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U Verw. / Your Ref.:

Ons Verw. / Our Ref.:

J Harmse/bp/JH2968

Datum / Date:

25/08/2023

**MR RUAN MARE
MARKET CONDUCT DIVISION
COMPETITION COMMISSION SOUTH AFRICA
PRETORIA**

BY E-MAIL: RuanM@compcom.co.za; freshproduceinq@compcom.co.za

Dear Mr Mare

**RE: THE COMPETITION COMMISSION'S REQUEST FOR FURTHER
INFORMATION RELATING TO THE FRESH PRODUCE INDUSTRY**

1. We represent Cape Town Market (Pty) Ltd, who has requested us to respond, on its behalf, to the Commission's request for further information as set out in paragraphs 7 to 13 of your letter dated 27 June 2023. Having been so mandated we request that all future correspondence relating to the Commission's Inquiry into the fresh produce industry at the Cape Town Market be addressed to us.
2. Our instructions to the request for further information are as stated below.
3. Ad paragraph 7.1 of your letter

In the period 2017 to 2022 the following market agents operated at the Cape Town Market:

- 3.1 Boland Market Agency (Pty) Ltd ("Boland");
- 3.2 Cape Market Agency;
- 3.3 Fine Bros (Pty) Ltd ("Fine Bros");
- 3.4 Interaction Market Services (Pty) Ltd t/a RSA ("RSA");

3.5 Rhoda's Market Agency CC ("Rhoda's"); and

3.6 Subtropico Kaap (Pty) Ltd ("Subtropico")

Their respective market shares for the period 2017 to 2022, stated in percentage as rounded off, were as follows:

Market agent	2017	2018	2019	2020	2021	2022
Boland	17	18	17	17	17	16
Cape Market Agency	3					
Fine Bros	22	18	15	14	14	13
RSA	41	46	47	48	50	51
Rhoda's	2	2	2	2	2	2
Subtropico	15	16	19	19	17	18

4. Ad paragraph 7.2 of your letter

For purposes of stating the above market shares our client used the relevant market agent's turnover in comparison to the total turnover of fresh produce sold at the Cape Town Market in the particular financial year (reckoned from 1 March to 28 February). Our client does not thereby assert that turnover, on its own, is the only or best criteria to be used in determining market share, but for purposes hereof our client considers turnover as a relatively simple and easy indicator.

5. Ad paragraph 7.3 of your letter

As our client does not sell any produce, it has no actual knowledge of what factors drive competition between the market agents. That said, our client thinks it would be fair to assume that price would be one, if not the most important, driver.

6. Ad paragraph 7.4 of your letter

Yes, each market agent is required to conclude a written Agent Contract. The Agent Contract stipulates, for all the market agents, that they are not entitled to carry on the business of a market agent, other than at the Cape Town Market, within a radius of 100 kilometres from the Market. This restraint is only effective for the duration of the Agent Contract, and does not survive the termination thereof. In other words, upon termination of any Agent Contract, the relevant

market agent would be entitled to operate as a market agent anywhere in the Western Cape.

7. Ad paragraph 7.5 of your letter

Yes, our client has received inquiries, but no formal application to operate as a market agent. There is currently no written application process or policy in place in respect of new market agents, but our client will, for starters, require any prospective market agent to be compliant with the provisions of the Agricultural Produce Agents Act. Our client would further wish to ensure that the appointment of an additional agent will not compromise competition between the existing market agents. Other than that our client is at present unable to state what further criteria will be applied.

8. Ad paragraph 7.6 of your letter

Whilst our client has no empirical data to support any conclusion, it considers 1 000m² as the minimum floor space on the Trading Floor that a market agent would require to operate successfully. Currently the market agent at the Cape Market occupying the smallest floor space occupies 1 420m². The operations of that market agent appear, to our client, to be feasible.

9. Ad paragraph 7.7 of your letter.

The allocation of floor space is reviewed during March or April each year in accordance with our client's floor allocation policy, a copy of which is attached.

