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Statement on the decisions of the Competition Commission

Date: 30 March 2016

1. Enforcement and Exemptions

1.1 Rejected exemption application

Commission rejects exemption application by airline operators, New Alitalia and Etihad

In May 2015, the Commission received a joint exemption application from Alitalia Societa Aerea Italiana S.p.A (New Alitalia) and Etihad Airways PJSC (Etihad), relating to a commercial co-operation agreement entered into between the applicants. The Applicants are seeking an unconditional five (5) year exemption on the grounds that the proposed arrangement, would contribute to the “*maintenance or promotion of exports*”, as well as a “*change in productive capacity necessary to stop decline in an industry*” in terms of the objectives set out in section 10(3)(b)(i) and (iii) the Competition Act

The applicants are both active in the provision of international scheduled air passenger services and had sought an exemption on the grounds that the proposed arrangement would result in the improvement in the offering of long-haul flights. The applicants also submitted that the exemption would result in them, *inter alia*, jointly pricing, scheduling and marketing their flights to enable them to compete more effectively against the larger global airlines, such as British Airways.

In rejecting the application, the Commission noted that granting of the exemption application will neither stimulate significant volumes of new traffic to South Africa such that it would promote significant exports nor is the global airline industry and/or the market for passenger airline services between Italy and South Africa in decline.

1.2 Non-referral

Commission non-refers two complaints against Enviroserv Waste Management (Pty) Ltd (“Enviroserv”) and Vissershok Waste Management Facility (Pty) Ltd (“Visserhok”)

The Commission has decided not to refer a complaint against Enviroserv and Vissershok for alleged conduct of restrictive vertical practices, abuse of dominant position and price discrimination to the Competition Tribunal.

The allegations were based on two complaints received by the Commission in May 2012 and February 2013, against the respondents.

Enviroserv provides waste management services. It owns and operates a number of landfill sites throughout the country. Vissershok is a joint venture between Enviroserv and Wasteman Holdings (Pty) Ltd (“Wasteman”).

The Commission found that although Enviroserv is a dominant firm in the South African waste management industry, there was no evidence to suggest that it has engaged in anti-competitive conduct which substantially prevented or lessened competition. Similarly, the investigation found that the alleged conduct against Vissershok and Wasteman did not substantially prevent or lessen competition in the relevant market.

2. Market Inquiries

2.1 Liquefied Petroleum Gas (LPG)

Commission amends completion date of the LPG inquiry

The Commission has amended the completion date for the LPG Market Inquiry to 30 September 2016 (see Government Gazette attached).

The main reasons for the extension are that:

- The Commission needs time to consider emerging issues uncovered in the inquiry so far; and
- Allow for substantial engagement on the proposed recommendations with all key stakeholders.

The Commission is committed to make this market more competitive and hence engagements on proposed remedies require adequate consultation with key stakeholders including other regulatory bodies.

The Commission will in the next month publish preliminary findings and proposed recommendations for public comment.

2.2 Private Healthcare Market Inquiry (HMI)

Revision of programme for public hearings for the health market inquiry

Having regard to the first set of public hearings, which concluded on 11 March 2016, the Panel of the Health Market Inquiry has decided to review and revise the programme for the remaining sets of public hearings.

This means that the second and subsequent sets of public hearings will not take place in accordance with the programme that was set out in the Notice to Stakeholders published on 14 January 2016. Stakeholders will be advised in due course of the revised programme, including dates and areas of focus that will be covered in each set.

The formal hearing notices required by paragraph 23.7 of the Guidelines for Participation, dated 1 August 2014, will in each instance be published upon finalisation of the revised programme.

Ends

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