



competitiontribunal
SOUTH AFRICA

TRIBUNAL DIRECTIVE FOR THE ISSUING OF REASONS FOR PHASE 1 AND PHASE 2 CATEGORY MERGERS – ISSUED ON 2 MARCH 2021

In terms of section 16(4) and section 31(4) of the Competition Act 89 of 1998 (“the Act”), decisions of the Competition Tribunal (“Tribunal”) on matters referred to it must be in writing and include reasons for that decision. In order to optimise efficiencies and judiciously allocate resources within the Tribunal as required in terms of section 31 of the Act, I, in my capacity as the Chairperson of the Tribunal, hereby issue the following Directive regarding the issuance of short form reasons in certain circumstances at the Tribunal’s discretion.

The Tribunal may issue short form reasons for mergers classified by the Competition Commission (“Commission”) as:

- Phase 1 mergers - unopposed, non-complex mergers, and which raise no public interest concerns or where the public interest concerns are addressed by conditions recommended by the Commission and/or tendered by the merger parties, and are imposed by the Tribunal following a hearing; and
- Phase 2 mergers - complex but unopposed by the Commission, and which raise no public interest concerns or where the public interest concerns are addressed by conditions recommended by the Commission and/or tendered by the merger parties, and are imposed by the Tribunal following a hearing.

The Tribunal may at its discretion issue detailed reasons for any phase 1 or phase 2 mergers where it deems it appropriate. This will be assessed by the Tribunal on

a case-by-case basis taking into account *inter alia* the effects of the proposed transaction on competition and the public interest, as well as any concerns raised by third parties regarding the proposed transaction.

The issuance of short form reasons for mergers that meet the above criteria will take effect on Monday 8 March 2021.

A handwritten signature in black ink, appearing to read 'Mazwai', is written over a horizontal line.

Ms Mondo Mazwai

Tribunal Chairperson

Date: 2 March 2021