Consumer Authority has requested information pursuant to Section 17 and the request has not been met within the time limit set by the Authority. The time limits are interrupted until the Authority has received the requested information. If an undertaking concerned brings this decision before the courts, the time limits in subsections (1)-(5) are interrupted until a final judgment has been handed down.

12e. (1) The Competition and Consumer Authority may issue orders or attach conditions to its approval of a merger under Section 12c(2), for example, to ensure that the undertakings concerned comply with the commitments they have accepted vis-à-vis the Competition and Consumer Authority to eliminate any anti-competitive effects of the merger.

(2) Such conditions or orders may, inter alia, require that the undertakings concerned must

i) divest a business, parts of a business, assets or other proprietary interests;

ii) grant third party access; or

iii) take other measures capable of promoting effective competition.

(3) The Competition and Consumer Authority may, after its approval of a merger, issue the orders that are necessary to ensure timely and correct fulfilment of the commitments made to the Authority by the undertakings concerned, cf. subsection (1).

12f. (1) The Competition and Consumer Authority may revoke an approval of a merger,

i) where the Competition and Consumer Authority's decision is based, to a substantial extent, on incorrect or misleading information for which one or more of the undertakings concerned are responsible; or

ii) if the undertakings concerned fail to comply with conditions or orders, cf. Section 12e(1).

(2) In case the Competition and Consumer Authority is made aware that an undertaking concerned, as part of the assessment of a merger notified according to the simplified procedure, has submitted incorrect or misleading information, the Authority may revoke an approval under Section 12c(7) and demand that within 2 weeks the undertakings concerned submit a full notification, cf., however, subsection (3). The Competition and Consumer Authority's investigation of the merger is subject to the time limits set out in Section 12d.

(3) However, a full notification shall not be submitted if, at the time when the Competition and Consumer Authority revokes the approval, the undertakings concerned have not taken any initiative to implement the merger or if the undertakings concerned have taken initiative to implement the merger but they inform the Competition and Consumer Authority within 2 weeks that the merger will not be implemented.

12g. The Competition and Consumer Authority may, when making a decision under Section 12c(1) to prohibit a merger that has already been implemented, issue an order that requires a separation of the undertakings or assets that have been taken over or merged or cessation of joint control or any other measure capable of restoring effective competition.

- 12h. (1) A merger may be notified by means of either a simplified or a full notification.
- (2) A fee of DKK 50,000 is payable for a simplified notification.
- (3) A fee of 0.015 percent of the aggregate annual turnover in Denmark of the undertakings concerned, however not exceeding DKK 1,500,000, is payable for a full notification.
- (4) If during the assessment of a simplified notification it appears that a full notification is necessary for the purpose of the investigation of the merger, such full notification shall be submitted to the Competition and Consumer Authority together with documentation for payment of a fee calculated in accordance with subsection (3) less an already paid fee according to subsection (2).
- (5) The fees according to subsections (2)-(4) shall be paid to the Competition and Consumer Authority at the time of the notification. Documentation of the payment shall be enclosed with the notification. The time limit in Section 12d(1) shall run from the day on which the Authority has received a complete notification together with documentation of the payment of the fee.
- (6) If the fee according to subsection (2) or (3) is not paid on demand, a merger shall be deemed as not having been notified. The notification of a merger shall be deemed to be repealed if, cf. subsection (4), the fee is not paid on demand or a full notification is not submitted despite a reminder.
- (7) An already paid fee 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 the notification is complete;
 - iii) the notification is withdrawn before a decision according to Section 12c(1) or (7) has been made and the withdrawal is the result of another Danish authority's refusal of permission for the undertakings involved to merge; or
 - iv) the Business Authority was unfounded in referring the merger to the Competition and Consumer Authority, cf. Section 12(1)(iii).

Chapter 5

Publicity

13. (1) The Act on Public Access to Documents in Public Files shall not apply to cases and investigations under this Act other than cases concerning the adoption of provisions under Section 5(2), Section 7 (6), Section 8(2), third sentence, Section 9(1), second sentence, Section 10(1), Section 11(6), Section 11a(4), second sentence, and subsection (6), second sentence, Section 11c, Section 12(4), Section 12b(3), Section 14(7), Section 15b(1) and (2) and subsection (4), first sentence, Section 18(8), second sentence, Section 18c(4) and Section 21(3). However, undertakings have a right of personal access in cases where a decision under this Act has been or will be adopted, cf. Section 8 of Access to Public Administration Files Act, with the exception of information in respect of another undertaking's technical matters, production methods, operating and business secrets or other confidential information. Furthermore, Sections 13 and 15 of the Access to Public Administration Files Act shall apply to such cases. If information collected in accordance with this Act is passed on to another administrative authority, first and second sentence shall also apply.
- (2) The Competition and Consumer Authority shall publish:
- i) Decisions made by said authority according to Section 2(4), first sentence, and Section 11a(3), first sentence, as well as the Competition and Consumer Authority's reasoned opinion and the relevant minister's response according to Section 2(5).
 - ii) The Competition Council's decisions made in accordance with this Act.

iii) The Competition and Consumer Authority's decisions made in accordance with this Act or a summary of such decisions, unless the decision is neither found to be of importance for the understanding of the Competition Act nor otherwise found to be of public interest.

iv) Judgments, settlements of fines or a summary hereof, where an undertaking etc. is imposed a civil fine, cf. Section 23(1)-(3), or accepts an administrative notice of a fine, cf. Section 23j(1), or where a natural person is imposed a fine or a prison sentence, cf. Section 23(4) and (6), or accepts an administrative notice of a fine, cf. Section 832(1) of the Administration of Justice Act.

v) Orders made by the Competition Appeals Tribunal.

vi) Judgments passed in legal proceedings where the Competition and Consumer Authority, the Competition Council or the Competition Appeals Tribunal is a party.

vii) Judgments which the Authority has received copies of according to Section 20(4) or which the Authority has requested from the courts and which concern the application of this Act or Articles 101 and 102 TFEU.

(3) The Competition and Consumer Authority may also publish reports and information concerning the Authority's activities in the area of competition.

(4) Publication of information according to subsections (2) and (3) shall not include information on technical matters, including information on research, production methods, products and operating and business secrets, where such information is of substantial financial importance to the person or undertaking which the information concerns. 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 file an application to the President of the Council requesting that information that may not be disclosed or made available to the public pursuant to subsection (4) may not be disclosed to the members of the Council either. The President shall make the final decision as to the extent to and form in which the information should be disclosed.

13a. In cases and investigations under this Act, the rules concerning information and access to personal data in Articles 13-15 of the General Data Protection Regulation shall not apply.

Chapter 6

The Competition Authority. Organisation and powers

14. (1) The Minister for Industry, Business and Financial Affairs appoints the Competition Council and the Director General of the Competition and Consumer Authority. The Director General is appointed after consultation of the Council.

(2) The Competition Council that consists of 7 members is composed of

i) 4 members with insight into competition matters or other appropriate academic background;

ii) 2 members with experience from business management; and

iii) 1 member with specialised knowledge of consumer affairs.

(3) The Minister for Industry, Business and Financial Affairs appoints members of the Competition Council for a term of up to 4 years. The members are eligible for reappointment. The Minister for Industry, Business and Financial Affairs appoints 1 President and 1 Vice-President among the members appointed in accordance with subsection (2)(i).

(4) The Minister for Industry, Business and Financial Affairs appoints up to 4 permanent deputies for the members of the Competition Council for a term of up to 4 years. The deputies are eligible for reappointment.

(5) The members of the Competition Council and their deputies are appointed by virtue of their personal and professional qualities without being subject to instructional powers from any authority, organisation etc.

(6) The Minister for Industry, Business and Financial Affairs appoints an advisory committee composed of up to 10 members who as a group must possess a comprehensive knowledge of private and public undertakings as well as legal, economic, financial and consumer matters. The Minister for Industry, Business and Financial Affairs appoints the members of the committee for a period of up to 4 years on proposal from business and interest organisations. The members are eligible for reappointment.

