

Kingdom of Cambodia

Nation Religion King



Ministry of Commerce

No. 179 P.N.A.KBB.SSR

Decision

on

Requirements and Procedures for Issuance of an Advance Ruling Certificate

Minister of Commerce

- Having seen the Constitution of the Kingdom of Cambodia;
- Having seen Royal Decree No. NS/RKT/0918/925 dated 06 September 2018 on the Appointment of the Royal Government of Cambodia;
- Having seen Royal Decree No. NS/RKT/0320/421 dated 30 March 2020 on the Appointment and Adjustment of the Composition of the Royal Government of Cambodia;
- Having seen Royal Kram No. NS/RK/0618/012 dated 28 June 2018 promulgating the Law on the Organization and Functioning of the Council of Ministers;
- Having seen Royal Kram No. NS/RK/0196/16 dated 24 January 1996 promulgating the Law on the Establishment of the Ministry of Commerce;
- Having seen Royal Kram No. NS/RK/1021/013 dated 05 October 2021 promulgating the Law on Competition;
- Having seen Sub-Decree No. 38 ANKR.BK dated 16 March 2020 on the Organization and Functioning of the Ministry of Commerce;
- Having seen Sub-Decree No. 37 ANKR.BK dated 17 February 2022 on the Organization and Functioning of the Cambodia Competition Commission;
- Having seen Sub-Decree No. 60 ANKR.BK dated 6 March 2023 on Requirements and Procedures for Business Combinations; and
- According to the necessity of the Ministry of Commerce.

Hereby Decides**Article 1.-**

This Decision sets out the requirements and procedures for the Issuance of an Advance Ruling Certificate for the purpose of reviewing and evaluating its impact on competition.

Article 2.-

This Decision applies when any of the parties proposing to undertake a Business Combination wish to request that the Cambodia Competition Commission (“CCC”) issue an Advance Ruling Certificate under Article 14 of Sub-Decree No. 60 ANKR.BK dated 6 March 2023 on Requirements and Procedures for Business Combinations.

Article 3.-

The parties requesting for the Issuance of an Advance Ruling Certificate shall submit the application to the CCC prior to the substantive completion of the Business Combination. Regardless of whether the Business Combination is subject to notification under Article 4 or Article 13 of the Sub-Decree on Requirements and Procedures for Business Combinations, the requesting parties may request the Advance Ruling Certificate issued by the CCC in accordance with the requirements set forth in the application form for Issuance of an Advance Ruling Certificate.

The CCC is in charge of designing the application form, and if required, the CCC may make amendments.

The Consumer Protection Competition and Fraud Repression Directorate-General (“CCF”), the Secretariat of the CCC, is appointed to receive the application for the Issuance of an Advance Ruling Certificate.

Article 4.-

Within 7 (seven) working days of receipt of a request for the Issuance of an Advance Ruling Certificate under Article 3 of this Decision, the CCF Directorate-General shall issue a notice to the requesting parties and identify any additional document and information required in accordance with each case of the Business Combination to commence a review by the CCC on the proposed Business Combination.

Article 5.-

In compliance with Article 11 of the Law on Competition, the CCC shall issue an Advance Ruling Certificate if, on completion of the CCC’s review, the CCC determines that it has no grounds to challenge or commence proceedings to prohibit a proposed Business Combination.

Article 6.-

Where the CCC obtains evidence that the documents and information provided by the parties proposing to undertake a Business Combination in support of the Issuance of an Advance Ruling Certificate were materially false or incomplete, the CCC may issue a notice of intent to suspend an issued

Advance Ruling Certificate with reasonable ground to the parties proposing to undertake a Business Combination.

The CCF Directorate-General shall send the notice to the parties proposing to undertake a Business Combination based on the contact information provided in the application form for the Issuance of an Advance Ruling Certificate.

The parties to whom the notice of intent to suspend was issued to have up to 7 (seven) working days from the date of the issuance of the notice to submit additional evidence to the CCC to demonstrate that the information provided was neither materially false nor incomplete. If the CCC determines that the documents and information on which the Advance Ruling Certificate was issued were not materially false or incomplete, the CCC shall issue a notice of the revocation of the notice of intent to suspend to the parties to whom the notice of intent to suspend was issued to.

If the parties to whom the Advance Ruling Certificate was issued to do not receive the notice sent based on the previously provided contact information or fail to demonstrate to the CCC that the previously provided documents and information were neither materially false nor incomplete, the issued Advance Ruling Certificate shall be deemed void immediately following the expiry of 7 (seven) working days from the date the notice of intent to suspend as specified in Article 7 of this Decision was issued or such period as determined by the decision of the CCC.

The CCC may, by issuing a decision, extend the timeframe for the parties to whom the notice of intent to suspend was issued to respond as specified in Article 6 of this Decision.

Article 7.-

If the CCC issues an Advance Ruling Certificate subject to any conditions, the Advance Ruling Certificate will be valid only after the conditions set forth by the CCC are satisfied unless otherwise specified by the CCC.

An Advance Ruling Certificate that is issued with conditions shall only be valid while the conditions remain satisfied unless otherwise specified by the CCC.

The CCC may, by issuing a decision, amend any conditions stated in an issued Advance Ruling Certificate.

Article 8.-

As stated in Article 14 of the Sub-Decree on Requirements and Procedures for Business Combinations, for a period of 1 (one) year from the Issuance of an Advance Ruling Certificate, the CCC shall not reject or prohibit the relevant Business Combination pursuant to Article 11 of the Law on Competition solely on the basis of the documents and information that were the basis on which the Advance Ruling Certificate was issued.

Article 9.-

Where the CCC determines that it is not appropriate to issue an Advance Ruling Certificate, the CCC may issue a No Action Letter on the termination of the procedures for Issuance of an Advance Ruling Certificate with respect to a proposed Business Combination by indicating that the CCC does not intend to reject the proposed Business Combination under Article 11 of the Law on Competition. The CCC may still reject or prohibit the proposed Business Combination under Article 11 of the Law on Competition despite No Action Letter on the termination of the procedures for Issuance of an Advance Ruling Certificate having been issued.

Where the CCC issues a No Action Letter on the termination of the procedures for Issuance of an Advance Ruling Certificate with respect to a proposed Business Combination and the proposed Business Combination is subject to Pre-Notification obligation under the Sub-Decree on Requirements and Procedures for Business Combinations, the proposed Business Combination shall be eligible for the procedures under Article 10 of the Sub-Decree on Requirements and Procedures for Business Combinations.

Article 10.

Any provisions contrary to this Decision shall be abrogated.

Article 11.-

Members of the CCC, Director of Cabinet, Delegate of the Royal Government in charge as the Director General of the Consumer Protection, Competition and Fraud Repression Directorate-General, and the Head of relevant institutions shall implement this Decision from the date of this signature onwards.

[Buddhist Date]

Done in Phnom Penh, 14th June 2023

Minister of Commerce

and Chairman of Cambodia Competition Commission

[seal and signature]

Pan Sorasak

Recipients:

- Council of Ministers
- Cabinet of Samdech Akka Moha Sena Padei Techo Prime Minister
- Cabinet of Samdech, His Excellency Deputy Prime Ministers
- Municipal and Provincial Administrations
- As stated in Article 11
- Royal Gazette
- Documentation and Archive