

The Official Newsletter of the Competition Commission of South Africa

Competition NEWS

Towards a fair and efficient economy for all



Walmart & Massmart merger

04



Kansai and Freeworld merger approved subject to conditions

06



African Competition Forum launched in Nairobi

13



Commission and WIPO jointly host seminar on Competition and IP Rights

14



THE SOUTH AFRICAN BREWERIES CASE: A TRIUMPH OF FORM OVER SUBSTANCE

By Bukhosibakhe Majenge

When Mr. Nico Pitsiladi, a Port Elizabeth-based liquor trader, lodged a complaint with the Competition Commission ("the Commission") on 25 November 2004, on behalf of the Big Daddy's Group against South African Breweries ("SAB"), he was not aware that his complaint would be swallowed up in a vortex of legal formalism and test the boundaries of the complaint investigation and enforcement system of the South African competition legislation.

Cassey Lee, writing in *Competitive Advantage and Competition Policy in Developing Countries*,¹ alludes to the tension between the economic conception of a reasonableness (rule of reason) enquiry and the administrative concerns of the courts.² The SAB case, in many ways, brings

into sharp relief the tension between an effects-based economic enquiry and procedural or administrative concerns of courts.

Richard Whish in *Competition Law*³ points out that "a central concern of competition policy is that a firm or firms with market power are able, in various ways, to harm consumer welfare, for example by reducing output, raising prices, degrading the quality of products on the market, suppressing innovation and depriving consumers of choice. *These concerns cannot be expressed in a codified table of rules capable of precise application in the way, for example, that laws on taxation or the relationship between landlord and tenant can.* The analysis of competition issues invariably requires an assessment of market power,..."

IN THIS ISSUE...

- 01 The South African Breweries Case: A Triumph of form over substance
- 02 Editorial Note
- 04 Walmart & Massmart merger
- 06 Kansai and Freeworld merger approved subject to conditions
- 08 The Commission rejects the LSSA exemption application
- 10 The Commission's investigations into the retail property markets
- 12 JSE acquires Momentum's managed account platform
- 13 African Competition Forum launched in Nairobi
- 14 Commission and WIPO jointly host seminar on Competition and IP Rights
- 16 The Business Consultative Forum
- 18 The 2010/2011 Trade Union Consultative Forum
- 20 Where to get hold of us



competitioncommission
south africa

EDITORIAL NOTE

This edition of Competition News reflects a number of challenges that the Commission is faced with in investigating and prosecuting anti-competitive conduct.

Our lead story by Bukhosibakhe Majenge relates to the impact of the higher courts decisions on our cases. In this article he

looks at our case against SAB by giving an overview of legal challenges (i.e. Yarra, Netstar & Milk) against the Commission and what it means for our cases going forward.

The cumulative effect of these decisions constrains the Commission's ability to investigate anticompetitive conduct and

to compromise the rights of third parties to lodge complaints of anti-competitive conduct

Merger transactions generated a lot of public debate around public interest issues such as employment, local procurement and foreign direct investment. The quarter under review

included the Wal-mart/Massmart merger analysed by Themba Mahlangu, Kansai/Freeworld merger by Xolela Nokele and JSE's acquisition of Momentum managed account platform.

The newsletter also features articles on the rejected LSSA exemption and an

investigation into the retail property markets.

Lastly, the articles by Mziwodumo Rubushe and Andile Mangisa highlight our engagements with various stakeholders such as business, trade unions. While Nerice Barnabas looks at our participation in international forums such as the African

Competition Forum and she also reports on a seminar on Intellectual Property and Competition Policy that the Commission organised with the World Intellectual Property Organisation (WIPO).

Happy reading!
Oupa Bodibe

A paradigm shift is required in approaching competition matters. Competition law is a statutory reincarnation of economic theory. In *Barry Wright Corporation v ITT Grinnell Corporation*, the US Court of Appeals luminously said that "for, unlike economics, law is an administrative system the effects of which depend upon the content of rules and precedents only as they are applied by judges and juries in courts and by lawyers advising their clients. Rules that seek to embody every economic complexity and qualification may well, through the vagaries of administration, prove counter-productive, undercutting the very economic ends they seek to serve."

In summary, Mr. Pitsiladi's complaint related to certain features of SAB's distribution system. Mr. Nico Pitsiladi alleged that SAB is vertically integrated and that as a distributor SAB is selling beer products to retail outlets at the same price that it is selling beer products to wholesale outlets. The effect of SAB's pricing policy, according to Mr. Pitsiladi, is "that all wholesale outlets within the Republic of South Africa cannot compete with SAB as no retailer would purchase a beer product from a wholesaler if effectively it is able to purchase the product directly from the dominant wholesaler (SAB) at a cheaper price." In explaining what he perceives to be the rationale for SAB's strategy, Mr. Pitsiladi says in his complaint "...it becomes abundantly clear that SAB

has embarked upon an active campaign to do away with all other wholesalers in the Republic of South Africa and eventually control themselves the entire wholesale division of selling beer within South Africa (sic)."

Mr. Pitsiladi's complaint alleged "an active campaign" authored by SAB to constrict and eventually liquidate independent distribution of beer in South Africa. Mr. Pitsiladi alleged that SAB's conduct constitutes an abuse of dominance as contemplated in section 8 of the Act, alternatively, a prohibited practice either in terms of section 4 or 5 or 9 of the Act. In his complaint, he referred to correspondence between himself and SAB on the matter. In addition, soon after the submission of the complaint, Mr. Pitsiladi provided further amplification and explication of his complaint to the Commission. Mr. Pitsiladi's complaint as amplified and investigated by the Commission implicated SAB's market power exercised through a suite of interconnected and interpenetrating strategies geared at, inter alia, weakening independent distribution of beer and creating barriers to entry or expansion and excluding rivals.

Essentially, Mr. Pitsiladi's complaint was about what he perceived to be the impact of SAB's strategies on his business. The Competition Appeal Court (CAC) in *Glaxo Wellcome (Pty) Limited v National*

*Association of Pharmaceutical Wholesalers*⁴ laid down the principle that a complainant need only identify conduct of which it complained. The CAC emphasised that that while the complaint need not be drafted with precision or even a reference to the Act, the allegations or conduct in the complaint must be "cognisably linked" to particular prohibited conduct or practices. However, there is asymmetry of information between a complainant and a firm which is the target of a complaint to enable a complainant to identify with certainty the strategies (conduct) at play. In effects-based contraventions, because of information asymmetries, it is logical that firms at the receiving end of the exercise of market power complain about the conduct on them. Complaints involving effects-based contraventions should be evaluated within the economic context the complaint is made. It would be untenable to expect of complainants in submitting their complaints to identify the strategies constituting the conduct when complainants can only observe and complain about the impact of conduct on their businesses. This demonstrates the dangers of applying an inappropriate test of what must be set out in competition related complaints.

