

**INITIAL SUBMISSION TO  
THE BANKING ENQUIRY**

by

**ABSA BANK LIMITED, a member of the Barclays  
Group**

assisted by

**WEBBER WENTZEL BOWENS and CRA INTERNATIONAL (UK)  
LIMITED**

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**CHAPTER 1:  
INTRODUCTION**

## INTRODUCTION

1. Absa welcomes the Enquiry by the Competition Commission under Section 21 of the Competition Act into particular aspects of competition in the banking sector in South Africa. As expressed in the meeting between Absa and the Competition Commission on 23 August 2006, and as illustrated by this Submission, Absa is willing to co-operate with the enquiry as fully as possible. Furthermore, Absa supports efforts to enhance competition in the banking sector in South Africa.
2. Absa has sought, in this Submission, to respond in detail to the information requests of the Competition Commission. The submission is organised as follows:
  - Chapter 1 is this Introduction and sets out the structure of the Submission.
  - Chapter 2 provides an Executive Summary to the Submission –**THIS CHAPTER IS CONFIDENTIAL IN ITS ENTIRETY.**
  - Chapter 3 is an overview and contains background information on (1) Absa and the banking environment in which it operates; (2) relevant banking legislation; and (3) the National Payment System. Further detail is provided on each of these three topics in **Annexes 1, 2 and 3**, respectively.
  - Chapter 4 contains Absa's responses to the Competition Commission's Technical Task Team's requests –**THIS CHAPTER IS CONFIDENTIAL IN ITS ENTIRETY.**
3. In order to provide a detailed response to the main focus of the Competition Commission's enquiry, namely: (i) the level and structure of bank charges; and (ii) access by non-banks and would-be-banks to the national payment system infrastructure, Absa retained an independent firm of economists, CRA International (a highly respected international economic consultancy) and Webber Wentzel Bowens (a South African law firm, with a specialist competition law competency), to provide independent analysis for purposes of assisting Absa in responding to the issues raised in the Terms of Reference, as well as responding to the additional queries which the

Technical Task Team has asked Absa to address. CRA's comprehensive report on competition in the South African banking industry has, therefore, been included at **Annex 4 –THIS ANNEX IS HOWEVER CONFIDENTIAL IN ITS ENTIRETY AND HAS THEREFORE BEEN REMOVED**. CRA's analysis of the main findings and recommendations of banking investigations across other countries in respect of retail or personal current accounts; banking services to small and medium enterprises and payment systems is included at **Annex 5**.

4. In addition to responding to the information requests from the Competition Commission, Absa notes the Competition Commission's invitation to respond to certain of the findings in the Falkena and Feasibility Reports which Absa understands form part of this enquiry. In this regard, Absa has provided comments on the Falkena and Feasibility reports in **Annex 6**.
5. Finally, two fundamental misconceptions which appear to have arisen in the Feasibility and Falkena Reports (namely that the concept of a "*complex monopoly*" should become part of the vocabulary of the Competition Commission; and secondly that the Competition Commission should investigate the possibility of a complex monopoly in the operation of the payments system) have been addressed at **Annex 7**.
6. We hope our submissions are helpful to the Competition Commission in its enquiry into the South African banking sector.

**CHAPTER 2:  
EXECUTIVE SUMMARY**

**EXECUTIVE SUMMARY**

1. **This Chapter is confidential in its entirety.**

**CHAPTER 3:  
OVERVIEW AND  
BACKGROUND  
INFORMATION**

## **Introduction to Absa and the Banking Environment**

1. The Absa Group is listed on the Johannesburg Stock Exchange in the Financial Services sector and is South Africa's second largest banking group. As at 1 August 2006, Absa had more than 720 physical branches, 8,135,807 customers, 6,565 automated teller machines, and employed approximately 34 688 permanent employees. Absa operates primarily in South Africa. Only 3.3% of its earnings for the year ended December 2005 emanated from outside of the country.
2. The South African banking sector within which Absa operates has undergone a period of substantial change and volatility over the last few years and seems destined to attract ever greater levels of competition in the years ahead. This new competition is being provided by small banks (such as African Bank, Capitec and the Bank of Athens) and the Postbank, all of which are targeting previously unbanked and underbanked communities. New competition is also coming from non-banks such as retailers, cellphone companies and insurance companies which are increasingly offering financial services that in the past were provided exclusively by banks.
3. The South African banking sector is one of the most heavily regulated industries in South Africa. The existing regulatory framework is soon to be amplified through a proliferation of new statutory measures designed to ensure even greater regulatory oversight over South African banking operations. These include the Financial Intelligence Centre Act ("**FICA**"), the Financial Intermediary and Advisory Services Act ("**FAIS**"), the National Credit Act and the Consumer Protection Bill.
4. A detailed introduction to Absa's history and ethos and a contextual overview of the South African banking sector and regulatory environment is set out at **Annex 1** to this Submission.

## **Overview of relevant banking legislation and regulation**

5. As mentioned above, the South African banking sector is regulated by an increasing number of statutes and regulations. In South Africa, the Legislature is seeking to introduce a variety of measures, in particular to protect less sophisticated consumers and also to increase the provision of banking services to the "*unbanked*".

6. In addition, new legislation is being put into place which should increase the number of "quasi" banking institutions, which will be able to offer savings and transmissions accounts primarily to low income consumers. These entities will have differing cost bases, as well as different strategic objectives, which has a significant impact on the competitive conduct of the firm within the relevant markets.
7. Steps have also been taken by the Government to ensure greater access to and participation in the financial sector and, in particular, to the National Payment System.
8. Moreover, an extensive number of regulatory provisions exist, which have led to significant increases in the compliance obligations and associated costs on banks (partly arising from the new money laundering legislation).
9. The new legislation will have a significant impact on the competitive dynamics in the markets in which the banks operate. The competitive dynamics are also likely to be affected by socio-political pressures and increasing technological innovation.
10. A detailed overview of the Banks and their regulatory environment is set out at **Annex 4**.

#### **National Payment Systems**

11. The National Payment System (NPS) refers to the behind-the-scenes infrastructure that enables individuals and firms to transact with one another by using various means of payment such as cheques, debit and credit cards and electronic funds transfers. ATM withdrawals are also part of the NPS.
12. The NPS in South Africa is a well functioning network of competing and complementary services that facilitates transactions involving various types of payment streams. The integrity and interoperability of the system is vital to the South African economy and regulatory oversight by the SARB continues to ensure that the NPS maintains a world-class payment system meeting domestic, regional and international requirements.

## Access

13. Access to the payment system is determined on the basis of open and transparent criteria. The use of central switches in the NPS, such as Bankserv, enables firms to reap the benefits of economies of scale and also ensures that barriers to entry for new players are low. In addition, pricing for these services is cost-based and profits are primarily reinvested into ensuring improved services for customers.
14. Indirect access to the NPS, by way of sponsorship or agency arrangements, is also available and provides a low cost alternative to the investments necessary to obtain direct access. Absa, in particular, has been involved in a number of sponsorship arrangements which has facilitated access to the payment system. In addition, through agency arrangements, Absa has assisted smaller banks to compete in its market by assisting them to receive deposits.
15. Further widening of access is anticipated in the near future as the Co-operative Banks Bill and the Dedicated Banks Bill reduce the barriers to banking and thereby enable more firms to gain access to the NPS. The SARB's Vision 2010 document also supports the view that plans are in place to ensure that additional firms can participate in the payment system.
16. A detailed overview of the National Payment System, including a detailed description of its role and importance, direct, indirect and widening access to the national payment system is set out at **Annex 3**.

