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PROCLAMATION*by the**President of the Republic of South Africa*

No. 12, 2001

COMMENCEMENT OF THE SECOND COMPETITION AMENDMENT ACT 39/2000

In terms of section 24 of the Second Competition Amendment Act 39/2000, I hereby determine 1 February 2001 as the date on which the said Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria on this sixteenth day of January Two Thousand and One.

T M MBEKI**PRESIDENT****By Order of the President-in-Cabinet****A ERWIN****MINISTER OF THE CABINET**

PROKLAMASIE

van die

President van die Republiek van Suid-Afrika

No. 12, 2001

INWERKINGTREDING VAN DIE TWEDE WYSIGINGSWET OP MEDEDINGING 39/2000

Kragtens artikel 24 van die Tweede Wysigingswet op Mededinging 39/2000, bepaal ek hierby 1 Februarie 2001 as die datum waarop die genoemde Wet in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Pretoria op hierdie sestiende dag van Januarie Twee Duisend en Een.

T M MBEKI
PRESIDENT
Op Las van die President-in-Kabinet

A ERWIN
MINISTER VAN DIE KABINET

RULES FOR THE CONDUCT OF PROCEEDINGS IN THE COMPETITION COMMISSION

In terms of section 21 (4) of the Competition Act, 1998 (Act No. 89 of 1998), as amended, The Minister of Trade and Industry, in consultation with the Competition Commission, has made the following regulations relating to the functions of the Competition Commission, to come into operation at the time that the Competition Second Amendment Act, 2000 (Act No. 39 of 2000) comes into operation.

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COMPETITION COMMISSION RULES

REGULATING THE FUNCTIONS OF THE COMPETITION COMMISSION

Part 1 – General Provisions

Division A - Interpretation

1. Short title

These Regulations may be cited as the *Competition Commission Rules*.

2. Repeal of previous rules

The Competition Commission Rules published in Government Notice R 1938, in Government Gazette 20384 of 20 August 1999, are repealed.

3. Interpretation

(1) Section 1 applies to the interpretation of these Rules.

(2) A word or expression that is defined in a chapter of the Act bears the same meaning in these Rules as in the Act.

(3) In these Rules,

(a) a reference to a section by number refers to the corresponding section of the Act;

(b) a reference to a Rule by number refers to the corresponding item of these Rules; and

(c) a reference to a sub-rule or paragraph by number refers to the corresponding item of the Rule in which the reference appears.

(4) In these Rules unless the context indicates otherwise,

- (a) "Act" means the *Competition Act*, 1998 (Act No.89 of 1998), as amended from time to time;
- (b) "application" means a request for an exemption submitted in terms of section 10, or in terms of item 1 of Schedule 1 of the Act;
- (c) "certified copy" means a copy of a document certified by a Commissioner of Oaths;
- (d) "Commission" means the body established by section 19;
- (e) "Commissioner" means the office holder appointed in terms of section 22;
- (f) "Competition Tribunal Rules" means the rules promulgated in terms of the Act for the regulation of procedures of the Tribunal;
- (g) "complaint" means either
 - (i) a matter initiated by the Commissioner in terms of section 49B(1); or
 - (ii) a matter that has been submitted to the Commission in terms of section 49B(2)(b);
- (h) "Court" means the Competition Appeal Court established by section 36;
- (i) "deliver" depending on the context, means to serve, or to file, a document;
- (j) "file", when used as a verb, means to deposit with the Commission;
- (k) "Judge President" means the Judge President of the Court;
- (l) "Merger Notice" means a notification
 - (i) voluntarily submitted in terms of section 13(2), or

- (ii) required in terms of either section 13 (3) or section 13A;
- (m) "public holiday" means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act 36 of 1994);
- (n) "Rule" includes any footnote to a Rule, and any Table included within or referred to in a Rule;
- (o) "serve" means to deliver a document to a person other than the Commission;
- (p) "Tribunal", depending on the context, means either –
 - (i) the body established by section 26;
 - (ii) a panel of the Tribunal convened in terms of section 31;
 - (iii) a member of the Tribunal sitting in terms of section 31(5); or
 - (iv) the registrar of the Tribunal.

Division B – Commission Office Functions**4. Office hours and address of Commission**

- (1) The offices of the Commission are open to the public every Monday to Friday, excluding public holidays, from 08h30 to 15h30.
- (2) Despite sub-paragraph (1) –
 - (a) in exceptional circumstances the Commission may accept documents for filing on any day and at any time; and
 - (b) the Commission must accept documents for filing as directed by either the Tribunal or a member of the Tribunal assigned by its chairperson.
- (3) Subject to Rules 7 and 9, any communication to the Commission, or to a member of the staff of the Commission, may be –
 - (a) Delivered by hand at:

The Competition Commission

Glenfield Office Park

Cnr. Glenwood Road and Oberon Steet

Faerie Glen, Pretoria

Republic of South Africa
 - (b) Addressed by post to:

The Competition Commission

Private Bag X23

Lynnwood Ridge Pretoria 0040

Republic of South Africa

- (c) Communicated by telephone on 27 012 482 9000
- (d) Transmitted by Fax on 27 012 482 9001; or
- (e) Transmitted by electronic mail to ccsa@compcom.co.za.