Mr. Pitsiladi's complaint called for and required an effect-based economic enquiry to evaluate SAB's market power and investigate whether SAB was exercising

its market power to constrict and liquidate independent beer distribution in South Africa. Thus, inter alia, creating barriers to entry and excluding rivals. The product of this enquiry is the complaint referral that was ultimately made by the Commission against SAB in December 2007. The complaint referral is predicated on different sections of the Act – for present purposes the relevant sections are s 4(1)(b)(ii), alternatively s 5(1)(exclusive territories), 5(2) (minimum resale price maintenance), and 9(1) (price discrimination) also referred to as the distribution case. The different sections of the Act underpinning the complaint referral should be viewed as a mosaic reflecting different manifestations of SAB's exercise of market power.

The hearing of Mr. Pitsiladi's complaint was at a relatively advanced stage, when on 24 March 2011, SAB, emboldened by recent decisions of the appellate courts in, inter alia, *Woodlands Dairy (Pty) Ltd v The Competition Commission*,⁵ *Yara South Africa (Pty) Ltd v The Competition Commission and others*⁶ and *Netstar (Pty) Limited and others v Competition Commission of South Africa*⁷ filed an application to the Tribunal to set aside the complaint referral on jurisdictional grounds. These decisions of the appellate courts all converge to make the point that the Commission should refer to the Tribunal only conduct identified in the complaint as initiated by or submitted

to the Commission. This approach was expressed in the following terms in *Netstar*:

"[26]...the Tribunal's jurisdiction is confined to a consideration of the complaint so referred and the terms of that complaint are likewise constrained by the terms of the complaint initiated by the Commissioner or made by some other person.

[27] In *Woodlands Dairy* the initiation of a complaint was likened to a summons in that it must contain sufficient particularity and clarity to survive the test of legality and intelligibility. This is not to say what is required of a complaint is the level of precision demanded in pleadings. Where a complainant is a lay person that would be to demand more than can reasonably be expected. What is required is that the conduct said to contravene the Act must be expressed with sufficient clarity for the party against whom the allegation is made to know what the charge is and be able to prepare to meet and rebut it."

This approach is inappropriate for effects-based economic enquiries and does not take into account the information asymmetries at the time of lodging a complaint, the economic context within which a complaint is made and the fact that complaints are founded on impact of conduct. It confines complaint investigations to impact of conduct as perceived by a complainant who has no adequate information at the time of lodging a complaint and unduly obstructs the Commission from investigating the true economic nature or substance of the conduct and its effects on the

competitive process. This has serious implications for the future of competition policy enforcement in South Africa. SAB's application was essentially predicated on the fact that the conduct in the Commission's referral affidavit was not the same as the conduct alleged in Mr. Nico Pitsiladi's complaint. On 07 April 2010 the Tribunal granted SAB's application and found that it does not have jurisdiction to hear the separated case. The Tribunal issued a short statement but at the time of writing this article had not yet issued reasons for the finding that it does not have jurisdiction to hear the distribution case.

In a recent decision in *Loungefoam (Pty) Ltd and others v The Competition Commission⁸ and others* Wallis, J said the competition authorities and the appellate courts are all "singing from the same song sheet" (in the sense that they are all engaged in applying the same statute). However, it is increasingly becoming clear that they are singing in discordant voices.

- 1 Edited by Paul Cook, Raul Fabella and Casey Lee, 2007.
- 2 Ib at page 70.
- 3 6th edition, 2009.
- 4 Case No. 15/CAC/Feb02.
- 5 SCA Case No. 105/2010.
- 6 Case Nos: 93/CAC/Mar10 and 94/CAC/Mar10.
- 7 Case No. 103/CR/Sep08.
- 8 Case no. 102/CAC/Jun10.

Walmart & Massmart merger

By Themba Mahlangu



During November 2010 the Competition Commission had to consider one of the biggest retail transactions whereby Walmart sought to acquire 51% control of Massmart.

Walmart is the largest retailer in the world, with annual revenues in excess of US\$ 408 billion which often dwarfs its competitors in various jurisdictions it operates in.

The retailer operates in 15 countries with 55 different brands and has 8 838 stores with 2,1 million employees. Wal-Mart's purpose is said to be "saving people money to help them live better".

Wal-Mart retails a wide range of products from groceries to electronics, furniture to clothing in countries such as Brazil, Canada, China, Chile, Puerto Rico, Japan and Mexico.

In the USA Wal-Mart is more than six times the size of its closest competitor and approximately 60 times the size of Massmart when you compare its turnover.

Massmart is a wholesaler and a retailer of grocery products, liquor and general merchandise, through various branded chain stores such as, Makro, Game, Dion, Builders Warehouse and its newly developed Cambridge Food stores. The majority of Massmart's food and grocery product offering is predominantly focused at the wholesale level, which involves the

sale of groceries to resellers, who on-sell to consumers. Massmart, through its Masscash division is also active in the retailing of grocery, albeit at a small scale compared to other grocery retailers.

Since Walmart does not own or operate retail stores in South Africa the Commission found that the merger would unlikely substantially prevent or lessen competition in the markets in which Massmart competes. However, this deals with one mandate that the Commission has in terms of the Competition Act relating to merger regulation. The other important mandate relates to the analysis of the effect that the merger would have on the public interest.

Hence the Commission received various submissions from trade unions recording their objection which related to issues of employment, suppliers and competitors. These included the following issues:

- i. Pre-merger retrenchments at Massmart;
- ii. Effect of the merger on competitors in particular small and medium sized businesses;
- iii. Effect of the merger on suppliers to Massmart in particular local suppliers;
- iv. Effect of the merger on employment generally;
- v. Effect on the terms of employment of future Massmart employees;
- vi. Right to association and accepted unionised labour.

The Commission considered all of these issues in its investigation when it made its recommendation to the Tribunal to approve the transaction without conditions.

It found that the merger would not substantially prevent or lessen competition and that the public interest issues raised by stakeholders were not merger specific.

With regards to employment Commission assumed that South Africa's labour relations system is can deal with transgressors of labour law. Therefore, it is not its responsibility to ask Walmart to comply with local legislation as it must comply with this country's law or justify its actions to the relevant court.

Furthermore, the Commission concluded that the growth strategies of major retailers (which has an effect of creating jobs) already have an effect on small retailers existence and therefore the job losses that are occasioned as a result of these strategies (which are caused by the demise of the small retailers) are not merger specific.

