

Media Release

10 October 2011

Commission grants SAPIA an exemption with conditions

The Competition Commission has granted the South African Petroleum Industry Association and its members (SAPIA) an exemption with conditions for certain conduct prohibited in the Competition Act. The exemption was granted in terms of Section 10(3)(b)(iv) of the Competition Act which allows firms to apply for an exemption if the purpose of the agreement or practice is to contribute towards maintaining economic stability in an industry.

The exemption will commence on 03 October 2011 and end on 31 December 2015.

This follows SAPIA's exemption application on 19 April 2010 relating to a wide range of cooperation agreements and practices required to ensure the continuity and stability of liquid fuels supply to various sectors and geographic locations of the South African economy.

The Competition Commission concluded that the aforesaid agreements and practices would give rise to a contravention of the provisions in the Competition Act prohibiting collusive conduct. However, the Competition Commission was satisfied that these agreements and practices will contribute towards maintaining the economic stability of the petroleum and refinery industry by reducing the risk of fuel supply interruptions. To this end SAPIA, its members and other industry participants will be allowed to participate in joint arrangements and share information to the extent necessary to coordinate their logistics and supply requirements.

In granting the exemption the Competition Commission imposed certain conditions aimed at minimizing anticompetitive outcomes and promoting greater participation in the sector.

These include:

- SAPIA and its members may not share competitively sensitive information, except for the purposes described in the exemption application;
- SAPIA and its members may not share information relating to setting margins, imposition of levies and/or the approval of tariffs unless required to do so by the Department of Energy or NERSA; and
- SAPIA must open up its membership to accommodate both existing and potential marketers in the petroleum and refinery industry on fair, reasonable and transparent grounds.

The Competition Commission believes that the opening up of SAPIA membership, which is currently restricted to refineries, will allow existing and potential marketers to benefit from the exempted agreements and practices, which otherwise would not have been the case. This will contribute towards levelling the playing field and promoting competition in the petroleum and refinery industry.

Further details regarding the exemption and conditions can be found in Government Gazette Notice 710 of 2011 published on 07 October 2011.

ENDS

Further information:

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