10. Ad paragraph 7.8 of your letter

Annually.

11. Ad paragraph 7.9 of your letter

At the moment there is no unallocated available space for new agencies, but if a new market agent is to be accommodated, this will be achieved by a proportionate reduction of the existing market agents' floor space. Our client's floor allocation policy stipulates that floor space for a new market agent will be calculated on the average floor space of the two smallest market agents trading in all commodities. As will be evident from the table below, which is provided in reply to paragraph

7.10 of your letter, the average floor space of the two smallest market agencies will be 8%.

12. Ad paragraph 7.10 of your letter

Market agent	2017	2018	2019	2020	2021	2022
Boland	18	17	18	17	17	16
Cape Market Agency	7					
Fine Bros	23	22	17	15	14	14
RSA	35	43	46	47	48	50
Rhoda's	2	3	2	2	2	2
Subtropico	15	15	17	19	19	17

13. Ad paragraph 8.1 of your letter

The construction of the new Trader's Market (known as the Epping Paradise Hawkers Market) followed extensive and delicate negotiations between our client and the City of Cape Town. Our client does not have the City's permission to disclose the exact terms of that agreement, but as background we attach a copy of a letter our client had addressed to the City during 2021, and from which you will note that the eventual construction of the new Trader's Market entailed accommodating the informal traders that operated from the pavements of Gunners Circle. All of those traders are historically disadvantaged persons.

14. Ad paragraph 8.2 of your letter

No, it refers to the informal traders that operated from the pavements of Gunners Circle.

15. Ad paragraph 9 of your letter

Yes. The formal trading hours of the Trading Floor is from 5am to 10:30am. The traders at the People's Market and at the aforementioned Epping Paradise Hawkers Market have their own operating hours that extend beyond 10:30am.

16. Ad paragraph 9.1 of your letter

The sales of produce at the People's Market and the Epping Paradise Hawkers Market are not captured on the accounting platform used on the Trading Floor, and our client is therefore not privy to the information requested by you in this subparagraph.

17. Ad paragraph 9.2 of your letter

As mentioned, these sales are not captured on our client's accounting platform.

18. Ad paragraph 10 of your letter

Our client is not aware of any disparity between prices achieved by small producers against those achieved by the bigger producers. The combined supply (or lack thereof) of any specific produce on a specific day will influence the price of that produce on that day, but then across the board.

19. Ad paragraph 11 of your letter

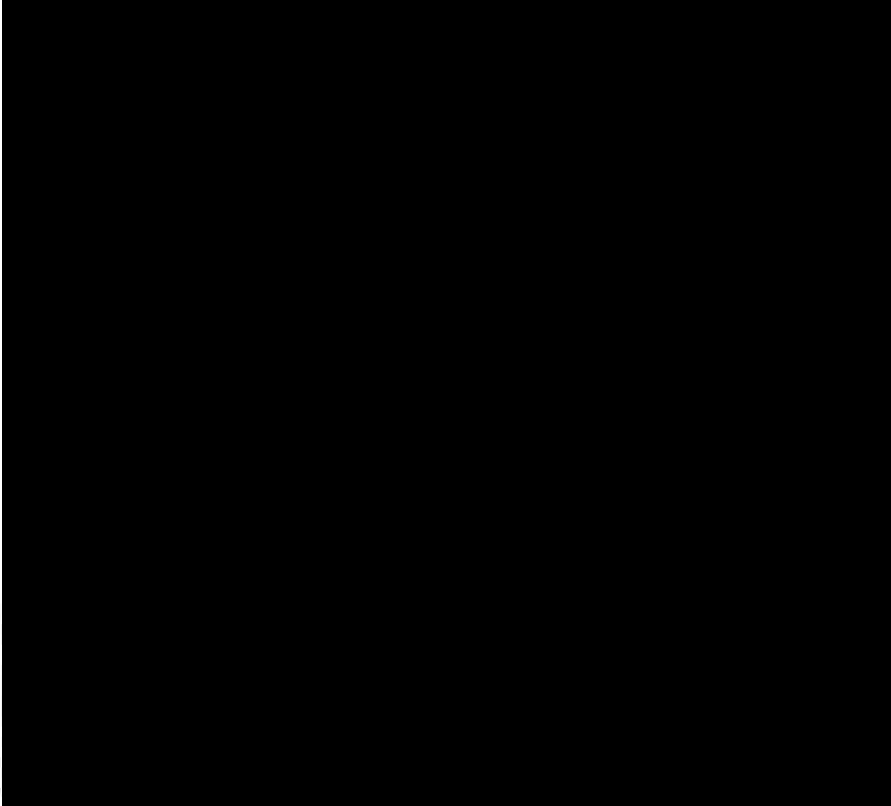
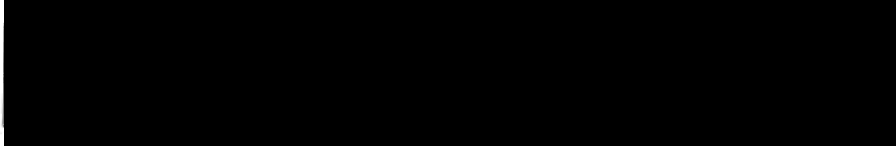
Our client does not consider the information contained in its annual financial statements as relevant to any determination of the fresh produce market industry. In addition, it is confidential. In the premises our client declines to provide or disclose its audited annual financial statements.