(7) The Competition Council lays down its own rules of procedure, subject to approval by the Minister for Industry, Business and Financial Affairs.

14a. (1) The members of the Competition Council, their deputies and the Director General and employees of the Competition and Consumer Authority enforce Articles 101 and 102 TFEU, this Act and rules adopted pursuant thereto and carry out the tasks assigned to them pursuant to this regulation, independently of political or other external influence and do not seek nor take any instructions from the Government or any public or private entity.

(2) The persons referred to in subsection (1) may only have other employment to the extent that it is compatible with the performance of the duties attached to their position, and they shall refrain from in subsequent employment, salaried or unsalaried, to handle pending cases in which a preliminary statement of objections has been issued, cf. Section 15a(3), cases concerning mergers, cf. Chapter 4, cases about leniency, cf. Sections 23d-23i, appeal cases and legal proceedings concerning decisions according to this Act and cases concerning access to file in all such cases that they have dealt with during their work in the Competition Council or employment in the Competition and Consumer Authority.

14b. By the end of the financial year, The Competition and Consumer Authority prepares a report for the Minister for Industry, Business and Financial Affairs on the activities of the past year, including appointment and dismissals of members of the Competition Council and the Director General of the Authority, the amount of allocated resources and changes in that amount compared to previous years. The report shall be published.

15. (1) The Competition and Consumer Authority makes decisions according to this Act and rules adopted pursuant hereto with the exception of rules adopted pursuant to Section 11c. The Competition and Consumer Authority may process a case on its own initiative, upon notification, on the basis of a complaint or as a result of a referral from the European Commission or other competition authorities in the European Union. The Authority decides if a case provides sufficient grounds to initiate an investigation or to make a decision, including whether the case processing should be temporarily halted or permanently stopped. The Authority may also decide not to process a case where undertakings previously have submitted commitments pursuant to Section 16a(1).

(2) The Competition and Consumer Authority produces analyses regarding competition matters on its own initiative or upon request from the Minister for Industry, Business and Financial Affairs.

(3) The Competition Council has the overall responsibility for the Authority's administration of this Act and rules adopted in pursuance hereof. In addition, the Council makes decisions in cases of principle or particularly great importance. Finally, the Council approves analyses regarding competition matters which have either been initiated at the Authority's initiative or at the initiative

of the Minister for Industry, Business and Financial Affairs in cases where the Minister at the same time has decided that the Council must approve the analysis.

(4) The Competition Council may delegate its power to make decisions under subsection (3), second sentence, to the Competition and Consumer Authority.

(5) The Competition and Consumer Authority and the Competition Council process enforcement proceedings within reasonable time.

(6) The advisory committee advises the Competition Council on the need for guidelines and analyses as well as on possible measures to prevent infringements of this Act and can draw the Council's attention to particular competition concerns in a market.

15a. (1) Under the Public Administration Act, the right of access to file for the parties in cases involving the application of Articles 101 and 102 TFEU or the EU Merger Regulation only covers that part of the correspondence and the exchange of documents between the European Commission and the competition authorities of the Member States or between the competition authorities of the Member States among themselves, which contains information about the factual circumstances of the case which are of substantial importance for the decision of the case.

(2) The right of access to file for the parties as prescribed by the Public Administration Act and the right of personal access, cf. Section 13(1), second sentence, to information from an application for leniency may be limited to the extent that the interest in being able to use the information is not deemed to be justified by the person concerned's right to defence.

(3) In cases in which orders are issued or where commitment are made binding, the Competition and Consumer Authority shall issue a preliminary statement of objections and a statement of objections. The deadline for the submission of a statement by the parties regarding a preliminary statement of objections is 2 weeks. If an order is issued in accordance with Section 6(4), Section 10a(1) and (6), Section 11(4), Section 11a(1) or Section 11b(2), the deadline for the parties to submit a statement regarding a statement of objections is 6 weeks. In the cases mentioned in the third sentence where an additional party hearing must be carried out in accordance with the Public Administration Act, the deadline for submitting a statement is 3 weeks, unless the case has already been submitted to the Competition Council. The first to fourth sentences do not apply in cases in which a decision is made pursuant to Chapter 4 of this Act.

15b. (1) The Minister for Industry, Business and Financial Affairs may lay down rules to the effect that written communication to and from authorities regarding matters that are covered by this Act or by rules issued pursuant to this Act shall take place digitally.

(2) The Minister for Industry, Business and Financial Affairs may lay down specific rules on digital communication, including the use of specific IT systems, special digital formats and digital signatures etc.

(3) A digital message must be regarded as having arrived when it is available to the addressee of the message.

(4) The Minister for Industry, Business and Financial Affairs may lay down rules to the effect that authorities may issue decisions and other documents in accordance with this Act or rules adopted pursuant to this Act without signature, with mechanically or similarly reproduced signature, or by using a technique that ensures the unambiguous identification of the person who has issued the decision or document. Such decisions and documents shall be equated with decisions and documents with a personal signature.

15c. The Competition and Consumer Authority can handle cases and make decisions in English if so requested by the parties to whom a decision is addressed and the regard for the parties to the case does not decisively make the use of English inadvisable. If the Competition and Consumer Authority has made a decision in English, there must be a Danish summary hereof.

15d. (1) The Competition and Consumer Authority may carry out investigations of a specific business sector or certain types of agreements in different sectors (sector inquiries) in order to gain insight into the competition situation in the sector or sectors concerned.

(2) The provisions of Sections 17 and 18 apply correspondingly to the Competition and Consumer Authority's investigations under subsection (1).

(3) The Competition and Consumer Authority may, subject to the limitations that follow from Section 13(4), publish the results of an investigation under subsection (1).

15e. The Competition and Consumer Authority may publish documents that are included in the case proceedings and for which third-party comments are required. Section 13(4) shall also apply on the publication.

15f. (1) The Competition and Consumer Authority may, upon approval of the Competition Council, initiate a market investigation of behaviour or structures in one or more business sectors if the Competition Council finds that there are signs that there are conditions that impair the effective competition in the sector or sectors concerned.

(2) Before the Competition Council makes its decision pursuant to subsection (1), the Competition and Consumer Authority conducts a public consultation on the Authority's draft decision to initiate a market investigation.

(3) If pursuant to subsection (1) the Competition Council decides that the Competition and Consumer Authority shall initiate a market investigation, the Competition and Consumer Authority publishes that the market investigation is to be initiated, with a description of what is covered thereof.

(4) If the Competition and Consumer Authority assesses, as part of the completion of the market investigation, that behaviour or structures in one or more business sectors clearly impair the effective competition, the Authority may, after consultation of relevant market participants and relevant authorities, issue a behavioural order to an undertaking, an association of undertakings or any other legal person to remedy the identified impairment and promote effective competition conditions in the sector or sectors concerned. An order may apply for a specific period or without time limitations. Section 16(3) shall apply correspondingly.

(5) An order pursuant to subsection (4) must be reasonable, necessary and proportionate to ensure the effective competition.

(6) If the Competition and Consumer Authority assesses that behaviour or structures in one or more business sectors impair the effective competition in the sector or sectors concerned, the Competition and Consumer Authority may, after consultation of relevant market participants and relevant authorities, decide to make commitments that an undertaking, an association of undertakings or any other legal person has submitted binding if the Authority assesses that the commitments can remedy the impairment and promote effective competition conditions in the business sector or business sectors concerned. Decisions pursuant to first sentence may apply for a specific period and shall conclude that there are no longer grounds for an order being issued by the Competition and Consumer Authority pursuant to subsection (4). Section 16a(2)-(4) shall apply correspondingly.

(7) If an order is issued in the course of a market investigation pursuant to subsection (4) or commitments are made binding pursuant to subsection (6), the Competition and Consumer Authority shall issue an informative notice to the undertakings, associations of undertakings or any other legal persons who are parties. The Competition and Consumer Authority may publish draft decisions on orders pursuant to subsection (4) and draft decisions about making commitments binding pursuant to subsection (6). Section 13(4) shall apply correspondingly on the publication pursuant to second sentence. Before the Competition and Consumer Authority issues an order pursuant to subsection (4) or make commitments binding pursuant to subsection (6), the Competition and Consumer Authority shall send a draft decision to the parties. The deadlines pursuant to section 15a(3), third and fourth sentence, for the parties' submission of comments shall apply correspondingly.

