

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 3126

8 March 2023

**DRAFT RULES RELATING TO APPEALS ARISING FROM MARKET INQUIRIES
BEFORE THE COMPETITION TRIBUNAL**

Prescribed period and Notice of Appeal

- (1) A person referred to in section 43F(1) may initiate an appeal proceeding against a determination of the Commission in terms of section 43D by filing a Notice of Appeal with the Tribunal within 20 business days after receiving notice of such determination.
- (2) An appeal in terms of section 43F(1) shall be confined to the market inquiry record.
- (3) A Notice of Appeal under this Rule must name the Commission as a respondent, and must set out -
 - (a) the determination that is the subject of the appeal;
 - (b) whether the whole or part of the determination is the subject of the appeal;
 - (c) if only part/s of the determination are being appealed against, which part/s of the determination are the subject of the appeal;
 - (d) the grounds on which the appeal is based; and
 - (e) the relief sought.
- (4) A Notice of Appeal under this Rule may set out alternative grounds of appeal based on the same facts.
- (5) The appellant must serve a copy of the Notice of Appeal on each respondent within 3 days of filing it with the Tribunal.

Appeal record

- (6) Within 40 business days after being served with a copy of a Notice of Appeal under this Rule, the Commission must file with the registrar of the Tribunal a copy of the record of the determination that is the subject of the appeal.
- (7) The Commission may, on good cause, apply to the chairperson of the Tribunal for an extension of the period referred to in sub-rule (6).
- (8) The record referred to in sub-rule (6) must include copies of *inter alia* -
 - (a) any documents and written representations submitted by any parties during the market inquiry that are relevant to the determination that is the

subject of the appeal;

- (b) any correspondence exchanged between the Commission and any parties during the market inquiry that is relevant to the determination that is the subject of the appeal; and
 - (c) any written reasons given by the Commission for the determination that is the subject of the appeal.
- (9) The appellant may, within 15 business days of the filing of the record referred to in sub-rule (6), supplement the record.
- (10) Upon receipt of a Notice of Appeal referred to in sub-rule (2), the registrar must:
- (a) set down a date and time for the hearing of the appeal; and
 - (b) serve a Notice of Set-Down in Form CT 15 on the appellant and each respondent.

Heads of argument

- (11) No later than 15 business days before the date set for hearing the appeal, or such other date as may be determined by the Tribunal, the appellant must:
- (a) serve a copy of the appellant's heads of argument on each respondent; and
 - (b) file those heads of argument and proof of service.
- (12) No later than 10 business days before the date set for hearing the appeal, or such other date as may be determined by the Tribunal, the Commission must:
- (a) serve a copy of its heads of argument on the appellant; and
 - (b) file those heads of argument and proof of service.
- (13) Subject to the provisions of these Regulations and the Tribunal's rules of procedure, the Tribunal member presiding at an appeal hearing may determine any matter of procedure for that hearing, with due regard to the circumstances of the case, and the requirements of section 52(2) of the Act.

[Ends]