20. Ad paragraph 12 of your letter

[REDACTED]

[REDACTED]

[REDACTED]



21. Ad paragraph 13 of your letter

As our client has pointed before, its primary role is to provide market agents with space on its Trading Floor and other infrastructure from where they could operate. Such spaces are cleaned, secured, contain IT infrastructure, etc. For doing so our client receives commission and, in respect of non-Trading Floor areas, rental. Bearing in mind that our client itself does not sell any produce, it does not require complicated reporting schedules on the sale of produce to track its own performance. It does, however, on a monthly basis, consider the turnover of the market agents, which is contained in a "Statistics – Turnover" report, and the turnover of the top 20 buyers and producers. Copies of the most recent such reports are attached hereto. Because our client does not have the relevant buyers and producers' consent for their names to be disclosed, we have redacted their names.

22. Should you have any further queries, please direct them to us.

Yours faithfully

HARMSE KRIEL



PER: J. HARMSE

POLICY - FLOOR SPACE DISTRIBUTION AND ALLOCATION

1. Objective

The objective of this policy is to provide guidelines for the distribution of floor space to market agents on an annual basis.

2. Policy

This policy is applicable to all market agents trading at Cape International Fresh Produce Trading (PTY) LTD ("CFI") trading as Cape Town Market.

Floor space is allocated to market agencies annually during March and April each year. The allocation is based on the agencies' performance during the preceding 12 months (March – February).

The fixed net available floor area (NAFA) is: 40 770

The formula for calculating the % floor-space allocation per agency is as follows:

$$\frac{(\text{Agency's turnover} + \text{mass}) \div 2}{(\text{Total turnover} + \text{mass}) \div 2} = \% \text{ NAFA}$$

The calculation is done on the total floor space of the agency and including all commodities traded

The annual figures for mass and turnover are obtained from the Electronic Sale System, and calculations are done electronically.

The Chief Trading Officer checks and verifies the calculations.

The Chief Trading officer submits the recommendations on the allocation of floor space to the Chief Executive Officer (CEO) and Director of Business Development for approval

Once approved the recommendation becomes a policy decision and the Market Agency Managing Director will be notified of the policy decision in writing.

An implementation plan is prepared, discussed with the market agency managing director and implemented by a designated project team over a weekend.

The Chief Trading Officer sends a notice about the implementation of the plan to all agencies and the relevant market staff.

The cost of relocating computer terminals and power points owing to the reallocation of floor space is borne by the Cape Town Market.