(8) No later than 2 years after publication of the Competition Council's approval that the Competition and Consumer Authority initiates a market investigation, cf. subsection (3), the Competition and Consumer Authority shall make its decision on an order pursuant to subsection (4) or decision to make commitments binding pursuant to subsection (6) or publish that the market investigation is closed. The Competition and Consumer Authority may decide to extend the time limit by up to 6 months and, if so, publishes the decision on that matter.

(9) Sections 17 and 18 apply correspondingly on the Competition and Consumer Authority's investigations pursuant to subsection (1).

16. (1) The orders which the Competition and Consumer Authority may issue under Section 6(4), first sentence, or Section 11(4), first sentence, or with reference to Article 101 or 102 TFEU, with a view to put an end to an infringement may include behavioural as well as structural orders, that for example can consist of:

- i) termination of agreements, resolutions, business conditions etc. in full or in part.
- ii) That stated prices or profits may not be exceeded, or to use specified calculation rules when calculating prices or profits.
- iii) Duty for one or more of the undertakings concerned to sell to specified buyers on the conditions usually applied by the undertaking in comparable sales. However, the undertaking can always demand cash payment or adequate security.
- iv) Granting access to an infrastructure facility which is necessary to be able to provide a product or service.
- v) Functional separation of activities or employees in an undertaking.
- vi) Disposal of an undertaking's assets or proprietary interests.
- vii) Disposal of an undertaking or parts hereof.

(2) An order pursuant to subsection (1) must be proportionate to the infringement and be necessary to effectively bring the infringement to an end. When choosing between two equally effective orders, the Competition and Consumer Authority must, in accordance with the principle of proportionality, choose the one that is least intrusive for an undertaking.

(3) The Competition and Consumer Authority may issue orders that are required to ensure a timely and correct fulfilment of the orders that the Authority has issued under subsection (1).

(4) The Competition and Consumer Authority may determine that there has previously been a violation of this Act or of Article 101 or 102 TFEU.

16a. (1) In enforcement proceedings initiated with a view to bringing an end to an infringement of Section 6 or Section 11 or Article 101 or 102 TFEU, the Competition and Consumer Authority may, after consulting relevant market participants, make commitments that an undertaking or an

association of undertakings has submitted binding if the commitments meet the Authority's concerns. The decision may apply for a specific period and shall conclude that there are no longer grounds for actions by the Competition and Consumer Authority.

(2) The Competition and Consumer Authority monitors the implementation of commitments which, pursuant to subsection (1), have been made binding.

(3) After commitments have been made binding, cf. subsection (1), the Competition and Consumer Authority may issue orders necessary to ensure timely and correct fulfilment of the commitments made.

(4) The Competition and Consumer Authority may revoke a decision under subsection (1) if

i) the factual circumstances have changed in any respect that was important for the decision;

ii) the conduct of the parties to the agreement etc. is contrary to commitments made; or

iii) the decision has been based on incomplete, incorrect, or misleading information from the parties to the agreement etc.

16b. In cases of urgency due to the risk of serious harm to competition, the Competition and Consumer Authority may on the basis of a prima facie finding of infringement of Section 6 or Section 11 or Article 101 or 102 TFEU decide to issue an interim order to an undertaking or an association of undertakings. The decision must be proportionate to the infringement and apply either for a specified period of time, which may be renewed in so far that is necessary and appropriate, or until the Competition and Consumer Authority has decided whether there is an infringement or commitments have been made binding, cf. Section 16a(1).

17. (1) The Competition and Consumer Authority may demand all information, including accounts, accounting records, transcripts of books, other business documents and electronically stored data, that the person concerned has access to, and which is found necessary for the Competition and Consumer Authority to carry out its tasks under this Act or to decide whether the provisions of this Act or of Article 101 or 102 TFEU shall apply to a certain situation. The Competition and Consumer Authority sets a reasonable time limit within which the Authority must have received the required information. The Competition and Consumer Authority's requests for information must be proportionate to the purpose and must not lead to the recipient of the request for information being forced to confess to a breach of this Act or of Article 101 or 102 TFEU.

(2) The duty to provide information pursuant to subsection (1) is incumbent on an undertaking, an association of undertakings and any other legal or natural person.

(3) With a view to the application of Articles 101 and 102 TFEU or Article 53 or 54 of the EEA Agreement, the information referred to in subsection (1) may also be demanded for the use by the Competition and Consumer Authority's assistance to the European Commission and competition authorities of the EEA area.

(4) The information referred to in subsection (1) may also be demanded for the use of the Competition and Consumer Authority's assistance to the competition authorities in Sweden, Norway, Iceland, Finland, Greenland, and the Faroe Islands with a view to these authorities' application of national competition rules.

17a. The Competition and Consumer Authority may summon any representative of an undertaking or an association of undertakings or any representative of other legal persons and any natural person to appear for and answer questions during an interview when such a representative or natural person may be in possession of information that is relevant to the application of Section 6 or Section 11 or Article 101 or 102 TFEU.

17b. Section 10 of the Act on Legal Safeguards in the Administration's application of coercive measures and information obligations does not apply to requirements for undertakings or associations of undertakings for information pursuant to Section 17, the conduct of an interview pursuant to Section 17a, or the submission of an oral explanation pursuant to Section 18(1), third sentence. Those concerned are obliged to provide information in accordance with the aforementioned provisions, to the extent this is compatible with the prohibition against self-incrimination under EU law.

17c. Evidence which may be included in the assessment of whether this Act or Article 101 or 102 TFEU has been infringed includes documents, oral statements, electronic messages, recordings and all other objects containing information, irrespective of the form it takes and the medium on which information is stored.

18. (1) Representatives of the Competition and Consumer Authority and other accompanying persons authorised or appointed by the Authority for this purpose may, for the purpose of their activities, conduct unannounced inspections, which will give the Authority access to the premises, land and means of transport of an undertaking or association of undertakings for the purpose of gaining insight into and making copies of any information which is accessible to the entity subject to the inspection, including accounts, accounting records, books, and other business documents, regardless of the medium on which they are stored. The undertaking and the association of undertakings are obliged to submit to an inspection, and Section 9 of the Act on Legal Safeguards in the Administration's application of coercive measures and duties to supply information does not apply. In connection with an inspection, the Competition and Consumer Authority may demand explanations from any representative or member of staff of the undertaking or association of undertakings on facts or documents relating to the subject matter and purpose of the inspection and record their answers. The Competition and Consumer Authority may also demand that persons included in the scope of the inspection show the contents of their pockets, bags, etc. in order to enable the Authority to obtain knowledge of such contents and, if necessary, take copies hereof.

(2) If the information of an undertaking or an association is stored or processed by an external data processor, the Competition and Consumer Authority is entitled to be given access to the premises of the external data processor in order to gain insight into and make copies of the information there, cf. subsection (1). The access requires that it is not possible for the Competition and Consumer Authority to gain access to the information concerned directly from the undertaking or association that is the subject of the inspection.

(3) The Competition and Consumer Authority's inspections may only be carried out on the basis of an obtained court order and against due proof of identity.

(4) The Competition and Consumer Authority may obtain a copy of the data content from electronic media covered by the inspection for subsequent review of the copy at the Authority's premises or at other designated premises. The data obtained must be sealed or otherwise protected against reading before the inspection is finished. The undertaking or association which is the subject of an inspection may demand that it itself or a representative appointed by the undertaking or association shall witness when the data obtained are made available for reading and during the Authority's review of the material obtained. The Competition and Consumer Authority has a duty to provide a copy of the information that the Authority may have extracted from the data obtained to the undertaking or association which is the target of the inspection no later than 40 working days after the completion of the inspection. When the review of the data obtained has been completed, the data shall be secured against reading. The data obtained shall be deleted if the Authority

assesses that the material does not contain evidence of an infringement of the competition rules. If the Competition and Consumer Authority decides to proceed with the case, the data obtained shall be deleted when the case has been finally decided.

