



Legal Update: Competition & Antitrust Department

August 23, 2015

The IAA's Notification regarding the Annulment of the Statutory Exclusion for Reciprocal Exclusivity Arrangements

On November 25, 2014, the 16th amendment to the Restrictive Trade Practices Law, 5748-1988 was published in the State of Israel's official records (the "**Amendment**" and the "**Law**", respectively).

The Amendment repealed the statutory exclusion of reciprocal exclusivity arrangements between the purchaser of an asset or service and its supplier. Prior to the Amendment, Section 3(6) of the Law stated that reciprocal exclusivity arrangements, under certain circumstances, are not to be deemed as restrictive arrangements (the "**Statutory Exclusion**"). The effective date of the annulment was set for August 25, 2015.

Consequently, starting from the effective date, such an arrangement which constitutes an unlawful restrictive arrangement, will be subject to the regime set under the Law (i.e., it will be prohibited unless approved by the Antitrust Tribunal, exempted by the IAA, or cleared under a specific Block Exemption).

After the publication of the Amendment, various entities requested from the Israeli Antitrust Authority (the "**IAA**") to postpone the date on which the IAA will begin its enforcement of reciprocal exclusive arrangements. This was due to the fact that the effective date stipulated in the Amendment, does not permit the parties to the arrangement to complete a thorough examination of the legality of certain arrangements, which include reciprocal exclusive distribution elements - that are currently permitted under the Statutory Exclusion.

Accordingly, on August 6, 2015 the IAA announced that it decided to **partially** postpone the date in which it will begin its enforcement of prohibited restrictive arrangements, with respect to particular reciprocal exclusive distribution arrangements, under the following conditions (The IAA's notification is available in Hebrew [here](#)):

- The existence of the arrangement, including a concise description thereof and of the mutual exclusivity clause, will be brought to the attention of the IAA by the parties hereto or any of them;
- Enforcement will only be stayed, as stated, for a particular arrangement, in the scope and the extant that the arrangement is currently cleared under the Statutory Exclusion;
- The IAA will stay the enforcement - starting from the date in which it receives the parties' notice regarding the arrangement, and until February 25, 2016.

We note that the IAA reserves the right to inform the parties that approached it, that it will not refrain from taking enforcement measures regarding the parties' arrangement, if it finds that this is justified on the basis

of the particular circumstances of the arrangement.

We are happy to answer any questions that you may have.

Sincerely,

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