The floor space for a new agency is calculated on the average floor space of the two smallest market agencies trading in all commodities (full agency).

The Chief Trading Officer determines the location of a new agency, with due consideration of the productive use of floor space.

The decision of the CEO regarding the allocation of trading floor space is final.

If, in the opinion of the CEO, an agency is not optimally using the floor space allocated to it, he or she reserves the right to allocate the unused space to another agency or agencies at any time.

The Chief Trading Officer will revise and adapt the policy on floor-space allocation whenever it is necessary in the interests of the Cape Town Market.

Approved By: R D N Lowe

CEO

Date: _____



19 May 2021

cape town MARKET

The City of Cape Town
Property Transaction Management

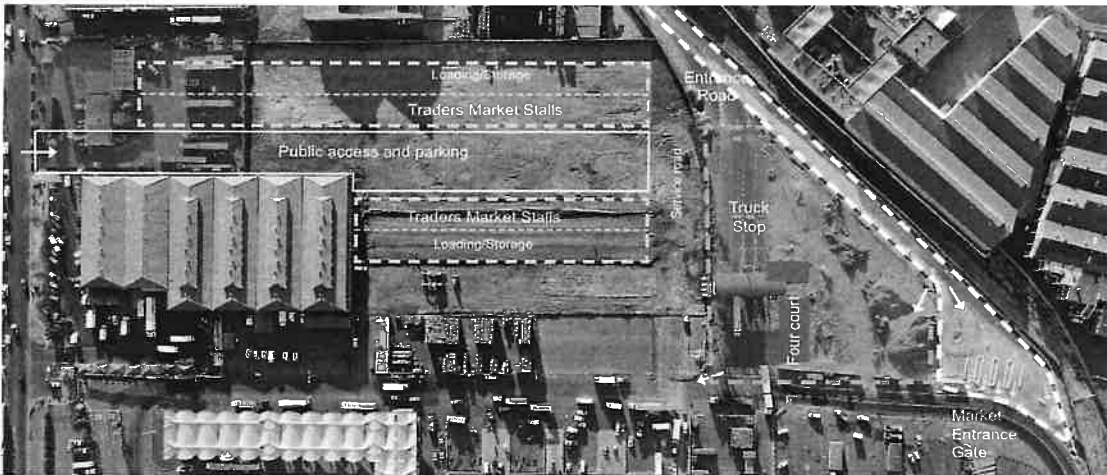
Attention Mr Sims

Submission Regarding Traders Market Costing

I refer to the various discussions between Cape Town Market (CTM) and your department with regard to the relocation of the Informal Traders along Gunners Circle to within the property leased by Cape Town Market.

Our approach has been that it is important that this be undertaken in a manner that provides a sustainable solution that achieves buy-in from all parties. To achieve this the key issues were:

- 1 Direct access to Gunners Circle
The only areas large enough to house the Traders is on the vacant field adjacent to the current produce entrance to the market - diagram



However in order for us for us to be successful it is imperative that the Traders Market have direct access to Gunners Circle . To achieve this necessitates

- a) the move of the Truckstop from its current position, marked in red to the new position outlined in green
- b) the relocation of CTM produce entrance to the right of the new Truckstop shown in white on the diagram
- c) obtaining the legal right to land vacated by the current Truckstop which is subject to a sub-lease to Growthpoint - this entails leasing the land from Growthpoint until their lease expires in August 2024

2 Subsidy of Traders Market

The Traders market will operate as a legal entity subject to a sub-lease from CTM. To facilitate a successful transfer of the Traders and to ensure that this facility is properly managed it is envisaged that a subsidy will be required over at least the first four years of its operation

3 CTM Management Challenge

The inclusion of the Traders market within the precinct of the Cape Town Market Management poses some challenges in that the business model of the Traders which is wholesale based is contrary to the statutory obligations of a commission market. The management of interaction between the Traders Market and CTM will require significant management on order to ensure there is no loss of revenue to CTM and thus the City and to ensure that both the transition into the new market and its ongoing operations are well managed. This will involve additional operational cost the CTM.