With regards to the effect that the merger will have on local suppliers the Commission concluded that Massmart would gain access to Walmart's worldwide sourcing network that will possibly affect local suppliers as Massmart might potentially buy products from foreign suppliers at cheaper prices than they would from the local suppliers. In

its analysis the Commission considered the effect of the merger on local suppliers and in particular in Massmart's area of strength of Massmart namely, home wares (appliances, white goods etc.), which shows that the major local suppliers of these goods can be classified into two categories:

- i. local manufacturers or
- ii. local suppliers of imported products (agents)

The Commission found that the local manufacturers have a much lower exposure to Massmart currently and hence it is unlikely to be significantly affected by the prospect of receiving less orders from Massmart post-merger.

Conversely, local suppliers of imported products have much greater exposure to Massmart currently and hence the merger is more likely to affect them however, the effect on local employment will be minimal as these firms employ a fraction compared to local manufacturers.

In its investigation the Commission concluded that, should the merged entity change its local procurement practices significantly (which it undertook not to do) it's unlikely to impact on local manufacturing.

Following the Commission's recommendation to the Competition Tribunal various interested parties which included trade

unions, small business forum and three government departments expressed an interest to participate in the Tribunal hearing process.

This matter was heard by the Tribunal during the week of 9 to 16 May 2011 after various interlocutory applications and postponement of the initial hearing. One of the contentious issues that were discussed at length in the hearings related to the retrenchment of 503 employees which occurred during June 2010 (a few months preceding the offer by Walmart to Massmart which occurred during September 2010).

Trade unions tried to convince the Tribunal that these retrenchments related to the merger and were not as the parties alleged to be as a result of operational efficiencies. The Commission concluded that the aforementioned retrenchments were indirectly related to the merger and considering the significant number of jobs that were lost as a result, caused the Commission to decide to change its recommendation from an unconditional approval to an approval with conditions requiring the merging parties to reinstate all the affected employees.

In closing argument the parties presented the Tribunal with various conditions to approve the merger in order to allay the fears which the trade unions and government departments raised, which included the

following commitments:

- i. Not to retrench any employees for a period of two years;
- ii. To honour existing labour agreements and not to challenge SACCAWU's current position;
- iii. To establish a program at developing local suppliers to the value of R100 million over a period of 3 years;

The trade unions and government departments submitted that if the merger had to be approved it had to be subject to various conditions including strict obligations on Massmart to procure from local manufacturers and suppliers. Further, that Massmart and Walmart recognise workers' rights to belong to a trade union and not inhibit the right to such association which is an issue that Walmart does not promote in the United States. The trade unions also wanted commitments from the parties relating to closed shop agreements and various other commitments relating to employee rights.

In conclusion the Tribunal decided that the merger be approved subject to the conditions offered by the merging parties, including the commitment to offer reemployment for the 503 affected employees.

At the time of writing this article we were still waiting for the Tribunal to issue its reasons for this decision.

Kansai and Freeworld merger approved *subject to conditions*

By: Xolela Nokele and Leanie Mouton

On 18 April 2011, the Competition Commission (“the Commission”) approved the proposed acquisition of Freeworld Coatings Limited (“Freeworld”) by Kansai Paints Company Limited (“Kansai”) subject to conditions that addresses competition and public interest concerns. This is a hostile takeover in terms of which Kansai has made an offer to acquire the remaining issued share capital of Freeworld. Freeworld made an application in terms of Rule 28 of the Competition Commission Rules to file separately. The application was refused by the Commission on the basis that there was no firm offer for Freeworld shares. Freeworld took the Commission decision on review to the Competition Tribunal (“Tribunal”) and the Tribunal referred the matter back to the Commission to reconsider its decision. Subsequent to that Kansai made a firm offer for Freeworld shares and as a result the Commission allowed the Rule 28 application.

Kansai is a Japanese paint manufacturing company and is active in the manufacturing of automotive coatings, industrial coatings, decorative coatings, and marine and protective coatings. In South Africa, Kansai is involved in the Original Equipment Manufacturers (“OEM”) automotive coatings industry, in particular primer/surface and base coat. Kansai’s products are distributed via an independent distributor to a single Japanese OEM car manufacturer, namely, Toyota. Freeworld is a South African paint manufacturing and distribution company and is inter alia, through its joint venture with DuPont, active in the manufacturing of automotive OEM coatings i.e. electro-dipping, primer, base and clear coatings and automotive refinish coatings using DuPont’s technology and supplies all OMEs in South Africa. Freeworld also manufactures automotive refinish coatings using its own technology and DuPont technology. The transaction therefore gives rise to a horizontal overlap in the activities of the parties in the distribution of automotive

OEM coatings, particularly concerning primer and base coatings.

In respect of competition concerns, the Commission investigated whether the merger gives rise to unilateral and coordinated effects.

Unilateral effects

In assessing whether the merger give rise to significant unilateral effects, the Commission investigated the strong link between DuPont and Kansai created by the merger. Post-merger DuPont and Kansai will be in a joint venture with respect to the manufacture and distribution of automotive OEM coatings. DuPont and Kansai are the leading players in the supply of primer and base coats in South Africa. The Commission is concerned that DuPont and Kansai, in future, are likely to supply their OEM automotive coatings through the DuPont / Freeworld joint venture. The Commission also found that local manufacturing provides significant cost advantage compared to importing. The merger links DuPont and Kansai who are currently the only two suppliers to Toyota and as such could enable DuPont to be in a position to raise prices, at the very least to Toyota, which makes up 25% of the OEM market in South Africa, to slightly below prices at which the imported products fetch in South Africa. As a result this gives rise to a removal of an effective competitor.

Coordinated effects

The automotive coatings market is a concentrated market with high barriers to entry and characteristic of linkages between the various market players through joint ventures. The Commission’s concern about possible coordination arise from the fact that Kansai is in a joint venture with PPG Industries (“PPG”) in the automotive OEM coatings in other parts of the world excluding South Africa. The Commission is concerned that the joint venture between PPG and Kansai will be extended to South Africa. This raises fear of future coordination when Kansai, DuPont and PPG are linked since these players account for about 80% of the market. The merger will result in a reduction of the number of players concerned, resulting in only two independent players in South Africa.

Although currently Kansai and PPG are independent competitors in South Africa, a risk exists that this may change in the future and that unless DuPont severs its links with Kansai there is likely to be a link between three automotive OEM coatings suppliers responsible for an estimated 85% of the South African automotive OEM coatings market.

Although the parties’ activities overlap only in the automotive OEM coatings industry, the Commission has also found that the merger can result in possible coordination

concerns in the automotive refinish coatings industry. This is because the merger brings Kansai (potential competitor to DuPont in the premium level of the refinish coatings market) and DuPont (present in the premium market in South Africa through Freeworld) into close relationship.

