

## **MEDIA RELEASE**

**05 June 2013**

### **Commission pleased with retaining its rating in the Global Competition Review**

The Competition Commission welcomes the Global Competition Review (GCR) 12th annual survey of the world's competition authorities. The GCR published its annual survey on 04 June 2013. The survey ranks competition authorities according to criteria including their enforcement record, operations, efficiency and reputation.

The Commission maintained its three-star rating. The GCR commended the Commission's hard work for winning several high profile prosecutions before the courts and its outstanding work in mergers. The most noteworthy court ruling in favour of the Commission was the *Senwes* case. In 2011, the Supreme Court of Appeal held that the Tribunal had exceeded its powers under the Act when it ruled that Senwes had engaged in a margin squeeze because it concluded that the margin squeeze complaint did not form part of the Commission's referral to the Competition Tribunal. The Commission appealed to the Constitutional Court, which found in favour of the Commission and, importantly, held that the Tribunal's powers to determine complaints of anticompetitive conduct are not limited by the scope of the complaint referral. The court confirmed that agricultural company Senwes abused its dominant position.

The GCR observed that the Commission had issued fewer fines in 2012. The value of administrative penalties is not predictable as it depends on the number of cases settled, which is influenced by the willingness of parties to settle and the ability to negotiate mutually acceptable terms of settlement, as well as the relevant turnovers of the infringing firms. Thus lower penalties in rand value is not, in itself, an indication of the number, complexity or severity of the sanctions imposed.

The GCR raised a major concern regarding the turnover of senior staff. It is true that a number of senior staff left the Commission in the past year. The Commission acted swiftly in appointing an acting Manager for the Policy & Research Division to replace Dr Simon Roberts, the former Chief Economist and manager of that division, who left at the end of 2012. Mr Junior Khumalo, a seasoned economist, has been with the Commission for nearly 12 years. The departure of Tembinkosi Bonakele, Deputy Commissioner, was also a big loss to the Commission. The Economic Development Minister, Mr Ibrahim Patel appointed two Acting Deputy Commissioners for a period of six months to bolster the Commission's efficiency and decision-making processes, whilst the recruitment process is underway.

Deputy Commissioners, Trudi Makhaya and Advocate Oliver Josie were already part of the Executive Management of the Competition Commission with Ms Makhaya serving as Divisional Manager for Advocacy and Stakeholders Relations since 2012 while Advocate Josie was the Divisional Manager responsible for Cartels since 2011.

The Commission injected new blood into its senior management team, with appointments made in the mergers and enforcement divisions. These new appointments bring international experience, analytical and investigative rigour to our work.

The Commission is already addressing staff turnover and morale issues at all levels of the organisation. It is performing an analysis of its staff turnover to put appropriate measures in place to address any concerns highlighted. It further continues to implement its existing measures such as performance bonuses, year-end awards to recognise high performing employees, internal rotation opportunities, study loans, local and international sabbaticals and local and international short courses as a means to incentivise and retain its staff. It is important to note that the Commission's staff is high skilled at almost all levels and with the experience gained in the Commission, employees become marketable to both the private and public sectors.

The Commission is putting measures in place to address current challenges and to improve its performance results in the current financial year. The Commission is pleased with retaining its rating, which puts us in the same league as the Ireland's Competition Authority, Russia's Federal Antimonopoly Service and Norway's Competition Authority. The Commission aims for an improved rating as it develops and implements its new strategy for the forthcoming five year planning cycle.

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For more Information

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\*calculated using OANDA currency convertor at a rate of €1 = R12.9852

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