Sharing of costs

CTM shareholder's approach to the Cape Town Produce market is that it is a key strategic asset to both the City and to Producers. Consequently CTM's view is that the market is in effect a partnership and thus we are open in sharing costs. It is suggested that cost are shared as follows:

R Millions	PV Total	Cost Allocation	
		City	CTM
Construction Cost:			
Entrance Road and Gate	3.50		3.5
Truckstop	12.50		12.5
Traders Market	65.00	42.0	23.0
Acquiring Truckstop from Growthpoint	7.95		7.9
Additional operation expenses	2.10		2.1
Traders market subsidies	5.45		5.5
Total Cost	96.5	42.0	54.5

In effect then the split would be:

Total Cost above		96.5
Contribute by CTM	56%	54.5
For City's Account	44%	42.0

Funding of Project

CTM has conditionally agreed to fund the project from its resources and offer the City with two Payment options

- 1 Payment on completion of full amount with no cost of capital
- 2 Offset of a monthly instalment of R1.2 m offset against rental paid to the City with a cost of capital of 6 %

City Capital Contribution	42.0
Cost of capital	4.67
COCT Total	46.7

Repayment	Monthly amount	1.2
	Number of Months	39

Corporate Social Investment

In evaluating the above it would be appropriate to note that the CTM shareholders, in order to comply with the requirements of the proposed new lease, transferred shares worth R40 m to an Empowerment Trust which sole purpose will be to provide training, business support and working capital to empower small and medium enterprises that utilise the market. This endeavour will enable both CTM and the City to show real impact from their partnership

Kind regards

Philé van Zyl
Chairman:CTM Board

Statistics - Turnovers

CODE	SECTION	March 2022 - July 2022		March 2023 - July 2023		Turnover % Market Share 2023
		TURNOVER	TONNAGE SOLD (KG)	TURNOVER	TONNAGE SOLD (KG)	
H	Fine Bros	R 90,888,974.00	13,224,922	R 102,110,986.00	11,774,883	9.74%
K	RSA Market Agents Cape Town	R 456,687,093.00	65,252,889	R 561,443,874.00	59,598,764	53.57%
S	Subtropico - Spesbona	R 162,308,792.00	22,178,449	R 170,779,452.00	20,084,928	16.30%
U	Boland Market Agency	R 143,069,170.00	21,430,959	R 185,257,342.00	21,356,348	17.68%
W	Rhodas Market Agency	R 20,151,798.00	3,841,179	R 28,391,382.00	4,213,749	2.71%
	CAPE TOWN MARKET	R 873,105,827.00	125,928,398	R 1,047,983,036.00	117,028,672	100%

CODE	SECTION	March 2022 - July 2022		March 2023 - July 2023		% change from 2022
		TURNOVER RM	TONNAGE SOLD (KG) METRIC TON	TURNOVER RM	TONNAGE SOLD (KG) METRIC TON	
BN	BANANAS	R 118,755,348.00	15,032,454	R 125,602,177.00	14,656,115	-2.5%
CT	CITRUS	R 33,369,384.00	8,269,973	R 35,209,142.00	7,482,143	-9.5%
DP	ONIONS	R 64,448,112.00	12,236,600	R 118,719,012.00	11,387,219	-6.9%
FG	GRAPES	R 8,099,934.00	501,318	R 6,911,669.00	363,633	-27.5%
FR	FRUIT	R 125,108,692.00	10,185,742	R 138,919,026.00	9,758,382	-4.2%
FW	WATERMELONS	R 3,817,138.00	1,382,147	R 4,560,053.00	1,440,956	4.3%
MI	MISCELLANEOUS	R 382,234.00	74,542	R 735,299.00	146,036	95.9%
PL	PALLETS	R 849,280.00	345,000	R 888,750.00	343,506	-0.4%
PT	POTATOES	R 187,241,987.00	38,411,045	R 240,174,634.00	34,667,696	-9.7%
VC	CONTAINER VEG	R 151,637,641.00	17,730,177	R 167,077,539.00	15,932,572	-10.1%
VG	LOOSE VEG	R 65,405,290.00	8,787,100	R 81,881,336.00	9,519,446	8.3%
VT	TOMATOES	R 113,990,787.00	12,972,300	R 127,304,399.00	11,330,968	-12.7%
	TOTAL INCLUDING PALLETS	R 873,105,827.00	R 125,928,398	R 1,047,983,036.00	117,028,672	-7.1%