In light of the concerns arising as a result of the merger, the Commission imposed a divestiture of the entire automotive coatings business of Freeworld, which includes its shareholding in the DuPont/Freeworld joint venture. Despite the fact that there is no overlap in the activities of the merging parties with respect to automotive refinish coatings, the Commission is of the view that in order for the divestiture of the automotive OEM coatings business to be effective, the refinish coatings business should also be divested. This is due to the fact that automotive OEM and refinish coatings are manufactured at the same plant and using the same machinery. In addition, the Commission’s investigation revealed that the coatings business is to a significant extent a scale business where economies of scale play an important role in the viability of operations. The refinish business of Freeworld constitutes a significant proportion of coatings manufactured in the plant to be divested and as such is a major contributor to the economic viability of this facility.

Public interest

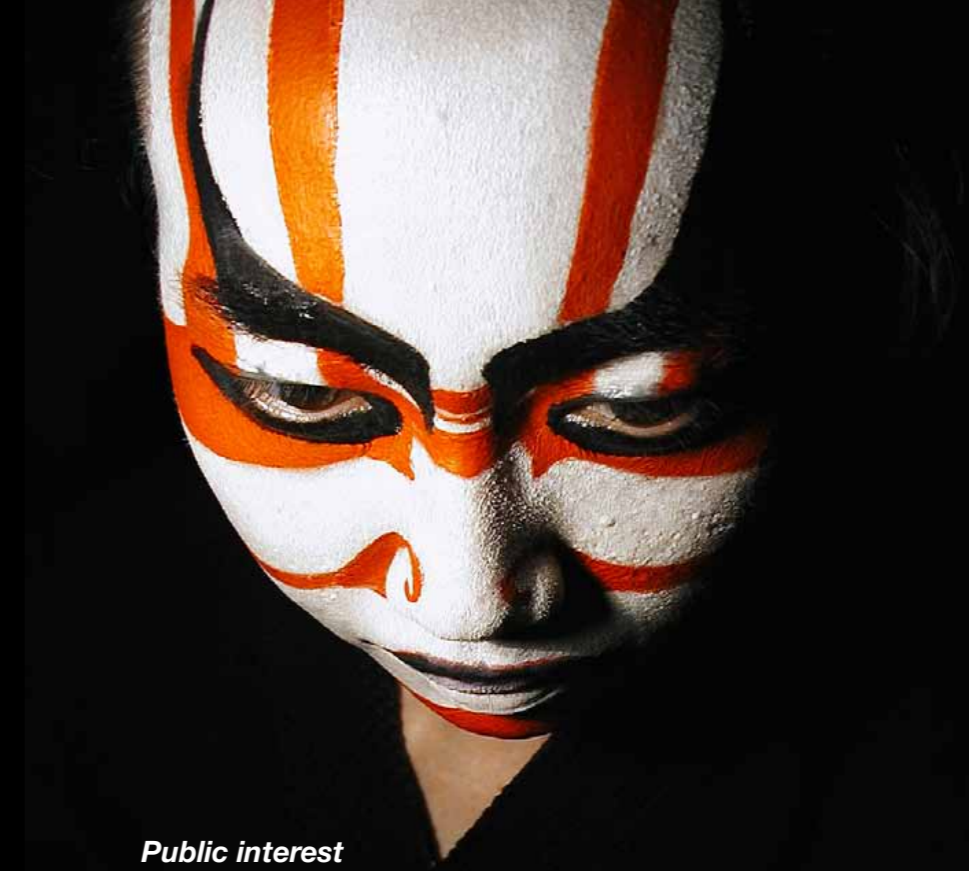
The Commission is of the view that due to the relatively small size of Kansai in the automotive OEM coatings industry compared to DuPont, it recognises that the proposed merger is likely to have a negative effect on employment, in particular if the DuPont/Freeworld joint venture is to be terminated. Kansai is unlikely to utilise the manufacturing facilities of DuPont to a sufficient scale within the short to medium term. Therefore, the Commission finds that this will also have an effect in the automotive sector as this might result in Kansai not manufacturing automotive OEM coatings in South Africa. This might lead to Kansai not investing or reducing Freeworld’s investment in Research and Development (“R&D”) in South Africa.

However, Kansai made strong commitments that there will be no job losses as a result of this merger and that it will continue manufacturing in South Africa and that the merged entity will continue to invest in R&D and that the Freeworld facility will continue to be located in South Africa. Notwithstanding the commitments made by Kansai, the Commission is of the view that the proposed merger is likely to result in significant public interest concerns predominantly on the following: Employment, deindustrialisation, a reduction (in investment) in R&D and Effect on a particular sector.

In light of this concern, the Commission has imposed the following conditions on Kansai: Kansai will:

- Ensure that there are no retrenchments for a period of three years following the merger;
- Continue to manufacture all proprietary coatings currently manufactured by Freeworld for a period of ten years;
- Establish an automotive coatings manufacturing facility in South Africa within five years;
- Invest in South African research and development in decorative coatings and
- Will implement a BEE transaction within two years.

All of the above conditions serve to significantly address the competition and public interest concerns arising from the merger.



On 10 May 2010, the Competition Commission (“the Commission”) informed the Law Society of South Africa (“LSSA”) of its decision to reject the exemption application that was filed by the LSSA on behalf of the four Statutory Provincial Law Societies (also referred to as the Statutory Associations) in South Africa.¹

The LSSA sought the exemption of the professional rules of the Statutory Associations from the application of Chapter 2 of the Competition Act 89 of 1998, as amended (“the Competition Act”). The LSSA’s exemption application was brought in accordance with the provisions of Items 1 and 2 of Part A of Schedule 1 of the Competition Act.

1. SCOPE OF THE EXEMPTION APPLICATION

The professional rules for which an exemption was sought together with the rationale on which the application was based were the following:

Professional fees (including tariffs, allowances and guidelines)

This category of rules encompasses various prohibitions on attorneys to accept remuneration for professional services other than at the tariff prescribed by law.²

The rationale advanced in support of this restraint was, inter alia, that the regulation of attorneys’ fees is necessary to protect consumers against the charging of exorbitant fees by unscrupulous practitioners and also to indicate to the public as to what the Law Societies regard as reasonable.

Reserved Work

The rules under this category prohibit practitioners from:

- Allowing or assisting any unqualified person to obtain payment for any professional work that only attorneys may do; and
- Referring work to persons prohibited from performing such reserved work.

The LSSA contended that such restriction was necessary to maintain professional standards and was essential for the protection of the public interest as the rules created a framework in terms of which the public had a right of redress in the event that work was performed below the requisite standard.

Organisational forms and multi-disciplinary practices

The rules sought to be exempted under this category included:

- The prohibition on practitioners from sharing fees with non-practising attorneys; and

- The prohibition on practitioners from sharing offices with persons who are not practising members.

The LSSA contended that the restriction ensured the preservation of confidentiality and the proper, independent practice of the profession, free from undue influence.

