



14 December 2016

## **STATEMENT BY SADC COMPETITION AUTHORITIES**

At an Extraordinary Meeting of the SADC Standing Committee on Competition and Consumer Law and Policy today, chaired by Swaziland, SADC competition authorities approved and adopted detailed frameworks for future cooperation on mergers and cartel investigations.

Today's agreement follows the signature of the landmark Memorandum of Understanding (MoU) between the SADC competition authorities in May this year.

### **SADC mergers cooperation framework**

Benefits to merging parties of increased cooperation among SADC competition agencies include reducing unnecessary duplication of work, delays and burdens for merging parties and agencies, reducing gaps in information available to agencies which increases analytical robustness and promoting convergence in the analysis of specific cases.

Information sharing between SADC competition authorities on legal frameworks, investigative processes, timetables, procedures and confidentiality rules can increase transparency in agency practice to minimise uncertainty and increase predictability in merger review. Cooperation can also improve the quality of merger review and assist in enhancing the efficiency of merger review regimes.

The SADC mergers cooperation framework spells out various methods of collaborating, ranging from sharing non-confidential information and general discussions on market definition, all the way through to more extensive cooperation, such as detailed discussions on evidence gathered or coordination on remedy design and implementation on the basis of waivers of confidentiality.

Given the benefits of cooperation, the SADC competition agencies therefore encourage mergers to be notified simultaneously in the different SADC countries. We are going to commence a process to harmonise our rules to ensure that there is simultaneous notification of transactions in SADC. The SADC Mergers Working Group, chaired by Botswana, has been operational for over a year and is in a good position to immediately implement the framework. Authorities have been sharing non-confidential information about mergers filed in their respective jurisdictions and an increase in coordination for analysis of mergers filed across several SADC states can be expected without delay.

### **SADC cartels cooperation framework**

Cartel conduct by companies is one of the most harmful forms of anticompetitive conduct. A recent World Bank study on competition policy in South Africa showed that by tackling four cartels in wheat, maize, poultry and pharmaceuticals, some 202 000 individuals were lifted above the poverty line through the lower prices that followed. The savings put an additional 1.6% back into the pockets of the poorest 10% by raising their disposable income. The egregious effects of cartels in Africa are also documented in a joint report by the African Competition Forum and the World Bank, which showed that the retail prices of ten key consumer goods (including bread, milk, eggs, potatoes and frozen chicken) are on average 24% higher in African cities than in other economies around the world.

Today's agreement sees the adoption of a comprehensive SADC cartels cooperation framework which aims to promote greater regional cooperation and coordination in cartel investigation processes and to enable SADC members to improve the quality and efficiency of their cartel investigation processes.

As with the SADC mergers cooperation framework, interagency cooperation on cartel investigations can benefit both authorities and firms by helping to promote consistent outcomes within the context of national laws and increase cartel investigative efficiency by reducing unnecessary duplication of work, delays and burdens for agencies and firms. The cooperation framework also encourages interagency training and development.

The SADC Cartels Working Group, chaired by Zambia and South Africa, has been in operation since June 2015 and in that time has established two sub-groups, whose work plans have also today been approved. The sub-group on legal frameworks, chaired by the Botswana, Namibia and South African competition authorities, will be analysing and cataloguing laws relating to cartels in every SADC jurisdiction, as well as compiling legal challenges that have been encountered during the investigation and prosecution of cartels.

The sub-group on investigative techniques, chaired by the competition authorities of Zimbabwe, Mauritius and South Africa, will be exploring the possibility of joint investigations and engaging in capacity building, including staff exchanges. The SADC Cartels Working Group has already received training on investigative techniques and procedures facilitated by the Competition Division of the OECD, supported by the European Commission's Directorate General for Competition (DG Comp).

SADC competition authorities have moved beyond holding talk-shops. We are entering a new era of accelerated competition law enforcement in the SADC region, based on international best practice within the context of national laws.

ENDS

**For media enquiries/further information contact**

Alex Kuhn

073 221 4992

AlexK@compcom.co.za