

CHANGES IN THE KAZAKHSTAN LEGISLATION ON COMPETITION

IMPORTANT!

On 29 June 2020, Kazakhstan adopted the [Law](#) No. 352-VI "On Introduction of Amendments into Certain Legislative Acts of the Republic of Kazakhstan on **Improvement of Business Climate**" (the "Law"), which will be put into effect starting from 11 July 2020, except for certain provisions.

Please see below the changes relating to the competition legislation.

■ **Competence of the Antitrust Agency of the Competition Protection and Development Committee**

According to the Law, the right to develop and approve the procedure for monitoring of prices on commodity markets and monitoring of such prices on the market to establish the signs of a violation of the Kazakhstan legislation was added to the list of powers of the Competition Protection and Development Committee (the "Antitrust Agency").

■ **Concept of a "Market Entity"**

The Law amended the concept of a "market entity". From now on, understood as a market entity is, *inter alia*, "a legal entity of the Republic of Kazakhstan or its branch that is an independent taxpayer (except for financial organizations) carrying out entrepreneurial activities." The concept previously covered only a legal entity of the Republic of Kazakhstan carrying out entrepreneurial activities.

This is to say that starting from the moment the Law enters into legal force, branches of local legal entities that are independent taxpayers will also be considered as the market entities, and they will fall under requirements of the competition legislation, and any violations will entail administrative liability under [Article](#) 33.3 of the Administrative Code of Kazakhstan.

The introduced changes led to changes in the concept of an "object of investigation," which now also embraces branches of local legal entities that are independent taxpayers.

■ **Definition of Monopolistically High and Low Price**

As part of harmonization of legislation and in order to bring provisions of the Kazakhstan legislation in line with the [Model Law](#) on Competition, the concept of "monopolistically high/low price" was amended.

From now on, recognized as a monopolistically high price of goods is the price established by the market entity occupying a dominant or monopolistic position, in case such price exceeds the amount of expenses and profits required for the production and sale of such goods and the price, which was formed in a competitive

environment on a comparable commodity market, including if established by increasing or non-reducing the previously established price of goods.

In order for a price to be recognized as monopolistically high, the price increase or non-reduction must meet, in the aggregate, the conditions stipulated by legislation.

■ **Timeline to Perform a Notice of the Antitrust Agency**

The Law increased the timeline to perform a notice concerning presence of the elements of a violation of the Kazakhstan legislation in actions (omissions) in the competition protection sphere from 10 business days to 30 calendar days. Furthermore, the notice performance timeline may be extended based on an application from a market entity, but not for more than 30 calendar days. The Antitrust Agency or its subdivision may permit or refuse to extend.

■ **Procedure for Submitting an Application for Economic Concentration**

Over the recent time, to enhance and simplify the process of rendering the state service involving provision of consent to economic concentration, Kazakhstan has taken the steps, including by introducing the amendments by the Law, as follows:

- Now it is possible to file an application for economic concentration on the [website](#) of the "electronic government," preserving a possibility to file such application at the office of the Antitrust Agency. 21 April 2020 marked the adoption of relevant rules for provision of the state service "Consideration of applications for consent to economic concentration."
- The list of documents attached to an application was reduced, for example, it is not necessary to submit to the Authorized Agency (i) information on the forecast of production and sale of the same or interchangeable goods as a result of a transaction; (ii) draft resolution on reorganization; (iii) information on the rights that the acquirer will gain as a result of economic concentration. Now it is not necessary to submit information about record registration of representative offices/branches of foreign companies registered in Kazakhstan or their constituent documents.
- A notice to the Authorized Agency of economic concentration may be filed on the [website](#) of the "electronic government." The following information was also excluded from the list of documents and information attached to the notice: (i) information on the forecast of production and sale of the same or interchangeable goods as a result of a transaction; and (ii) information on the rights that the acquirer will gain as a result of economic concentration.

Should you have any additional questions in connection with this Legal Update, we would be happy to provide more detailed information.

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