Advertising, marketing and touting

The rules under this category included various prohibitions of certain acts of advertising and marketing which were described, by the LSSA, to constitute unprofessional, dishonourable or unworthy conduct by a legal practitioner.

The LSSA contended that the rules were required to protect the public from being misled and also required to uphold the integrity and dignity of the legal profession.

2. REASONS FOR THE COMMISSION’S DECISION

The reasons for the Commission’s decision in respect of each category of rules is summarised below:

Professional fees (including tariffs, allowances and guidelines)

The Commission found that to the extent that the rules fix a price to be paid for the services of attorneys, these rules contravene section 4(1)(b)(i) of the Competition Act, alternatively have the effect of harming competition in contravention of section 4(1)(a) of the Competition Act.

The Commission also found that fee guidelines had the tendency of becoming the ruling or common fee, irrespective of their non-binding nature. The Commission took the view that such fee guidelines have the effect of eradicating or reducing the benefits that competitive markets can present for consumers, namely, competitive prices, product choice and quality, service delivery and innovation.

The Commission’s findings are in line with the norms in various international jurisdictions, which show a trend of moving away from prescribing mandatory tariff of fees and/or fee guidelines for the attorneys’ profession.

The Commission finally concluded that the restriction on attorneys to independently and freely set their own professional fees is not reasonably required to maintain the professional standards or the ordinary function of the legal profession. The Commission found that the standards and ordinary function of the legal profession could still be maintained if legal practitioners compete on service delivery, price and quality as does any other business.

Reserved Work

The Commission found that the restriction on reserved work had the effect of harming competition in a market. It viewed that excessive regulation of reserved rights is likely to reduce the supply of service providers, with negative consequences on competition and quality of service. Furthermore, it found that the restrictions have the effect of preventing even legally qualified and experienced professionals from providing services to consumers, thus reducing the competitive process.

In some international jurisdictions, the relaxation of restrictions in some professions had led to lower prices without any apparent detriment to quality.

Organisational forms and multi-disciplinary practices

The Commission accepted that the objective of ensuring the independence of the legal profession was valid. However, it found that the prohibition on multi-disciplinary practices was not required to maintain the standards or ordinary function of the legal profession. The Commission viewed that this was particularly the case with regard to professions closely related or ancillary to the legal profession, such as economics and accountancy.

The Commission took the view that there were economies of scope to be achieved through relaxing the restrictions on the formation of multi-disciplinary practices. For instance, clients may benefit from costs efficiencies, wider choice and convenience by accessing a variety of services from a “one stop shop”.

Advertising, marketing and touting

The Commission found that the current restrictions on advertising and marketing extended beyond standard advertising norms and were not necessary for the maintenance of professional standards or the ordinary function of the profession.

The Commission took the view that restrictions that prevented the communication of truthful and non-deceptive information were likely to inhibit competition and frustrate informed consumer choice. The Commission therefore concluded that it would be in the consumers’ interests to lift the restrictions on advertising.

3. METHODOLOGY

In analysing the exemption application, the Commission took into consideration a number of factors, including the experience of various international jurisdictions. In this regard, the Commission considered the submissions of a number of countries to the 2007 OECD’s reports on “Competition Restriction in Legal Profession”.

The Commission also considered several reports of competition authorities’ investigations into competition issues in the attorneys’ profession in comparable jurisdictions, such as Ireland, the UK, New Zealand and Canada. These jurisdictions were selected in part based on the similarity of their legal professions with that in South Africa.

The Commission also took into consideration the views of interested parties in the legal profession, following the publication of a notice (of the exemption application) in the Gazette³. The Commission also interviewed a number of members of various legal practitioners/ lawyers’ associations. The views of the attorneys on the professional rules were also refined through a sampling of attorneys in South Africa based on various criteria, including Provinces; the size of the firm, firms presently affected by the rules, etc.

The Commission also consulted the Department of Justice and Constitutional Development (“the DoJ”) in line with Item 3(c) of Part A of Schedule 1 of the Competition Act.

4. RELATED COMPLAINTS

During the assessment of the exemption application, the Commission received a number of complaints from attorneys who had been reprimanded by their respective Law Society for contravening the very rules which were the subject of the exemption application. These matters were suspended subject to the finalisation of the exemption application.

5. WAY FORWARD

To the extent that the professional rules which were the subject of the LSSA exemption application have their origins in the Attorneys Act 59 of 1979, as amended, the Commission intends to engage with the LSSA and the DoJ, considering that the Legal Practice Bill will soon be tabled before the Parliament. This will be to ensure that the relevant rules are amended to become compliant with the Competition Act and the principles of competition law and economics.

1 The four constituent Statutory Associations of the LSSA for whom this application was brought to the Commission were:
a) The Law Society of the Northern Provinces, incorporated as the Law Society of the Transvaal (“the LSNP”);
b) The Law Society of the Cape of Good Hope, incorporated as the Law Society of the Cape of Good Hope (“the LSC”);
c) The Law Society of the Free State, incorporated as the Law Society of the Orange Free State (“the LSFS”); and
d) The Law Society of Kwa-Zulu Natal, incorporated as the Natal Law Society (“the KZNLS”), (these associations are hereinafter also referred to as “the Statutory Associations”).
2 These rules also include various stipulations concerning overreaching, retainer fees for practitioners appointments, assessment of fees by the councils of the law societies, maximum allowances, departures from an apportionment of fees laid down by law, collection claims, the Recommended Conveyancing Fees and Apportionment of Tariffs, as issued by each Statutory Association.
3 Gazette no. 26992, notice no. 2697 of 2004

The Commission's investigations into the retail property markets

By Sipho Mtombeni and Motshidisi Molefe



The Commission has in the past year been investigating anti-competitive conduct in property markets, especially in the retail. The importance of these investigations arise from the fact that as the population grows so too does the need for the development of property. Normally, town planning guidelines are used to determine how areas are developed. For instance, the development of residential areas creates a need for the development of retail property in the form of shopping centres. These town planning guidelines are used to determine the location of the shopping centres as well as the size of land which will be used to build a particular shopping centre. Currently the shopping centre space in South Africa is approximately 16 770 332m² in terms of gross lettable area ("GLA"). It is estimated that over the next 15 years this will double.

One question that should come to your mind as a consumer then is, "Why is it hard to find certain stores in shopping centre, with all the development happening around?"

The Commission's investigations into retail property revealed anti-competitive conduct the effect of which meant that consumer choices in terms of stores in shopping centres was limited due to a variety of actions by parties at different levels of the market. This conduct, ranging from exclusive lease agreements, to restraints of trade and other restrictive covenants has been found to be anti-competitive and in contravention of the Competition Act (including sections 4, 5 and 8). The anti-competitive effects in this regard manifest in two ways, first through the exclusionary effect in foreclosing competitors from the market and second through the adverse effect on consumer welfare.

