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**Announcement from Office of Trade Competition Commission**  
**Topic: Criteria and Methods for requesting pre-diagnosis by**  
**the Committee of Trade Competition Commission Office**  
**B.E. 2561**

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Section 59 of Competition Act B.E 2560 stated that an entrepreneur may file a petition towards the Committee of Trade Competition Commission in order to examine and make pre-diagnosis about actions of an entrepreneur who has dominant power over the market in accordance with Section 50, Section 54, Section 55, Section 57, or Section 58 of Competition Act B.E. 2560. Criteria and Methods are regulated according to the committee's announcement.

By an authority in accordance with of Section 17 (2) of Competition Act B.E. 2560, the Committee of Trade Competition Commission Office issued the announcement as follows:

1. This announcement is denominated as "Announcement from Office of Trade Competition Commission (Topic: Criteria and Methods for requesting pre-diagnosis by the Committee of Trade Competition Commission Office B.E. 2561)

2. This announcement is enforced since the following day of the announcement in Royal Thai Government Gazette

3. In this announcement

"Pre-diagnosis" means to examine the information of entrepreneurs who demand to be informed about the result of pronouncement, according to an Act, in terms of running or operating businesses.

"Results of pre-dianogsis" means the outcome of pre-diagnosis

"Requester" means an entrepreneur who file a petition to acquire pre-diagnosis process in accordance with Section 59.

4. The Chairperson of Trade Competition Commission Office shall be incharge in accordance with this announcement.

**Category# 1**  
**General**

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5. "Pre-diagnosis" helps facilitating the entrepreneur who desires to be informed about the result of pre-diagnosis by the committee about operating his own business as follows:

(1) The action is committed by an entrepreneur who has leverage over section 50 or not.

(2) The type of business operating is in accordance with Section 54, Section 55, Section 57, or Section 58 or not.

**Category# 2**  
**Filing a petition**

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6. Requester can submit one petition at a time. To elaborate, the requester shall submit one action or one type of operating business under the first provision. The rate of commission fee stated in the ministerial regulation; in terms of requesting permission in business collaborating, requesting for pre-diagnosis, and validating the copy of authority or the result of pre-diagnosis B.E. 2561, must be paid in accordance with Section 6. The committee of pre-diagnosis requires information and detail as follows:

(1) Details about the requester and his purpose in demanding pre-diagnosis according to the attachment at the end of this announcement.

(2) Other explanations about actions or business operating of the requester must provide, at least, the detail as follows:

a) An explanation about actions or business operating of the requester who demands pre-diagnosis by the committee; including types of actions or business operating, summary, purposes, and the duration of specific actions on a specific business operating.

b) An explanation about effects of actions or business operating towards the competition of products or services.

c) Other information in which the requester considers useful for the process of pre-diagnosis conducted by the committee.

7. Submitting a petition for requesting the committee to conduct pre-diagnosis must be done by himself or must be done by the person of authority.

### **Category# 3**

#### **Accepting and dismissing petition.**

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8. After the requester submitting of documents in accordance with 6. (1) and (2) and the commission fee is completely paid, the office will bestow an evidence providing request number. The requester can utilize it in tracking the result of pre-diagnosis, afterwards.

9. Reasons for dismissing petition by the committee are as follows:

(1) Actions or business operating submitted as a petition for pre-diagnosis are actions or business operating in which the office receive complaints whether it is the same Section of the request for pre-diagnose or not.

(2) Actions or business operating in which request for pre-diagnosis are in the duration of investigation by the office whether it is the same Section of the request for pre-diagnose or not.

(3) It turns out that submitted information is an action or business operating in which the requester is proceeding or already proceeded.

In case that the committee dismiss the request form, the requester will be informed within 7 days from the day that the committee had consensus to reject the pre-diagnosis form. The amount of paid commission fee cannot be redeemed.

### **Category# 4**

#### **Pre-diagnosis**

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10. After an acceptance of request, the office will proceed as follows:

(1) The secretary propose the petition to the chairperson of the committee within 7 days, since the request form got accepted, in order to propose to the committee and to contemplate afterwards.

(2) To examine pre-diagnosis, the committee may require extra information, in the form of written documents asking for the additional information.

(3) To conduct pre-diagnosis, the committee shall consider only the information in accordance with 6. (1) and (2), including extra explanation if required.

(4) The result of pre-diagnosis by the committee may regulate any conditions, scope, and duration in which the requester must behave in accordance with an Act.