(5) If the conditions of the undertaking or association make it impossible for the Competition and Consumer Authority to get access to or make copies of the information, cf. subsections (1), (2) and (4), on the day when the inspection is carried out, the Authority may seal off the relevant business premises and information for up to three working days thereafter.

(6) The Competition and Consumer Authority is entitled on the same conditions as in subsection (5) to take the information or the medium on which it is stored away for copying. The material which the Competition and Consumer Authority has removed must be returned to the undertaking or association together with a set of copies of the information the Authority has extracted for its further examinations, no later than three working days after the inspection.

(7) In exceptional cases, the deadlines in subsections (4), (5) and (6) may be extended.

(8) The police shall provide assistance for the exercise of the powers under subsections (1), (2) and (4)-(6). The Minister for Industry, Business and Financial Affairs may, in agreement with the Minister of Justice, lay down specific rules in this regard.

(9) The Competition and Consumer Authority may conduct inspections to grant assistance to the European Commission and other competition authorities of the EEA area in connection with these authorities' application of Articles 101 and 102 TFEU or Article 53 or 54 of the EEA Agreement. The rules in subsections (1)-(8) shall apply correspondingly.

(10) The Competition and Consumer Authority may conduct inspections to grant assistance to the competition authorities in Sweden, Norway, Iceland, Finland, Greenland, and the Faroe Islands in connection with these authorities' application of national competition rules. Subsections (1)-(8) shall apply correspondingly.

18a. (1) The Competition and Consumer Authority may, if a reasonable suspicion exists that the information in Section 18(1), first sentence, which relates to the subject matter of the inspection and which may be relevant to prove an infringement of Section 6 or Section 11 or Article 101 or 102 TFEU, are being kept in other premises, on other grounds or in other means of transport than those listed in Section 18(1), first sentence, including the homes of directors, managers and other members of staff of undertakings or associations of undertakings, conduct unannounced inspections in such other premises etc., cf., however, subsection (3).

(2) The Competition and Consumer Authority may not, during an inspection pursuant to subsection (1), require oral explanations, but apart therefrom, the provisions of Section 18(1), (3), (4) and (6-10), apply correspondingly to such inspections.

(3) If there are reasonable grounds for suspecting that a natural person who has access to a location covered by subsection (1) has contributed to an infringement by an undertaking or association of undertakings as mentioned in subsection (1), and the requirements in Section 794 of the Administration of Justice Act are met, the police conduct a search in accordance with Section 794 of the Administration of Justice Act. The search is to be carried out in the presence of the Competition and Consumer Authority.

18b. (1) The Competition and Consumer Authority may, on behalf of a national competition authority in the European Union and in the name of this competition authority, require information pursuant to Section 17, conduct interviews pursuant to Section 17a and conduct inspections pursuant to Section 18(1)-(8), and Section 18a(1) and (2).

(2) Representatives of another national competition authority in the European Union and other accompanying persons authorised or designated by that authority shall be entitled, under the supervision of representatives of the Competition and Consumer Authority, to participate in and actively assist the Authority during an interview or inspection pursuant to subsection (1), with the object of establishing an infringement of Article 101 or 102 TFEU.

18c. (1) Exchange of information obtained pursuant to Section 18b(1) can take place pursuant to Article 12 of Council Regulation (EC) No. 1/2003 of 16 December 2002 on the implementation of the competition rules in Articles 81 and 82 of the Treaty and must meet the security conditions for this.

(2) The Competition and Consumer Authority's exchange of received leniency applications with another national competition authority in the European Union can only take place

i) with the consent of the applicant, or

ii) where the other national competition authority has also received a leniency application from the same applicant relating to the same infringement, provided that, at the time the application is transmitted, it is not open to the applicant to withdraw the information which it has submitted to the other national competition authority in connection with the application in question.

(3) The Competition and Consumer Authority may, subject to reciprocity, pass on to competition authorities other than national competition authorities in the European Union information which is subject to the Competition and Consumer Authority's duty of confidentiality and which is necessary to promote the enforcement of these authorities' competition legislation, with a view to fulfil Denmark's bilateral or multilateral obligations.

(4) The Minister for Industry, Business and Financial Affairs may lay down specific rules on the Competition and Consumer Authority's transfer of information to foreign authorities that is covered by the Authority's duty of confidentiality.

18d. (1) Requests for assistance pursuant to Articles 25 and 26 of Directive of the European Parliament and the Council to empower competition authorities of the Member States to be more effective enforcers and to ensure the proper functioning of the internal market are complied with in accordance with Danish law and the rules in Articles 27 and 28 of the Directive.

(2) The Competition and Consumer Authority may submit requests for assistance in accordance with Articles 25 and 26 of the Directive.

(3) The Competition and Consumer Authority may receive requests for assistance pursuant to Article 25(a) and (b) of the Directive, and the debt recovery authority may receive requests for assistance pursuant to Article 25(c) and Article 26 of the Directive.

(4) The Minister for Industry, Business and Financial Affairs may, after consultation with the Minister for Taxation, lay down specific rules on the implementation of Articles 25-27 of the Directive.

Chapter 7

Appeals

19. (1) Decisions according to Section 2(1) and (6), Section 3, first sentence, Section 5(1), Section 6(1) and (4), first sentence, Section 7(1)-(4), Section 8(2), first sentence, and subsection (3), second sentence, and subsections (4) and (6), Section 9(1), first sentence, Section 10(2), Section 10a(1) and (6), Section 11(1) and (2), (4), first sentence, and subsection (5), Section 11a(1) and (6), first sentence, Section 11b(2), Section 12a(5), Section 12b(1), Section 12c(1)-(3), (6) and (7), Section

12d(6), Section 12e(1) and (3), Section 12f(1) and (2), Section 12g, Section 12h(4), Section 13(4), Section 15f(4), Section 16 and Section 16a(3) and (4), may be appealed to the Competition Appeals Tribunal. Furthermore, decisions on the prohibition against self-incrimination under EU law, cf. Section 17b, second sentence, decisions on the prohibition against self-incrimination, cf. Section 10 of the Act on Legal Security in the Administration's application of coercive interventions and disclosure obligations, and decisions on the protection of the confidentiality of correspondence between an undertaking and its external lawyer be appealed to the Competition Appeals Tribunal by the person against whom the decision is directed.

(2) An appeal according to subsection (1), first sentence, may be submitted by:

i) the person to whom the decision is directed.

ii) Another party who has an individual and substantial interest in the case. This does, however, not apply to decisions made by the Competition and Consumer Authority according to Section 12a(5), Section 12b(1), Section 12c(1)-(3), (6) and (7), Section 12d(6), Section 12e(1) and (3), Section 12f(1) and (2), Section 12g, Section 12h(4), Section 15f(4) and Section 16a(3) and (4).

(3) Decisions according to Section 15(1), third and fourth sentence, cannot be appealed to the Competition Appeals Tribunal.

(4) An appeal against a decision under Section 13(4) or Section 15f(4) has suspensive effect. An appeal against other decisions may be granted suspensive effect by the Competition and Consumer Authority or the Competition Appeals Tribunal.

(5) The Competition Appeals Tribunal may handle cases and make decisions in English if so requested by the addressees of the decision and consideration for the parties to the case does not decisively make the use of English inadvisable. If the Competition Appeals Tribunal has made a decision in English, there must be a Danish summary hereof. If the Competition and Consumer Authority has processed a case in English or made a decision in English, cf. Section 15c, these documents are used as the basis of the Appeals Tribunal's processing of the case in question, regardless of whether the Appeals Tribunal's processing and decision are conducted or made in English.

(6) The person against whom an interim order is directed, cf. Section 16b, may, no later than 4 weeks after the decision has been notified to the person in question, appeal to the Competition Appeals Tribunal regarding the legality and proportionality of the order. The Competition Appeals Tribunal processes the complaint according to an accelerated procedure.

(7) The Competition Appeals Tribunal processes complaints pursuant to subsection (1) on decisions made pursuant to Section 15f(4) according to an accelerated procedure.