The Commission's major concern with such a conduct is the effect it has on the consumer. For instance due to the restrictive practices, much of the consumer's choice in terms of stores is thwarted and a further effect may also be found in the prices which consumers pay, or the quality of service

which they receive from the existing stores. Parties engage in many of these restrictive practices in order to protect themselves from competition, and thus it may be that an inefficient operation is protected from competition due to these restrictions, to the detriment of the consumer.

Further to the Commission's current investigations into the exclusive lease agreements between food retailers and the property owners / developers/ managers i.e. the supermarket investigation, the Commission recently referred to the Tribunal a case of market allocation in the retail property market.

This matter involved allegations against Erf 179 Bedfordview (Pty) Ltd ("Erf 179"), Liberty Group Ltd ("Liberty"), Bedford Square Properties and Win Twice Properties (Pty) Ltd ("Win Twice"). The respondents in this matter are competitors in the retail property market around the Bedfordview area. The investigation revealed that Bedford Square

Properties was being prevented, by form of a registered notarial deed of restraint, from concluding a lease agreement with Woolworths and Mica Hardware Store for a period of 11 years by Erf 179 and Liberty. Similarly there was a restraint on Win Twice from concluding a lease agreement with Woolworths for a period of 15 years. The Commission's investigation concluded that these restraints contravened section 4(1)(b)(ii) of the Act in that they amounted to a division of markets by allocating customers or territories.

This case illustrates that through the conduct of these respondents consumer's where placed in a potentially detrimental position and this would have had the effect of decreasing the choice which consumer had. In this regard it is clear factors such as the need of the consumers was not taken into account and rather this decision was taken by firms in order to avoid competition between them.

The Competition Tribunal ("the Tribunal") and the Competition Appeal Court ("CAC") have in recent decisions alluded to the importance of consumer welfare (especially in relation to abuse of dominance). The Tribunal has held that anti-competitive harm may be inferred from a direct loss of consumer welfare or from a significant degree of foreclosure.¹ This approach seems to be supported by the CAC². Though the concept of consumer welfare has not been thoroughly surveyed by the courts to date, its importance has not and cannot be overlooked.

One of the clear purposes of Competition Act is to promote and maintain competition in order to provide consumers with competitive prices and product choices³ therefore it is clear that through the enforcement of the Act this is one of the objectives that should be reached. Many times the enforcement of competition law works on the presumption that ensuring the proper functioning of competition in markets will ultimately benefit consumer welfare. Therefore this should

give a consumer peace of mind that through the Commission's enforcement activities, the objective is to make sure that the retail property market will run in a competitive and efficient manner to the consumer's benefit.

- 1 The Competition Commission and JT International South Africa (Pty) Ltd vs. British American Tobacco South Africa (Pty) Ltd. Case no. 05/CR/Feb05
- 2 South African Airways (Pty) Ltd vs. Comair Limited and Nationwide Airlines (Pty) Ltd. Case no. 92/CAC/Mar10
- 3 Section 2(b) of the Competition Act, 89 of 1998

JSE acquires Momentum's managed account platform

By Fergus Reid

The Commission has recently investigated the acquisition by the JSE Ltd of the Momentum's managed account platform (a large merger). The Tribunal approved the merger on conditions negotiated between the merging parties and the Commission.

A managed account platform (MAP) is a legal structure which controls underlying hedge fund structures and investment into them. Managers from successful hedge funds are invited to manage these MAP controlled funds on investment mandates similar to those of their own successful hedge funds. Because these hedge fund managers do not control the MAP hedge fund, the MAP structure lessens some of the key causes for hedge fund failure, including fraud, false or incorrect valuation of assets, failure of managers to abide by investment mandates and false or incorrect reports of earnings. A key MAP function is to constantly monitor their underlying hedge fund managers for compliance with their investment mandates.

The current recession and scandals internationally, have increased interest in MAPS internationally. Typically, more conservative, inexperienced or cautious

investors (importantly pension funds) may prefer this over the risk of direct hedge fund investment. The Momentum/JSE MAP is the only full function MAP open to all investors in South Africa.

The JSE Ltd, as the only licensed exchange in South Africa, has a de facto monopoly on the supply of market information from the exchange. This information is vital for any MAP to perform its key function of mandate monitoring compliance. The dissemination of market information is tightly controlled by JSE contracts, which extract fees at each level of onward dissemination. Consequently, the JSE controls a vital input for any future competing MAP and a vital input for those non-MAP firms that might partially compete with the MAP currently for mandate compliance monitoring. This enables JSE to foreclose competitors. Secondly, the JSE's information supply contracts gave the JSE wide audit rights over parties using their information. Given the merger, JSE could now potentially see a MAP competitor's mandate compliance products innovated from or using JSE market information as well as their clients. The Commission was concerned that this

information should not be shared with the JSE's MAP. Lastly, there appeared a likelihood that JSE might list the hedge funds in its MAP or list exchange traded funds (ETFs) or notes (ETNs) off indexes created off and powered by information from the MAP. The Commission was concerned that the JSE as regulator of the exchanges could use its powers in relation to listing and exchange fees to raise barriers to entry for any competing hedge fund products.

The conditions agreed and then imposed, included, a non-discriminatory supply condition for market information (as between JSE's MAP and its competitors), measures for independent information dissemination audits that provide a Chinese wall between the JSE and the auditors (ensuring sensitive information about competitors could not flow back to the JSE MAP) and a prohibition on the JSE listing hedge fund related products. The parties agreed with the conditions while recording their disagreement with the Commission's case before the Tribunal. This was a neat way to resolve the matter speedily, without a long trial on the merits.

African Competition Forum launched in Nairobi

By Nerice Barnabas

The African Competition Forum (ACF) was launched in Nairobi, Kenya on 3 March 2011. The launch conference was co-hosted by the Kenyan Monopolies and Prices Commission (MPC) and the International Development Research Centre (IDRC) with support also given by the UK's Department for International Development (DFID).

The ACF launch was attended by representatives of 23 national and regional competition agencies from across Africa, regional and international organisations such as UNCTAD, OECD, the World Bank, EU, SADC and CUTS as well as scholars

and experts in the field of competition policy. The principal objective of the ACF is to promote the adoption of competition principles in the implementation of national and regional economic policies of African countries, in order to alleviate poverty and enhance inclusive economic growth, development and consumer welfare by fostering competition in markets, and thereby increasing investment, productivity, innovation and entrepreneurship.

A Steering Committee of the ACF comprising of the heads of competition agencies from Kenya, South Africa, Senegal, Gambia, Tanzania, Morocco, Egypt and Zambia was elected by the members of the Forum at the launch. Mr Francis Kariuki, Head of the Kenyan Monopolies and Prices Commission was elected Chairperson of the steering committee, with Mr Shan Ramburuth of the South African Competition Commission as Vice-chair and Mr Malick Diallo of Senegal's National Competition Commission as Secretary.

