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Competition Act, 2002

Section 28 - Division of Enterprise Enjoying Dominant Position

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[3][(1) The [1][Commission], may, notwithstanding anything contained in any other law for the time being in force, by order in writing, direct division of an enterprise enjoying dominant position to ensure that such enterprise does not abuse its dominant position.

(2) In particular, and without prejudice to the generality of the foregoing powers, the order referred to in sub-section (1) may provide for all or any of the following matters, namely:--

(a) the transfer or vesting of property, rights, liabilities or obligations;

(b) the adjustment of contracts either by discharge or reduction of any liability or obligation or otherwise;

(c) the creation, allotment, surrender or cancellation of any shares, sks or securities;

[2][* * *]

(e) the formation or winding up of an enterprise or the amendment of the memorandum of association or articles of association or any other instruments regulating the business of any enterprise;

(f) the extent to which, and the circumstances in which, provisions of the order affecting an enterprise may be altered by the enterprise and the registration thereof;

(g) any other matter which may be necessary to give effect to the division of the enterprise.

(3) Notwithstanding anything contained in any other law for the time being in force or in any contract or in any memorandum or articles of association, an officer of a company who ceases to hold office as such in consequence of the division of an enterprise shall not be entitled to claim any compensation for such cesser.]

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1. Substituted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007] for the words, brackets, letter and figures "Central Government, on recommendation under clause (f) of section 27"

2. Omitted by the Competition (Amendment) Act, 2007 [Act No. 39 of 2007]. Prior to omission it read as:

"(d) the payment of compensation to any person who suffered any loss due to dominant position of such enterprise;"

3. Effective date :20th May 2009- notified vide Ministry of Corporate Affairs Notification No S.O.1241(E) dated 15.05.2009.