20. (1) Decisions made by the Competition and Consumer Authority under this Act may not be brought before an administrative authority other than the Competition Appeals Tribunal. The Competition and Consumer Authority's formal decisions may not be brought before the courts before the Appeals Tribunal has made its decision.

(2) Appeals to the Competition Appeals Tribunal can be submitted no later than 8 weeks after the decision has been notified to the person concerned. When exceptional reasons so warrant, the Appeals Tribunal can disregard the exceeding of the appeal deadline.

(3) Decisions made by the Competition Appeals Tribunal or decisions on substance made by the Competition and Consumer Authority may be brought before the courts no later than 8 weeks after the decision has been notified to the person concerned. If the appeal does not take place within the time limit, the decision is final, cf., however, subsection (2), first sentence, and Section 24a(1).

(4) Copies of judgments passed by a court concerning the application of this Act or Articles 101 and 102 TFEU shall be submitted by the court, however, in criminal cases by the Prosecution Service,

to the Competition and Consumer Authority, who shall inform the European Commission of judgments concerning Articles 101 and 102 TFEU.

21. (1) The Competition Appeals Tribunal shall consist of a President, who shall be a Supreme Court Judge, and four other members, of whom two members must have legal expertise and two members must have economic expertise. The President may, in case of absence, authorise one of the members with legal expertise to take his or hers place.

(2) The President and the members shall be appointed by the Minister for Industry, Business and Financial Affairs. They shall be independent of commercial interests. The appointment shall cease by the end of the month in which the person concerned turns 70 years old. The President or a member can, however, finish the processing of cases being processed by the Appeals Tribunal on expiry of the appointment of the person concerned.

(3) The Minister for Industry, Business and Financial Affairs shall lay down specific rules on the activity of the Appeals Tribunal, including rules on the payment for bringing decisions before the Appeals Tribunal.

21a. (1) Information from a leniency application of which access has been obtained under the right to access to information for the parties as prescribed by the Public Administration Act or the right of personal access, cf. Section 13(1), second sentence, in the Competition and Consumer Authority's enforcement proceedings, may only be used in a case before the courts when it is necessary for the person in question's rights of defence in a case that is directly related to the case for which access to file has been granted, and only where proceedings before the courts concern i) the allocation between cartel participants of a fine imposed jointly and severally on them; or ii) the review of a decision by which the Competition and Consumer Authority found an infringement of Section 6 or Section 11 or Article 101 or 102 TFEU.

(2) The following categories of information from the Competition and Consumer Authority's enforcement proceedings, of which access has been obtained under the right to access to information for the parties as prescribed by the Public Administration Act or the right of personal access, cf. Section 13(1), second sentence, shall not be used by the person in question in proceedings before the courts before the Authority has decided for all parties who are subject to the investigation in the enforcement proceedings that Section 6 or Section 11 or Article 101 or 102 TFEU has been infringed, and possibly issued an order pursuant to Section 16, or that undertakings' commitments are made binding, cf. Section 16a(1), or that the proceedings are otherwise terminated:

i) Information that was prepared by other natural or legal persons specifically for the Competition and Consumer Authority's enforcement proceedings.

ii) Information that the Competition and Consumer Authority has drawn up and sent to the parties in the course of the Authority's enforcement proceedings.

(3) The court may request the Competition and Consumer Authority for comments on whether a piece of information is covered by subsections (1) and (2).

Chapter 8

Sanctions and leniency provisions

22. (1) Daily or weekly periodic penalty payments may be imposed on undertakings, associations of undertakings or any other legal person who fails

- i) to supply, including within the specified time limit, complete and correct information in response to a request for information pursuant to Section 17;
 - ii) to appear at or answer questions during an interview, cf. Section 17a;
 - iii) to comply with an inspection, cf. Section 18;
 - iv) to comply with a decision to put an infringement of Section 6 or Section 11 or Article 101 or 102 TFEU to an end;
 - v) to comply with a condition imposed or an order issued under this Act; or
 - vi) to comply with a commitment that has been made binding according to Section 15f(6) or Section 16a(1).
- (2) Daily or weekly periodic penalty payments may be imposed on a natural person who fails
- i) to supply, including within the specified time limit, complete and correct information in response to a request for information pursuant to Section 17, or
 - ii) to appear at or answer questions during an interview, cf. section 17a.
- (3) The amount of a periodic penalty payment to an undertaking, an association of undertakings or any other legal person may not exceed 5 percent of the average daily total worldwide turnover of the person concerned in the preceding business year per day and is calculated from the date specified in the decision to impose periodic penalty payments.

23. (1) An undertaking, an association of undertakings or any other legal person may be subject to a civil fine if it, intentionally or negligently,

- i) infringes Section 6(1);
 - ii) infringes Section 11(1);
 - iii) fails to comply with an order according to Section 6(4), first sentence, or Section 11(4), first sentence, cf. Section 16(1), or fails to comply with an order according to Section 16(3);
 - iv) fails to comply with a commitment that has been made binding according to Section 16a(1);
 - v) fails to comply with an order according to Section 16a(3);
 - vi) fails to comply with an order according to Section 16b;
 - vii) supplies incorrect, incomplete or misleading information in response to a request for information according to Section 17(1), or do not provide the information within the specified time limit;
 - viii) fails to appear at or answer questions during an interview, cf. Section 17a;
 - ix) fails to comply with an inspection, cf. Section 18;
 - x) in response to a question asked during an inspection, cf. Section 18(1), third sentence, gives an incorrect or misleading answer or fails or refuses to provide a complete answer;
 - xi) has broken the sealing made by the Competition and Consumer Authority pursuant to section 18(5); or
 - xii) infringes Article 101 or 102 TFEU, cf. Section 2(6).
- (2) An undertaking, an association of undertakings or any other legal person may be subject to a civil fine if it, intentionally or with gross negligence,
- i) fails to comply with a condition attached to a decision under Section 8(3), second sentence, or subsection (4), second sentence;
 - ii) fails to comply with an order according to Section 10a(1) or (6);
 - iii) fails to comply with an order according to Section 11a(1) or Section 11b(2);
 - iv) fails to comply with a request to notify a merger or fails to comply with a request to notify a merger within a set deadline according to Section 12(6);
 - v) fails to notify a merger under Section 12b(1) or fails to submit a full notification before the expiry of the deadline referred to in Section 12f(2);

vi) implements a merger in spite of a prohibition against such pursuant to Section 12c(2), second sentence, infringes the prohibition against implementation of a merger prior to approval pursuant to Section 12c(5), first sentence, fails to comply with a condition or an order according to Section 12c(6) or Section 12e(1) or (3) or fails to comply with an order issued according to Section 12g; vii) provides incorrect, incomplete or misleading information to the Competition and Consumer Authority or the Competition Appeals Tribunal or conceals matters of importance for the case or sector inquiry, cf. Section 15d, for which the information is obtained without the matter being covered by subsection (1)(vii) or (x), or viii) fails to comply with an order according to Section 15f(4) or a commitment that has been made binding pursuant to Section 15f(6).

(3) Where an undertaking, an association of undertakings or any other legal person that has been imposed with a periodic penalty payment pursuant to Section 22 has fulfilled the obligation in question without the periodic penalty payment being paid or recovered in its entirety, the undertaking, the association of undertakings or any other legal person may be imposed a civil fine corresponding to the unpaid part of the periodic penalty payment.

(4) A natural person may be punished with a fine for contributing intentionally or with gross negligence to an undertaking's or an association of undertakings' infringement of Section 6 or Section 11 or Article 101 or 102 TFEU, cf. Section 2(6). The punishment may increase to imprisonment for up to 1 year and 6 months if the person has contributed to an undertaking or an association of undertakings having entered into a cartel agreement, as mentioned in third sentence, in contravention of Section 6(1) or Article 101(1) TFEU and if the infringement is intentional and of grave nature, especially due to the extent of the infringement or its potentially damaging effects. A cartel agreement under second sentence means an agreement, concerted practice or decision between undertakings, operating at the same level of trade, on

- i) prices, profits etc. for the sale or resale of goods or services;
- ii) restrictions on production or sales;
- iii) sharing of markets or customers; or
- iv) coordination of bids.