As Vice-chair of the ACF, the Competition Commission South Africa is fully committed to the Forum's mission, vision and objectives and we are dedicated to ensuring its success in building the capacities of agencies in the region and promoting awareness and appreciation of competition principles amongst government and other stakeholders.

Commission and WIPO jointly host seminar on **Competition and IP Rights**

By Nerice Barnabas



IP and the Competition Act

The Act recognises the rights of IP holders and makes provision for firms to apply for an exemption in terms of section 10(4) in respect of agreements or practices that violate Chapter 2 of the Act

The Competition Commission of South Africa in cooperation with the World Intellectual Property Organization (WIPO), organised the International Seminar on Intellectual Property and Competition Policy, at The Aviator Hotel, Johannesburg, South Africa, on 14 and 15 April 2011.

This seminar is one in a series initiated by WIPO as part of its Project on Intellectual Property and Competition Policy which covers three recommendations (below) by the WIPO Committee on Development and Intellectual Property:

- To promote measures that will help countries deal with intellectual property related anti-competitive practices, by providing technical cooperation to developing countries, especially Least Developed Countries (LDCs), at their

request, in order to better understand the interface between Intellectual Property Rights (IPRs) and competition policies.

- To consider how to better promote pro-competitive intellectual property licensing practices, particularly with a view to fostering creativity, innovation and the transfer and dissemination of technology to interested countries, in particular developing countries and LDCs.
- To have within WIPO, an opportunity for exchange of national and regional experiences and information on the links between IPRs and competition policies.

Twenty-six people from WIPO member states and organisations attended the seminar, which included South African participants from the Commission,

Economic Development Department, Department of Trade and Industry, South African Institute for Intellectual Property Law, Section 27 incorporating the Aids Law Project and Wits University, Malawi, Mauritius, Nigeria, Senegal, United Republic of Tanzania, Zambia, the African Regional Intellectual Property Organization (ARIPO), the African Intellectual Property Organization (OAPI), the Common Market for Eastern and Southern Africa (COMESA), the East African Community (EAC) and the Southern Africa Development Community (SADC), Max Planck Institute for Intellectual Property, and Competition & Tax Law.

There is a close link between intellectual property rights and competition, which can be illustrated by a simple example: on the one hand, patent laws, for instance, aim to prevent the copying or imitation of

patented goods, and thus complement competition policies in that they reward and thus promote innovation which ultimately benefits consumers. On the other hand, competition law may limit patent rights in that patent holders may be barred from abusing these rights. This limitation is recognised by the Agreement on Trade Related Aspects of Intellectual Property (TRIPS) in two important Articles:

- Article 40 recognises that some licensing practices or conditions pertaining to intellectual property rights which restrain competition may have adverse effects on trade and may impede the transfer and dissemination of technology. It then goes on to provide that Members may specify in their legislation licensing practices or conditions that may in particular cases constitute an abuse

of intellectual property rights having an adverse effect on competition in the relevant market.

- Article 31 sets out detailed conditions for the granting of compulsory licences aimed at protecting the legitimate interests of rights holders. It also provides for the non-application of two such conditions where a compulsory licence is granted to remedy “a practice determined after judicial or administrative process to be anti-competitive”.

Thus Competition authorities, when analysing matters concerning intellectual property rights, have to find a balance between competition policy and intellectual property rights, and this balance must achieve the goal of preventing abuses of intellectual property rights, without jeopardising the reward provided for by the

intellectual property system when properly used. This seminar provided participants with an occasion to have a better understanding of this interface between intellectual property rights and competition policies and to learn from each other's experiences in the field.

Furthermore, the seminar provided the Commission an opportunity to engage with IP policy makers and stakeholders from South Africa and we look forward to continued engagement with them in this important area of our work.

WIPO's work on IP and Competition will continue with the on-going aim to put its three recommendations into practice and ultimately establish a permanent global forum on Intellectual Property & Competition Policy.



Lambert Botha - Trade Law Chambers; Simon Roberts - Chief Economist Competition Commission and Stavros Nicolaou - ASPEN



Andre Lamprecht - BUSA Chairman and Raymond Parsons - BUSA Deputy CEO



Sharmini Naidoo from RFA



Deputy Commissioner - Tembinkosi Bonakele



Commissioner - Shan Ramburuth



BUSA Chairman - Andre Lamprecht



Banking Association CEO - Cas Coovadia

The Business Consultative Forum

By Mziwodumo Rubushe

The Competition Commission hosted its second Business Consultative Forum at the Hilton Hotel in Sandton on 06 April 2011.

The forum held in partnership with Business Unity South Africa (Busa) brought together 54 business leaders and executives to create a relationship with business in South Africa which is not based on an enforcement setting and debate key competition challenges.

The Commission was represented by Shan Ramburuth (Commissioner); Tembinkosi Bonakele (Deputy Commissioner); Dr Simon Roberts (Chief Economist); Hardin Ratshisusu; Mziwodumo Rubushe and Andile Mangisa while Mr Andre Lamprecht

(Chairman of BUSA) Prof Raymond Parsons (Deputy CEO of BUSA) Mr Cas Coovadia (CEO Banking Association); Lambert Botha (Trade Law Chambers) and Stavros Nicolaou (Chairman of the Pharmaceutical Industry Association) represented the business community.

This year's theme was "Deepening a Competition Culture within Business."

Ramburuth presented on the functions of the Competition Commission and the role of business while Bonakele gave an overview of the Commission's work in priority sectors.

In his opening address the Commissioner emphasised that business should not see

the issue of competition law as a compliance issue but that its role is to make business more competitive.

Lastly, Roberts, Botha and Nicolaou participated in a panel discussion on information exchange and its implications for competition. A number of questions were raised by business on this. Such as what information can or cannot be exchanged, when or how can industry associations identify when they have crossed the line in their discussions or meetings. The Commission was asked to provide Guidelines on Information Exchange.

Business was made aware that the Competition Act does not prohibit business

from talking to each other, however this depends on the nature of the discussion and whether it raises competition concerns or not.

Some of the concerns raised by the business community include:

- that the Commission could do more to influence government policy as some of the competition challenges emanate from government policy and legislation.
- the Commission's response to anti-competitive conduct emanating from state owned enterprises. The perception was that the Commission is not as vigorous in prosecuting state owned enterprises as it is against the private sector. However, the

Commissioner indicated to the forum that the Competition Act applies to both the public and the private sector and that the Commission has prosecuted State Owned Enterprises like Foskor and SAA.

