

GOOD REGULATORY PRACTICES (GRP)

Reducing Unnecessary Regulatory Burden (RURB)

Update as at August 2014

Measures Restricting Competition: MPC Definition

The measures to be covered should include **legislative restrictions** that either prevent, or have the potential to prevent, any one, or a number of, market participants from competing on the basis of price, quality, quantity, service delivery or technical innovation with other market participants; or which confer, or have the potential to confer, particular advantages in respect of any of those matters upon any one, or a number of, market participants compared to other participants.

In this regard, the types of legislative provisions, in both primary and subordinate legislation, that need to be identified are those that provide for any of the following:

- a) an **outright prohibition** in regard to any particular business activity;
- b) a **statutory monopoly**, namely where a body specified in the legislation is created or given powers, either State-wide or in a particular locality, as the sole participant allowed to engage in a particular business activity;
- c) **licensing** or **registration** requirements for persons or bodies wishing to engage in a particular business activity and which operate on the basis of either limiting the number of participants or limiting participation to those persons or bodies that meet defined standards, qualifications or training or to those who hold membership of a particular occupational or professional organisation;
- d) allocation of **quantitative entitlements**, quotas or franchises among participants engaging in a particular business activity;
- e) requirements for **prescribed quality** or **technical standards** to be observed, or for specified equipment to be used, in regard to a particular business activity, other than those requirements that apply generally in regard to public/workplace health and safety;
- f) **price control** provisions, whether by way of setting, or prescribing a process for determining, the maximum/minimum prices or charges for a specified good or service or the maximum/minimum rates of commission, agency or fees for any good or service;
- g) **restrictions on the conduct of a business** relating to matters such as hours of operation, size of premises, provision of specified facilities, geographical area of operation, advertising or promotion, sector-specific operation (e.g.,

retail vs wholesale), type of good or service allowed to be offered for sale, etc.;

- h) the **nomination of a particular person or body** as the sole or preferred customer or supplier in regard to a particular business activity;
- i) measures that have the effect of **conferring a benefit on a particular person or body** engaged in a particular business activity relative to other parties engaged in the same activity, including prescribing technical specifications or standards that can only be met by a particular operator, prescribing different requirements for public sector vis a vis private sector operators or making financial assistance available (including the waiver of various State or Local government charges or fees as well as direct assistance measures such as a grant or subsidy) if a business is carried on at a particular place or in a particular manner;
- j) the **allocation of licenses** or other authorities which either allow the holder access to **natural resources** (including water, minerals, forests and fisheries) or which create rights, or permit specified activities, denied to non-holders (for example, licenses to dispose of waste material in a particular manner);
- k) restrictions that have the **effect of limiting or preventing participation** in a particular business activity by interstate or overseas participants, for example by way of preferential purchasing arrangements for State-based suppliers, statutory restrictions on supply or purchase arrangements outside the market and product standards.

MPC.RR