(5) Subsection (1)(i) shall not apply from the date when an agreement etc. has been notified to the Competition and Consumer Authority according to Section 8(2) or (4) and until the Authority has communicated its decision according to Section 8(2), (4) or (5).

(6) A natural person can be punished with a fine for intentionally or with gross negligence

i) in subsequent employment, paid or unpaid, to have dealt with pending cases in which a preliminary statement of objections has been issued, cf. Section 15a(3), cases concerning mergers, cf. Chapter 4, cases about leniency, cf. Sections 23d-23i, appeal and court cases regarding decisions pursuant to this Act and cases regarding access to file in all such cases that the person has dealt with during his work in the Competition Council or employment in the Competition and Consumer Authority, cf. Section 14a(2)

ii) to have provided incorrect, incomplete or misleading information in response to a request for information pursuant to Section 17(1), or to have failed to provide the information within the set deadline,

iii) to have failed to appear at or answer questions during an interview, cf. Section 17a, or

iv) to have provided incorrect, incomplete or misleading information to the Competition and Consumer Authority or the Competition Appeals Tribunal or concealed matters of importance for the case or sector inquiry, cf. Section 15d, for which the information is obtained without the matter being covered by point (ii)

23a. (1) An undertaking may be held liable and responsible for civil fines imposed on another undertaking within the same economic entity for infringements of Section 6 or Section 11 or Article 101 or 102 TFEU.

(2) If an association of undertakings is not solvent and therefore cannot pay a fine imposed on it for infringement of Section 6 or Section 11 or Article 101 or 102 TFEU, taking account of the turnover of its members, the association must, within a time limit fixed by the Competition and Consumer Authority, call for contributions from its members for payment of the fine.

(3) If the member undertakings have not fully fulfilled the obligation to pay the contributions pursuant to subsection (2) within the time limit, the Competition and Consumer Authority may collect the outstanding amount directly by any of the undertakings whose representatives were members of the decision-making bodies of that association when the infringement was committed.

(4) After the Competition and Consumer Authority has required payment in accordance with subsection (3), the Authority may also, where necessary to ensure full payment of the fine, require the payment of the outstanding amount of the fine by any of the members of the association which were active on the market on which the infringement occurred. However, payment shall not be required from member undertakings which show that they did not implement the infringing decision of the association and either were not aware of its existence or have actively distanced themselves from it before the Competition and Consumer Authority's investigation was initiated.

23b. (1) When determining the amount of civil fines to undertakings, associations of undertakings or any other legal person for infringements of this Act or of Article 101 or 102 TFEU, the gravity and duration of the infringement shall be taken into account. When determining the amount of civil fines to undertakings, associations of undertakings or any other legal person, the total worldwide group turnover of the person in question in the business year preceding the decision must also be taken into account. Furthermore, compensation paid as a result of a consensual settlement may be considered, cf. the Act on actions for damages concerning infringements of competition law. The fines must be effective, proportionate and dissuasive.

(2) When determining the amount of a civil fine to an undertaking, an association of undertakings or any other legal person, in general it must be considered as an aggravating circumstance that the person in question for example,

- i) after a previous decision finding that the person in question has infringed this Act or Article 101 or 102 TFEU, continues to commit the same infringement or commits a similar infringement;
- ii) has played a leading role or has encouraged the infringement; or
- iii) has subjected another undertaking to retaliatory measures in order to compel it to respect an anti-competitive agreement or conduct in contravention to Section 6 or Section 11 or Article 101 or 102 TFEU.

(3) When determining the amount of a civil fine to an undertaking, an association of undertakings or any other legal person, in general it must be considered as a mitigating circumstance that the person in question for example

- i) has played only a passive role in connection with the infringement;
- ii) has not complied with an illegal agreement, a decision or a concerted practice pursuant to Section 6 or Article 101 TFEU;
- iii) through an internal policy of compliance with the competition rules has constantly made an active effort to ensure that all employees of the undertaking comply with this Act; or
- iv) has contributed to the detection of the case where the conditions for leniency in Section 23d or 23e are not fulfilled.

(4) The maximum amount of a civil fine to an undertaking, association of undertakings or any other legal person is 10 percent of the person in question's total worldwide turnover in the business year preceding the decision, cf., however, subsection (6). If the undertaking etc. is part of a group, the maximum amount of the fine is 10 percent of the total worldwide turnover of the group in question in the business year preceding the decision, cf., however, subsection (6).

(5) Where an infringement by an association of undertakings relates to the activities of its members, the maximum amount of the fine is 10 percent of the sum of the total worldwide turnover of each member active on the market affected by the infringement of the association. If one of the members in question is part of a group, the total worldwide turnover for the group in question is included in the sum according to the first sentence instead of the member's own turnover. However, the financial responsibility of each member in respect of the payment of the fine shall not exceed the maximum amount set in accordance with subsection (4).

(6) The maximum amount of a civil fine for infringements of Section 23(1)(vii-xi) and subsection (2)(ii), cf. Section 10a(1), and point (vii) to an undertaking, association of undertakings or any other legal person is 1 percent of the turnover as determined in accordance with subsection (4) or (5).

7) When determining the amount of fines to natural persons for infringements of this Act or of Article 101 or 102 TFEU, the gravity and duration of the infringement shall be taken into account. The fines must be effective, proportionate and dissuasive.

23c. (1) The limitation period is 5 years for the imposition of a civil fine on an undertaking, an association of undertakings or any other legal person for an infringement of this Act or of Article 101 or 102 TFEU. If the limitation period of 5 years is interrupted, cf. subsections (3) and (4), a new limitation period of 5 years runs. Limitation occurs no later than 10 years after the date of commencement in accordance with subsection (2).

(2) The limitation period for a civil fine shall begin to run on the day on which the infringement or omission ceased.

(3) The limitation period of 5 years pursuant to subsection (1), first sentence, is interrupted from the day on which at least one undertaking in enforcement proceedings is notified of the first formal investigative measure by the Competition and Consumer Authority, by a national competition authority in another Member State of the European Union or by the Commission handling enforcement proceedings on the same agreement, the same decision within an association of undertakings, or the same concerted practice or other conduct prohibited by this Act or by Article 101 or 102 TFEU.

The limitation period of 5 years pursuant to subsection (1), first sentence, as well as the limitation period of 10 years pursuant to subsection (1), third sentence, are interrupted from the day on which a case concerning the imposition of a civil fine or a case concerning the decision on infringement of the competition rules is brought before the court or the Competition Appeals Tribunal pursuant to Section 20 or for the court pursuant to Section 24a. The interruption applies to all undertakings etc. which have participated in the infringement.

(4) The interruption pursuant to subsection (3), first sentence, of the limitation period of 5 years pursuant to subsection (1), first sentence, shall end on the day on which the enforcement proceedings are closed by a final decision deciding that this Act or Article 101 or 102 TFEU have been infringed, commitments by undertakings or associations of undertakings have been made binding or an undertaking, an association of undertakings or any other legal person has been fined or when it has been decided or a decision has been made that the case will not be pursued further. The interruption pursuant to subsection (3), second sentence, of the limitation periods pursuant to subsection (1), first and third sentence, shall end on the day on which the case is no longer pending

before the court or the Competition Appeals Tribunal and a deadline to appeal a possible decision from the court or the Competition Appeals Tribunal has expired or the options to appeal otherwise are exhausted.

(5) The limitation period for punishments consisting of a fine for a natural person is 5 years.

23d. (1) An undertaking which acts in breach of Section 6 or Article 101(1) TFEU by participating in a cartel shall upon application be granted immunity from the fine that the undertaking would otherwise have been imposed for its participation in the cartel, if the applicant fulfils the conditions in subsections (2) and (3).