TOP 20 CAPE TOWN MARKET BUYERS - JULY 2023					
POSITION	NAME	TURNOVER	TONNAGE	% OF TURNOVER	% OF TONNAGE
1		R 16 238 684,41	1 664 386,40	7,71	7,11
2		R 10 671 650,02	1 099 796,00	5,07	4,70
3		R 5 578 092,00	587 578,00	2,65	2,51
4		R 5 348 958,00	631 600,70	2,54	2,70
5		R 5 022 014,50	611 838,50	2,39	2,61
6		R 4 962 678,80	538 722,01	2,36	2,30
7		R 4 900 095,00	504 270,10	2,33	2,15
8		R 3 916 598,25	398 219,00	1,86	1,70
9		R 3 840 488,00	412 234,90	1,82	1,76
10		R 3 691 903,00	297 632,70	1,75	1,27
11		R 3 067 416,20	411 824,80	1,46	1,76
12		R 2 585 209,00	326 183,00	1,23	1,39
13		R 2 268 066,00	334 543,00	1,08	1,43
14		R 2 119 711,00	163 353,40	1,01	0,70
15		R 2 004 145,00	199 204,60	0,95	0,85
16		R 1 888 810,00	235 188,00	0,90	1,01
17		R 1 873 105,75	156 817,00	0,89	0,67
18		R 1 729 042,00	129 115,20	0,82	0,55
19		R 1 679 870,00	184 069,70	0,80	0,79
20		R 1 641 280,00	80 682,00	0,78	0,34
BUYER TOTAL		R 85 027 816,93	8 967 259,01	40,38	38,32
MARKET TOTAL		R 210 557 791,77	23 401 412,43		

TOP 20 CAPE TOWN MARKET SUPPLIERS - JULY 2023					
POSITION	NAME	TURNOVER	TONNAGE	% OF TURNOVER	% OF TONNAGE
1		R 12 183 582,00	1 139 050,00	5,79	4,87
2		R 9 471 324,50	1 226 396,00	4,50	5,24
3		R 8 544 500,00	1 008 378,00	4,06	4,31
4		R 7 199 366,50	769 191,00	3,42	3,29
5		R 6 068 649,00	814 020,00	2,88	3,48
6		R 5 405 325,00	471 643,00	2,57	2,02
7		R 5 074 190,00	574 614,00	2,41	2,46
8		R 4 905 943,00	611 650,00	2,33	2,61
9		R 4 588 859,00	236 261,00	2,18	1,01
10		R 4 406 219,10	550 884,00	2,09	2,35
11		R 4 375 056,00	464 740,00	2,08	1,99
12		R 3 806 203,00	309 731,60	1,81	1,32
13		R 3 447 840,00	465 600,00	1,64	1,99
14		R 3 032 675,00	263 646,00	1,44	1,13
15		R 2 826 782,25	307 121,00	1,34	1,31
16		R 2 817 445,00	318 540,00	1,34	1,36
17		R 2 678 773,00	329 250,00	1,27	1,41
18		R 2 300 389,00	270 653,00	1,09	1,16
19		R 2 025 940,00	343 614,90	0,96	1,47
20		R 1 999 950,00	275 222,00	0,95	1,18
SUPPLIER TOTAL		R 97 159 011,35	10 750 205,50	46,14	45,94
MARKET TOTAL		R 210 557 791,77	23 401 412,43		