- The Commission was also cautioned by business to be wary of being used by competitors to harm the reputation of their opponents in the market. In response the Commissioner indicated that while he understands this concern, it is highly unlikely to happen due the screening process and rigorous investigation done.

In conclusion, business encouraged the Commission not to rely solely on

enforcement to change behaviour but to also educate it on its role in competition law. The Commission was urged to participate in the debate on introducing competition in the energy and rail sector. Another major requests made by business is that the Commission and business should work together to develop an aligned Regulatory Impact System.

Lamprecht thanked the Competition Commission and expressed appreciation for informative engagement between business and the Competition Commission.

The Competition Commission will engage Business Unity South Africa further on some of the issues emanating from this forum.

The 2010/2011 Trade Union Consultative Forum

By Andile Mangisa

The Trade Union Consultative Forum ("TUFC"), an initiative of the Competition Commission ("Commission"), is one of the important forums where the Commission engages with its stakeholders. The other forums are, the Public Sector Consultative Forum and Business Consultative Forum.

The first Forum was held in 2008 and was attended by, amongst others, the General Secretaries of the three SA labour federations (Mr Zwelinzima Vavi – Congress of South African Trade Unions; Mr Dennis George – The Federation of Unions of South Africa; and Mr Manene Samela – National and Allied Congress of Trade Unions). The Forum takes place annually and is a special conduit for the Commission and Labour to address issues relating to mergers and acquisitions. The Forum is designed in such a manner that implementable resolutions are taken.

Amongst the resolutions made which were later implemented, was the establishment of the Trade Union Working Committee ("TUWC") and training of labour by the Commission. Presently, the TUWC constitute 10 trade union officials from the affiliates of the three labour federations and two meetings have been convened thus far. The Committee meets four times in a financial year to discuss day to day

issues that affect both the Commission and labour during the Commission's mergers processes. The Committee also discusses issues relating to cartel conduct (price fixing in particular) that affect their members as consumers.

Some of the issues discussed by the Committee were; the interplay between the Competition Act 1998 (as amended) and Labour Relations Act, 1995 (as amended) – should the trade unions be allowed to conclude consultations with the merging parties when retrenchments are envisaged post-merger before the Commission concludes on the matter or the Commission should continue its merger assessment ignoring section 189 of the LRA which requires the employer envisaging retrenchments to consult with trade unions or affected employees. The other issue relates to section 197 of the Labour Relations Act (transfer of a business as a going concern) – should the Commission be content and not interrogate these transactions because no job losses are raised as a result of the merger. These are the matters that require both parties to find a common ground. It is also worth mentioning that the Commission's Advocacy and Stakeholder Relations division ("ASR"), because of these and other topics that emerged from the TUWC meeting, held a workshop with

the Commission for Conciliation, Mediation and Arbitration ("the CCMA"), where the interplay between the sections 189, 189A, 197 & 197A of the Labour Relations Act vs. the Competition Act were explained.

One of the key milestones of these engagements was the training of about 500 trade union officials (including shop stewards) on the Commission's merger process. These interventions have proved successful for the Commission, notably because there is a rise in participation by trade unions to Commission's processes, in particular merger transactions. Some trade unions have even participated at the Competition Tribunal hearings where very important decisions were taken.¹

This year's Trade Union Consultative Forum was held on 26 March 2011 at Parktonian Hotel in Braamfontein. The Commission was represented by Mr Shan Ramburuth – the Commissioner, Mr Oupa Bodibe – Manager of ASR, Mr Mziwodumo Rubushe – HOD of Education & Advocacy, Mr Andile Mangisa – Education & Advocacy Coordinator and Mr Mfundo Ngobese – Senior Analyst of Mergers and Acquisitions. Labour was represented by 25 delegates who came from the affiliates of the three labour federations. Notably, Mr Clement Chitja from Chemical Energy Paper Printing Wood

and Allied Workers Union ("CEPPWAWU") was one the speakers and he addressed the delegates on "Trade union's reflections on Commission's mergers and acquisitions process".

In his opening speech at the forum, the Commissioner reiterated that trade unions have a special place in the Commission's processes. He emphasised that labour is not done a favour by participating in these processes. The Competition Act gives them a right to participate in merger processes to protect their members both as workers and consumers, he added. The Commissioner frankly told labour that the Commission is transparent in making its decisions. "Some decision will offend a certain section of the society and others will be happy because the institution carries no favours, either from labour or business", he said. He asserted that decisions are made bearing in mind the competition law principles. He commended labour for their participations in the Commission's processes and encouraged them to continue raising issues that affect them and their members.

Labour was appreciative of the fact that the Commission grants them a space to raise their issues, and to some extent, their suggestions were considered.

The concerns of trade unions

- Labour asserted that most of papers served to them by the merging parties were claimed confidential, taking away a fair opportunity to represent their members.
- Merging parties commit not to retrench post-merger during filing, but few months after implementation of the transaction, merging parties retrench employees.
- The Commission does not have clear guidelines on how to deal with public interest issues, particularly job losses.
- Other companies don't serve merger filing to them, until they get told by the Commission.
- Labour is also concerned about the hierarchical consideration done by the Commission in relation to assessment of competition concerns over public interest concerns.

Mr Ngobese also addressed delegates on the merger process undertaken by the competition authorities when they assess mergers and acquisitions. To illustrate the process, Mr Ngobese referred to a case between Metropolitan Holdings Ltd and Momentum Group Ltd.

Resolutions of the forum

The forum resolved that:

- The interplay between the LRA and the Competition Act should be discussed in the forthcoming TUWC;
- The Commission should consider capacitating trade unions and developing a position paper on public interest concerns that will be utilised, going forward, by both labour and the Commission.

In closing, the Commissioner thanked all delegates who attended and participated, and was also appreciative of their frankness and honesty when addressing issues.

¹ 41/LM/Jul10 - Metropolitan Holdings Limited and Momentum Group Limited & 14/LM/Mar10 - Unilever Plc. and Unilever N.V and Sara Lee Corporation.



Where to get hold of us

Visit the Competition Commission online at www.compcom.co.za for more information about the Commission and the Act, as well as the rules and amendments to the Act. You may also forward enquiries, comments and letters to:

THE EDITOR

Advocacy and Stakeholder Relations Division

Private Bag X23, Lynnwood Ridge, 0040

E-mail: CCSA@compcom.co.za

Tel: (012) 394 3200

Fax: (012) 394 0166

Competition News is issued quarterly and if you would like to receive future copies, please forward your particulars to enable us to add your details to the distribution list.

© Please note that the information contained in this document represents the views of the authors and does not necessarily constitute the policy or the views of the Competition Commission. Any unauthorised reproduction thereof will constitute copyright infringement. Persons interested in this information should not base their decisions thereon without obtaining prior professional advice.



competitioncommission
south africa