(2) The applicant must be the first to submit documentation which

i) at the time the Competition and Consumer Authority receives the application, enables the Authority to carry out an inspection in connection with the cartel, provided that the Authority did not yet have in its possession sufficient documentation to carry out such an inspection, or that the Authority had not already carried out such an inspection; or
ii) in the view of the Competition and Consumer Authority is sufficient to find an infringement covered by the leniency programme, provided that the Authority did not yet have in its possession sufficient evidence to find such an infringement and that no other applicant has previously qualified for immunity from fines under point (i) in relation to that cartel.

(3) Immunity from fines shall be granted only if the applicant

i) discloses its participation in a cartel;
ii) has ended its involvement in the cartel at the latest immediately following its leniency application, except for the activities that would in the Competition and Consumer Authority's view be necessary to preserve the integrity of the investigation;
iii) during the contemplation of making a leniency application to the Competition and Consumer Authority has not:

(a) destroyed, falsified or concealed evidence of the cartel; or

(b) disclosed the fact of, or any content of, its contemplated application, other than to any other competition authorities in the European Union, in the EEA or in third countries;

iv) has not taken steps to coerce other undertakings to join the cartel or to remain in it; and

v) cooperates genuinely, fully, on a continuous basis and expeditiously with the Competition and Consumer Authority from the time of its application until the enforcement proceedings against all the parties under investigation are finally closed, or the case is otherwise terminated.

(4) The cooperation according to subsection (3)(v) implies that the applicant meets the following requirements:

i) The applicant provides the Competition and Consumer Authority promptly with all relevant information and documentation relating to the cartel that is accessible to the applicant or which the applicant comes into possession of, including the following:

(a) The name and address of the applicant.

(b) The names of all other undertakings that participate or participated in the cartel.

(c) A detailed description of the cartel, including the affected products and affected territories and the duration and the nature of the cartel conduct.

(d) Information on any past or possible contemplated future leniency applications made to any other competition authorities in the European Union, in the EEA or in third countries in relation to the cartel.

ii) The applicant remains at the disposal of the Competition and Consumer Authority to answer any request that may contribute to the establishment of facts.

iii) The applicant makes directors, managers, and other members of staff available for interviews with the Competition and Consumer Authority and makes reasonable efforts to make former directors, managers, and other members of staff available for interviews with the Competition and Consumer Authority.

iv) The applicant does not destroy, falsify or conceal relevant information or documentation.

v) The applicant does not disclose the fact of, or any of the content of, its leniency application before the Competition and Consumer Authority has issued a statement of objections in the enforcement proceedings, unless otherwise agreed.

23e. (1) If an application for immunity from a fine does not fulfil the conditions in Section 23d(2), the application shall be regarded as an application for reduction of the fine, cf. subsections (2)-(4).

(2) An undertaking which infringes Section 6 or Article 101(1) TFEU by participating in a cartel shall be granted a reduction of the fine which the undertaking would otherwise have been imposed for its participation in the cartel if the applicant submits documentation of the cartel which represents significant added value relative to the documentation which is already in the possession of the Competition and Consumer Authority at the time of the application and the applicant fulfils the conditions in Section 23d(3) and (4).

(3) If the applicant submits compelling documentation which the Competition and Consumer Authority uses to prove additional facts which lead to an increase in fines being imposed on the participants in the cartel compared to the fines that would otherwise have been imposed, such additional facts shall not be taken into account when setting any fine to be imposed on the applicant in question.

(4) The reduction of the fine for the first applicant which fulfils the requirements set out in subsection (2) amounts to 50 percent of the fine that the applicant would otherwise have been imposed for its participation in the cartel. The second applicant which meets the requirements of subsection (2) shall be granted a reduction of the fine of 30 percent. For subsequent applicants which fulfils the requirements of subsection (2), the reduction of the fine amounts to up to 20 percent.

23f. (1) A marker for application for immunity or reduction of the fine may be submitted in order for the applicant to be granted a place in the queue for leniency.

(2) A marker for application for leniency shall consist of the information about the cartel that is available to the applicant at the time the marker for application is submitted. The information can for example concern the following:

i) The name and address of the applicant.

ii) The basis for the concern which led to the application.

iii) The names of all other undertakings that participate or participated in the cartel.

iv) The affected products and territories.

v) The duration and the nature of the cartel conduct.

vi) Information on any past or possible future leniency applications made to any other competition authorities in the European Union, in the EEA or in third countries in relation to the cartel.

(3) A marker for application must be completed within the time limit set by the Competition and Consumer Authority. The Competition and Consumer Authority sets the time limit so that the applicant can gather the necessary information and documentation in order to meet the relevant threshold for either immunity or reduction of the fine. If the marker for application is completed within the specified period, the application is deemed to have been submitted at the time of the submission of the marker for application.

(4) The Competition and Consumer Authority is empowered to grant or reject an application pursuant to subsection (1).

23g. (1) A summary application for immunity or reduction of the fine may be submitted if the applicant has applied to the European Commission for leniency, either by applying for a marker or by submitting a full application in relation to the same cartel, provided that this application covers more than three Member States of the European Union as affected territories.

(2) A summary application shall consist of a short description of the following:

i) The name and address of the applicant.

ii) The names of the other participants in the cartel.

iii) The affected products and territories.

iv) The duration and the nature of the cartel conduct.

v) The Member States of the European Union where the documentation of the cartel is likely to be located.

vi) Information on any past leniency application or possible contemplated future leniency applications made to any other competition authority in the European Union, in the EEA area or in third countries in relation to the cartel.

(3) Where the European Commission receives a full application and the Competition and Consumer Authority receives a summary application in relation to the same cartel, the Commission shall be the main interlocutor of the applicant, in the period before clarity has been gained as to whether the Commission intends to pursue the case in whole or in part, in particular in providing instructions to the applicant on the conduct of any further internal investigations. The Competition and Consumer Authority may request the applicant to provide specific clarifications only regarding the items set out in subsection (2) before the Authority requires the submission of a full application pursuant to subsection (5).

(4) Where the Competition and Consumer Authority receives a summary application, the Authority verifies whether it has already received a summary or full application for leniency from another applicant in relation to the same cartel at the time of receipt of such applications. If the Competition and Consumer Authority has not received such an application from another applicant and considers the summary application to fulfil the requirements of subsection (2), the Authority shall inform the applicant accordingly.

(5) A full application may be submitted to the Competition and Consumer Authority once the Commission has informed the Authority that the Commission does not intend to pursue the case in whole or in part. Only in exceptional circumstances, when strictly necessary for case delineation or case allocation, may the Competition and Consumer Authority request the applicant to submit the full application before the Commission has informed the Authority that it does not intend to pursue the case in whole or in part. The Competition and Consumer Authority may specify a reasonable period within which the applicant is to submit the full application together with the corresponding information and documentation. This is without prejudice to the right of the applicant to voluntarily submit a full application at an earlier stage.

(6) An applicant which submits the full application in accordance with subsection (5) within the period specified by the Competition and Consumer Authority, is deemed to have submitted the full application at the time of the summary application, provided that the summary application covers the same affected product(s) and territory(ies), as well as the same duration of the cartel, as the leniency application filed with the Commission, which may have been updated.

23h. (1) An application for immunity or reduction of the fine, including a marker for application pursuant to Section 23f or a summary application pursuant to Section 23g, may be submitted in writing or orally to the Competition and Consumer Authority. The application can be submitted in Danish or in English. As per agreement between the Competition and Consumer Authority and the applicant, the application may also be submitted in another official languages of the European Union.

(2) An application submitted under subsection (1) shall be processed according to the following procedure:

i) If requested by the applicant, the Competition and Consumer Authority shall acknowledge the receipt of a leniency application in writing, stating the date and time of receipt.

ii) The Competition and Consumer Authority issues a preliminary assurance that contains information on whether the conditions in Section 23d(2) and (3), or Section 23e(2), are fulfilled, and whether there is reason to reject the application because the conditions in Section 23d(3) and (4), are not fulfilled.

iii) When the enforcement proceedings have been finally closed against all the other parties which have been involved in the cartel, the Competition and Consumer Authority will inform the applicant in writing whether the conditions in Section 23d(3) and (4), are fulfilled, and if so, whether immunity or reduction of the fine can be granted in accordance with the preliminary assurance obtained by the applicant in accordance with point (ii).

