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48. APPLICATION OF PART TO THE STATE.
   (1) Subject to this section, this Part binds the State only in so far as the State engages in trade.

   (2) The State is not liable to pay a pecuniary penalty under Section 87.

   (3) The State is not liable to be prosecuted for an offence against this Part.

   (4) Where it is alleged that the State has contravened any provision of this Part and that contravention constitutes an offence, the Commission or the person directly affected by the contravention may apply to the Court for a declaration that the State has contravened that provision and, if the Court is satisfied beyond a reasonable doubt that the State has contravened that provision, it may make a declaration accordingly.

   (5) The protection in Subsections (2) and (3) does not apply to an authority of the State.

49. LAW RELATING TO RESTRAINT OF TRADE AND BREACHES OF CONFIDENCE NOT AFFECTED.
   (1) Nothing in this Part limits or affects any rule of law relating to restraint of trade not inconsistent with any of the provisions of this Part.

   (2) Nothing in this Part limits or affects any rule of law relating to breaches of confidence.

   (3) No rule of law referred to in Subsection (1) or Subsection (2) affects the interpretation of any of the provisions of this Part.

Division 2. – Market Conduct Rules.

Subdivision A. – Practices Substantially Lessening Competition.

50. CONTRACTS, ARRANGEMENTS OR UNDERSTANDINGS SUBSTANTIALLY LESSENING COMPETITION PROHIBITED.
   (1) A person shall not enter into a contract or arrangement, or arrive at an understanding, containing a provision that has the purpose, or has or is likely to have the effect, of substantially lessening competition in a market.

   (2) A person shall not give effect to a provision of a contract, arrangement or understanding that has the purpose, or has or is likely to have the effect, of substantially lessening competition in a market.

   (3) Subsection (2) applies in respect of a contract or arrangement entered into, or an understanding arrived at, whether before or after the commencement of this section.

   (4) No provision of a contract, whether made before or after the commencement of this section, that has the purpose, or has or is likely to have the effect, of substantially lessening competition in a market, is enforceable.
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(a) it is a provision of a contract or arrangement entered into, or understanding arrived at, between persons of whom any two or more are in competition with each other; and

(b) it has the purpose of preventing, restricting or limiting –
   (i) the supply of goods or services to; or
   (ii) the acquisition of goods or services from,
   any particular person or class of persons, either generally or in particular circumstances or on particular conditions, by all or any of the parties to the contract, arrangement or understanding, or if a party is a body corporate, by a corporation that is related to that party; and

(c) the particular person or the class of persons to which the provision relates is in competition with one or more of the parties to the contract, arrangement or understanding in relation to the supply or acquisition of those goods or services.

(2) A provision of a contract, arrangement or understanding that would, but for this subsection, be an exclusionary provision under Subsection (1) is not an exclusionary provision if it is proved that the provision does not have the purpose, or does not have or is not likely to have the effect, of substantially lessening competition in a market.

(3) For the purpose of Subsections (1)(a) and (c), a person is in competition with another person if that person or any related corporation is, or is likely to be, or, but for the relevant provision, would be or would be likely to be, in competition with the other person, or with a related corporation of that person, in relation to the supply or acquisition of all or any of the goods or services to which that relevant provision relates.

(4) A person shall not enter into a contract or arrangement, or arrive at an understanding, that contains an exclusionary provision.

(5) A person shall not give effect to an exclusionary provision of a contract, arrangement or understanding.

(6) Subsection (5) applies to an exclusionary provision of a contract or arrangement made, or understanding arrived at, whether before or after the commencement of this section.

(7) No exclusionary provision of a contract, whether made before or after the commencement of this section, is enforceable.

Subdivision B. – Price Fixing.

53. CERTAIN PROVISIONS OF CONTRACTS, ETC., WITH RESPECT TO PRICES DEEMED TO SUBSTANTIALLY LESSEN COMPETITION.

(1) Without limiting the generality of Section 50, a provision of a contract, arrangement or understanding is deemed for the purposes of that section to have the purpose, or to have or to be likely to have effect, of substantially lessening competition in a market if the provision has the purpose, or has or is likely to have the effect, of fixing, controlling, or maintaining, or providing for the fixing, controlling, or maintaining of, the price for goods or services, or any discount, allowance, rebate or credit in relation to goods or services, that are –
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(a) supplied or acquired by the parties to the contract, arrangement or understanding, or by any of them, or by any corporations that are related to any of them, in competition with each other; or

(b) resupplied by persons to whom the goods are supplied by the parties to the contract, arrangement or understanding, or by any of them, or by any corporations that are related to any of them, in competition with each other.

