

S.I. 2009 No. 104

Fair Trading Commission Act
Cap. 326B

**FAIR TRADING COMMISSION (FAIR COMPETITION
MERGER FEES) REGULATIONS, 2009**

The Fair Trading Commission in exercise of the powers conferred on it by section 47 of the *Fair Trading Commission Act*, with the approval of the Minister, makes the following Regulations:

1. These Regulations may be cited as the *Fair Trading Commission (Fair Competition Merger Fees) Regulations, 2009*. Citation.

2. (1) Where an enterprise is desirous of effecting a merger pursuant to section 20 of the *Fair Competition Act* it shall Payment of merger application fees.
 - (a) submit to the Fair Trading Commission a Merger Application Form pursuant to rule 2 of the *Fair Competition (Merger) Rules, 2009*; and S.I. 2009 No. 105.
 - (b) pay the merger application fee set out in the *First Schedule*. First Schedule.

- (2) The merger application fee shall be payable for each merger application.

- (3) For the purposes of paragraph (2),
 - (a) one of the parties to the merger shall pay the merger application fee; or
 - (b) all the parties to the merger shall jointly pay the merger application fee.

Merger
investiga-
tion fees.
Cap. 326C.
Cap. 326B.

3. (1) Where the Commission conducts an investigation into a proposed merger under section 20(6) of the *Fair Competition Act*, it may in accordance with section 47 of the *Fair Trading Commission Act*, charge merger investigation fees which may fall within one of the following categories:

- (a) Category 1 – Where a merger is not likely to harm competition, that is, a merger with a marginal competition effect or a positive competition effect; or
- (b) Category 2 – Where a merger is likely to harm competition, that is, a merger with a significant negative competition effect.

Second
Schedule.

(2) The merger investigation fees payable under paragraph (1) of regulation 2 are set out in the *Second Schedule*.

Offences.

4. An enterprise which contravenes these Regulations is guilty of an offence and is liable on conviction to

- (a) in the case of an individual, to a fine of \$150 000 or to imprisonment for a term of 6 months or to both; or
- (b) in the case of a corporate entity, to a fine of \$500 000.

FIRST SCHEDULE

(Regulation 2)

MERGER APPLICATION FEE

Merger application fee per application	\$500.00
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SECOND SCHEDULE

(Regulation 3(2))

MERGER INVESTIGATION FEES

Column 1	Column 2
<p style="text-align: center;">TYPES OF MERGERS</p> <p>1. <i>Category 1</i></p> <p>Where a merger is not likely to harm competition, that is, a merger with a marginal competition effect or a positive competition effect and the total combined assets of that merger</p> <p>(a) does not exceed \$5 000 000</p> <p>(b) exceeds \$5 000 000 but does not exceed \$20 000 000</p> <p>(c) exceeds \$20 000 000</p>	<p style="text-align: center;">FEES TO BE CHARGED PER INVESTIGATION</p> <p style="text-align: right;">\$ 5 000</p> <p style="text-align: right;">\$ 7 500</p> <p style="text-align: right;">\$10 000</p>

STATUTORY INSTRUMENTSECOND SCHEDULE – *Cont'd**(Regulation 3(2))***MERGER INVESTIGATION FEES – *Cont'd***

Column 1	Column 2
<p style="text-align: center;">TYPES OF MERGERS</p> <p>2. <i>Category 2</i></p> <p>Where a merger is likely to harm competition, that is, a merger with a significant negative competition effect and the total combined assets of that merger</p> <p>(a) does not exceed \$5 000 000</p> <p>(b) exceeds \$5 000 000 but does not exceed \$20 000 000</p> <p>(c) exceeds \$20 000 000</p>	<p style="text-align: center;">FEES TO BE CHARGED PER INVESTIGATION</p> <p style="text-align: right;">\$20 000</p> <p style="text-align: right;">\$30 000</p> <p style="text-align: right;">\$40 000</p>

Made by the Fair Trading Commission this 24th day of August, 2009.

NEVILLE V. NICHOLLS
Chairman
Fair Trading Commission.

Approved by the Minister this 24th day of August, 2009.

DAVID ESTWICK
Minister responsible for Consumer Affairs.