(5) The committee shall complete the consideration process of pre-diagnosis within 16 days, since the request form got accepted, and the office shall inform the requester within 7 days since the committee come up with pre-diagnosis.

If the committee cannot complete the procedure within the deadline. The requester shall be informed about the reasons and obstacles, not less than 10 days before the deadline. Also, the requester shall be informed about the exact date when the pre-diagnosis will be done. The requester has a right to redeem the commission fee if the duration of contemplating pre-diagnosis is less than 90 days.

11. The result of pre-diagnosis by the committee is affected and intertwined, only with the requester, in accordance with scope and duration regulated by the committee.

12. In case the committee find out that the data or information submitted by the requester is, actually, at false or the requester did not behave in accordance with the condition regulated by the committee, the committee will dismiss the result of pre-diagnosis and will inform the requester afterwards.

Nevertheless, the committee and the office shall prosecute if the request form is shown to be at false or causing damages to other people.

Issued on \_\_\_\_\_ October B.E. 2561

(Mr. Sontirat Sontijirawong)  
Minister of Commerce,  
Chairperson of Trade Competition Commission

For the Officer Request No. ....
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**Request form for “pre-diagnosis” process by the Committee of Trade Competition Commission  
Office in accordance with Competition Act B.E. 2560**

**1. Requester’s Information**

Name of the entrepreneur .....

Business Type      Partnership                              Partnership Limited    Company Limited  
                                   Public Company Limited      Etc.

Office Location.....

Mr./Mrs./Miss.....

Position .....      Authorized Director    Authorized person

Type/category of products/services .....

**2. Legal Issues submitted to the committee for ‘pre-diganosis’**

I have an intention to be informed about the result of ‘pre-diagnosis’ whether the information provided is considered actions or business operating in which violate the Competition Act B.E. 2560 in the following aspects or not (please choose one)

- Actions of the entrepreneur dominates the market according to Section 50.
- Business operating in accordance with Section 54 (A collaboration between rivals in monopolizing, decreasing, or limiting the competition in the market by fixing the price, limiting the quantity, bid rigging, or dividing areas and customers.
- Business operating in accordance with Section 54 (A collaboration between rivals in other behaviors which are not fit the scope of Section 54 and a collaboration between non-rival individuals in fixing price, limiting the quantity, bid rigging, or dividing areas and customers.
- Business operating in accordance with Section 57 (Unfair trading behaviors)
- Business operating in accordance with Section 58 (Conducting Juristic act or contraction with overseas entrepreneur with improper reasons)

**3. Detail and Information for requesting ‘pre-dianosis’ from the Committee**

I have attached clarification documents (written with ‘TH Sarabun PSK’ font, size 16, on A4 paper, pages number available, unlimited pages, and written signature at the bottom right corner of each pages) as follows:

- Clarification documents #1: An explanation about actions or business operating of the requester who demands ‘pre-diagnosis’, including types of actions or business operation, summary, purpose, and duration of actions or business operating
- Clarification documents #2: An explanation about effects of actions or business operating towards the competition of products or services.
- Clarification documents #3: Other information in which the requester considers useful for the process of pre-dianosis conducted by the committee

(Written Signature).....Requester

Reasons for dismissing petition by the committee are as follows:

(1) Actions or business operating submitted as a petition for pre-diagnosis are actions or business operating in which the office receive complaints whether it is the same Section of the request for pre-diagnose or not.

(2) Actions or business operating in which request for pre-diagnosis are in the duration of investigation by the office whether it is the same Section of the request for pre-diagnose or not.

(3) It turns out that submitted information is an action or business operating in which the requester is proceeding or already proceeded.

In case that the committee dismiss the request form, the requester will be informed within 7 days from the day that the committee had consensus to reject the pre-diagnosis form. The amount of paid commission fee cannot be redeemed.

I certify that the above information is correct and true in every aspect as I leave my written signature on the bottom right corner of each pages and certify. I leave my written signature to Certified True Copy of all documents and evidences attached. The amount of commission fee is already paid.

(Written Signature).....Requester  
(.....)  
Date..... Month..... Year(B.E.) .....

Note: The requester may be prosecuted if the request form is shown to be at false and causing damage to other people.

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For the officer who take the request form and its clarification documents

Mr./Mrs./Miss .....Position.....

The requester have proceeded as follows:

Completed Request form for 'pre-diagnosis' by the Committee of Trade Competition Commission Office

Clarification Documents  
Opinion/Fundamental Notice.....  
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The requester has already paid for the commission fee

(Written Signature).....Officer  
(.....)  
Date..... Month..... Year(B.E.).....