(2) The reference in Subsection (1)(a) to the supply or acquisition of goods or services by persons in competition with each other includes a reference to the supply or acquisition of goods or services by persons who, but for a provision of any contract, arrangement or understanding, would be, or would be likely to be, in competition with each other in relation to the supply or acquisition of the goods or services.

54. JOINT VENTURE PRICING EXEMPT FROM APPLICATION OF SECTION 53.

(1) For the purposes of this section –

(a) "joint venture" means an activity in trade –

(i) carried on by two or more persons, whether or not in partnership; or

(ii) carried on by a body corporate for the purpose of enabling two or more persons to carry on that activity jointly by means of their joint control, or by means of their ownership of shares in the capital, of that body corporate or a related corporation; and

(b) a reference to a contract or arrangement entered into, or an understanding arrived at, for the purposes of a joint venture is, in relation to a joint venture by way of an activity carried on by a body corporate in terms of Subsection (1)(a)(ii), to be read as including a reference to the constitution, memorandum and articles of association, rules, or other document that constitute or constitutes, or is or are to constitute, that body corporate.

(2) Nothing in Section 53 applies to a provision of a contract or arrangement entered into, or an understanding arrived at, for the purposes of a joint venture, to the extent that the provision relates to –

(a) the joint supply by two or more of the parties to the joint venture, or the supply by all the parties to the joint venture in proportion to their respective interests in the joint venture, of goods jointly produced by all the parties to the joint venture in pursuance of the joint venture; or

(b) the joint supply by two or more of the parties to the joint venture of services in pursuance of the joint venture, or the supply by all the parties to the joint venture in proportion to their respective interests in the joint venture, of services in pursuance of, and made available as a result of, the joint venture; or

(c) in the case of a joint venture carried on by a body corporate in terms of Subsection (1)(a)(ii) –

(i) the supply by that body corporate of goods produced by it in pursuance of the joint venture; or
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58. TAKING ADVANTAGE OF MARKET POWER.
   (1) Nothing in this section applies to any practice or conduct to which this Part applies that has been authorized under Division 3 of this Part.

   (2) A person that has a substantial degree of power in a market shall not take advantage of that power for the purpose of –
       (a) restricting the entry of a person into that or any other market; or
       (b) preventing or deterring a person from engaging in competitive conduct in that or any other market; or
       (c) eliminating a person from that or any other market.

   (3) For the purposes of this section, a person does not take advantage of a substantial degree of power in a market by reason only that the person seeks to enforce a statutory intellectual property right, within the meaning of Section 67(2), in Papua New Guinea.

   (4) For the purposes of this section, a reference to a person includes two or more persons that are related corporations.

   (5) The existence of any of the purposes specified in Subsection (2) may be inferred from the conduct of any relevant person or from any other relevant circumstances.

Subdivision D. – Resale Price Maintenance.

59. RESALE PRICE MAINTENANCE BY SUPPLIERS PROHIBITED.
   (1) A person shall not engage in the practice of resale price maintenance.

   (2) For the purposes of this section, a person engages in the practice of resale price maintenance if that person (in this section referred to as the “supplier”) does any of the following acts:
       
       (a) the supplier makes it known to another person that the supplier will not supply goods or services to the other person unless the other person agrees not to sell or resupply those goods or services at a price less than a price specified by the supplier;
       
       (b) the supplier induces, or attempts to induce, another person not to sell or resupply, at a price less than a price specified by the supplier, goods or services supplied to the other person by the supplier or by a third person who, directly or indirectly, has obtained the goods or services from the supplier;
       
       (c) the supplier enters, or offers to enter into an agreement, for the supply of goods or services to another person where one of the terms is or would be that the other person will not sell or resupply the goods or services at a price less than a price specified, or that would be specified, by the supplier;
       
       (d) the supplier withholds the supply of goods or services to another person for the reason that the other person –
           (i) has not agreed to the condition referred to in Paragraph (a); or

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