(3) Different undertakings cannot submit a joint application for leniency, unless the undertakings belong to the same group and the application specifies which undertakings the application shall comprise.

23i. (1) An application for immunity or reduction of the fine from an undertaking shall automatically cover current and former board members, senior managers and other employees.

(2) A natural person who is covered by an application pursuant to subsection (1) obtains withdrawal of charges and immunity from a possible separate claim for confiscation if the following conditions are met:

i) The undertaking's application meets the requirements in Section 23d(2) and Section 23d(3)(i).

ii) The person in question individually meets the requirements in Section 23d(3)(v), cf. Section 23d(4).

iii) The undertaking's application predates the time when the natural person has by the Competition and Consumer Authority or the National Special Crime Unit been made aware of the case to which the application relates.

(3) If an undertaking's application for immunity from the fine does not meet the conditions hereof, a natural person who is covered by an application in accordance with subsection (1) obtains reduction of the fine if the undertaking's application meets the conditions for this in Section 23e(2) and the natural person individually meets the condition in Section 23d(3)(v), cf. Section 23d(4). Section 23e(3) and (4) shall apply correspondingly. A possible separate claim for confiscation is reduced by the same percentages as mentioned in Section 23e(4).

(4) A natural person may submit an individual application for leniency. A natural person obtains a withdrawal of charges and immunity from a possible separate claim for confiscation if the person in question meets the conditions in Section 23d(2)-(4). If the conditions for withdrawal of charges are not met, the person in question obtains a reduction of the fine and reduction of a possible separate claim for confiscation if the person in question individually meets the conditions in Section 23e(2). Section 23e(3) and (4) shall apply correspondingly.

(5) The provisions of Section 23f and Section 23h(1) and (2)(i) shall apply correspondingly to applications pursuant to subsections (1) and (4). Furthermore, Section 23h(2)(ii) applies correspondingly, as the National Special Crime Unit must, however, before a preliminary assurance is issued to a natural person, agree that the conditions for this are fulfilled.

(6) When the case has been finally examined and assessed, the National Special Crime Unit grants withdrawal of charges to natural persons covered by subsection (1) or (4), provided that the conditions hereto are met.

23j. (1) In cases concerning an undertaking's or an association of undertakings' infringement of this Act or Article 101 or 102 TFEU, the Competition and Consumer Authority may, indicate in an administrative notice of a fine that the case may be settled without a trial if the person who has committed the infringement admits the infringement and declares itself willing to pay, within a specified time limit, a civil fine as stated in the administrative notice of a fine.

(2) An administrative notice of a fine according to subsection (1) shall consist of

i) the name, address and company registration number of the undertaking or association of undertakings to which the administrative notice of a fine is directed at; and

ii) information on the matter of which the civil fine relates.

(3) Information pursuant to subsection (2)(ii) shall include the following:

i) The legal basis for imposing the civil fine.

ii) A short description of the infringement of the Competition Act or Article 101 or 102 TFEU, which gives rise to the issuance of the administrative notice of a fine, stating the time, the place, the object, the method of execution and other specified circumstances necessary for a sufficient and clear description.

iii) Any mitigating or aggravating circumstances, cf. Section 23b(2) and (3).

iv) If the civil fine is accepted, further proceedings shall be repealed.

Chapter 9

Processing of cases concerning the imposition of civil fines

24. (1) The provisions in this chapter apply to cases regarding civil fines, cf. Section 23(1)-(3).

(2) The case is dealt with in civil proceedings.

(3) The court is not bound by the parties' claims about the amount of the civil fine.

24a. (1) The case can be brought before the court by the Competition and Consumer Authority when the decision on infringement of the competition rules has been reviewed by the Competition Appeals Tribunal.

(2) If the person against whom the decision is directed brings the decision of the Competition and Consumer Authority or the Competition Appeals Tribunal before the court, cf. Section 20(3), the issue of the imposition of a civil fine is decided in those proceedings.

(3) Regardless of subsection (1), the case may be brought before the court by the Competition and Consumer Authority when the deadline for appealing to the Competition Appeals Tribunal or for bringing a case before the courts has expired, without an appeal has taken place, cf. Section 20(2), first sentence, and subsection (3), or if the case concerns a civil fine pursuant to Section 23(3).

24b. (1) A third party who may be held criminally liable for the infringement to which the case relates may not intervene as a party to the case pursuant to Section 251 of the Administration of Justice Act.

(2) A third party who may be held criminally liable for the infringement to which the case relates may intervene in the proceedings in order to safeguard its interests, whether or not the person in question supports one of the parties in the case. Section 252(3) and (4) of the Administration of Justice Act apply accordingly. Upon request, the court assigns an attorney for the person in question. The same applies to fees and reimbursement for expenses to the assigned attorney as in cases where free process has been granted, cf. Chapter 31 of the Administration of Justice Act.

24c. (1) A civil fine must be paid to the Competition and Consumer Authority.

(2) The Competition and Consumer Authority may, at the request of the convicted party, allow extension of payment or payment by instalments of a civil fine.

(3) If a civil fine is not paid, it is collected by the debt collection authority.

(4) The debt collection authority may allow extension of payment or payment by instalments of civil fines.

(5) A civil fine accrues to the Treasury.

(6) After negotiation with the Minister for Taxation, the Minister for Industry, Business and Financial Affairs can lay down provisions on the collection and recovery of civil fines, including the administrative processing of cases concerning extension of payment or payment by instalments of civil fines.

Chapter 9a

(Repealed)

Chapter 9b

(Repealed)

Chapter 10

Commencement and interim provisions etc.

27. (1) This Act shall enter into force on 1 January 1998. However, the provisions of Section 14(3) and Section 15 shall enter into force on 1 July 1997.

(2) The entry into force of this Act shall mean the repeal of the Competition Act, cf. Consolidation Act No. 114 of 10 March 1993, and the Act on Control of Compliance with the Regulations of the European Economic Community on Monopolies and Restrictive Practices, cf. Consolidation Act No. 449 of 10 June 1991. An approval granted under Section 14(1) of the Competition Act, cf. Consolidation Act No. 114 of 10 March 1993, shall remain in force until the Competition Council may decide to withdraw the approval, cf., however, subsection (6). The decision shall be made according to the rules then in force.

(3) Proceedings conducted under the Competition Act, cf. Consolidation Act No. 114 of 10 March 1993, which have not been completed when this Act enters into force shall lapse. However, this does not apply to complaints cases and cases pending before the Competition Appeals Tribunal.

(4) Anti-competitive agreements, decisions and concerted practices which exist on the time when this Act enters into force and which are prohibited under Section 6(1), may, if they are notified for exemption under Section 8 before 1 July 1998, be maintained for up to 3 months after the Competition Council has made its decision in the case, even if the Competition Council responds with a rejection. The Competition Council may extend the time limit of 3 months.

(5) The administrative rules that are applicable in accordance with Section 7(ii), of the Competition Act, cf. Consolidated Act no. 114 of 10 March 1993, remain in effect until any new rules are

determined in accordance with Section 4(3) in the Act on Price Marking and Display etc., as stated in Section 28(i) of this Act. The Administration of the existing applicable rules, as mentioned in first sentence, shall be transferred to the Consumer Authority. Intentional or grossly negligent violation of the existing rules, as mentioned in first sentence, shall be punishable by a fine. Criminal liability may be imposed on companies etc. (legal persons) in accordance with the rules in Chapter 5 of the Criminal Code.

(6) Irrespective of the provisions of subsection (2), second and third sentence, Chapter 2 of this Act shall apply to agreements and concerted practices between undertakings as well as decisions made by an association of undertakings concerning fixed resale prices for the retail sale of books.

28. (Repealed)

29. This Act shall not extend to the Faroe Islands and Greenland.

The specific provisions on the entry into force of some of the Sections in Act No. 1541 of 13 December 2016, Act No. 1545 of 19 December 2017, Act No. 207 of 15 February 2021, and Act No. 638 of 11 June 2024 are omitted.