5. Condonation of time limits

On good cause shown, the Commissioner may condone late performance of an act in respect of which these Rules prescribe a time limit, other than a time limit that is binding on the Commission itself.

6. Commissioner's functions

The Commissioner, in writing, may assign any function or power to a member of the staff of the Commission, either generally or in connection with a particular matter.

Part 2 – Delivery of Documents**7. Delivery of documents**

- (1) A notice or document may be delivered in any manner set out in Table CCR 1.
- (2) Subject to sub-rule (4), a document delivered by a method listed in the second column of Table CCR 1 will be deemed to have been delivered to the intended recipient on the date and at the time shown opposite that method, in the third column of that Table.
- (3) If, in a particular matter, it proves impossible to deliver a document in any manner provided for in these Rules, the person concerned may apply to the Tribunal for an order of substituted service.
- (4) Subject to Rule 4(2), if the date and time for the delivery of a document referred to in Table CCR 1 is outside of the office hours of the Commission as set out in Rule 4(1), that document will be deemed to have been delivered on the next business day.
- (5) A document that is delivered by fax must include a cover page, and a document that is transmitted by electronic mail must accompany a cover message, in either case setting out –
 - (a) The name, address, and telephone number of the sender;
 - (b) The name of the person to whom it is addressed, and the name of that person's representative, if it is being sent to the representative of a person;
 - (c) The date and time of the transmission;
 - (d) The total number of pages sent, including the cover page; and
 - (e) The name and telephone number of the person to contact if the transmission appears to be incomplete or otherwise unsuccessful.

8. Issuing documents

- (1) If the Act or these Rules require the Commission to issue a document –
 - (a) the document will have been issued by the Commission when it has been signed, and served on any person to whom it is addressed; and
 - (b) the document may be signed and served at any time of day, despite Rule 4(1).
- (2) Rule 7 (4) does not apply to the service of a document issued by the Commission.

9. Filing documents

- (1) The Commission must assign distinctive case numbers to each –
 - (a) Complaint;
 - (b) Application;
 - (c) Merger Notice; and
 - (d) Advisory Opinion.
- (2) The Commission must ensure that every document subsequently filed in respect of the same proceedings is marked with the same case number.
- (3) The Commission may refuse to accept a document subsequently filed in respect of the same proceedings that is not properly marked with the assigned case number.
- (4) A person who files any document in terms of the Act or these rules must provide to the Commission that person's -
 - (a) legal name;
 - (b) address for service;
 - (c) telephone number;
 - (d) if available, email address and fax number; and

- (e) if the person is not an individual, the name of the individual authorised to deal with the Commission on behalf of the person filing the document.

10. Fees

- (1) The Commission may not charge a fee to any person for filing a complaint.
- (2) Subject to sub-rule (3), the fee for filing an application with the Commission is -
 - (a) for a single exemption -
 - (i) a filing fee of R 5000; plus
 - (ii) an annual fee, payable at the time of the application, equal to R 500 times the number of years for which the exemption is granted; or
 - (b) for a category exemption -
 - (i) a filing fee of R 100 000; plus
 - (ii) an annual fee, payable at the time of the application, equal to R1 000 times the number of years for which the exemption is granted; or
 - (c) for an exemption in terms of Schedule 1 of the Act, a filing fee of R 100 000.
- (3) If an application is refused in terms of section 10 or Schedule 1, the Commission must refund to the applicant the annual fee paid in respect of that application.
- (4) The fee for an advisory opinion is R 2 500.
- (5) The fee for filing a Merger Notice is -
 - (a) R 75 000 for an intermediate merger; or
 - (b) R 250 000 for a large merger.
- (6) No fee is payable for filing a Merger Notice for a small merger.
- (7) A fee payment will be deemed to be received by the Commission on -

- (a) the date that a cheque or money order in payment of that fee is delivered to the Commission; or
 - (b) the date that a direct deposit or an electronic transfer of funds in the amount of that fee is credited to the account of the Commission at the financial institution to which is it transferred.
- (8) The Commission may charge a fee of R1-00 per A4-size page or part thereof to any person wishing to copy a record in the possession of the Commission and R2-00 each for the Commission's certificate on certified copies of documents.
- (9) The amount of each fee set out in this Rule, or calculated in terms of this Rule, is exclusive of VAT.

11. Form of notices and applications

- (1) Whenever a notice or application is required in terms of a section of the Act, or an item of these Rules, shown in column 1 of Table CCR 2, for a purpose listed in column 2 of that Table, the document must be substantially in the form of the annexure listed opposite that section number in column 3 of that Table, and must be produced subject to any conditions listed opposite that section number in column 4 of that Table.
- (2) Whenever these Rules require a document to be in a form whose number is prefixed by the letters "CT", that document must be substantially in the corresponding form prescribed in the Competition Tribunal Rules.

12. Form of Certificates and Notices of Referral

- (1) Whenever the Commission is required to issue a Certificate, Notice or Receipt in terms of a section of the Act, or an item of these Rules, shown in column 1 of Table CCR 3, for a purpose listed in column 2 of that Table, the document must be substantially in the form of the annexure listed opposite that section number in column 3 of that Table, and must be produced subject to any conditions listed opposite that section number in column 4 of that Table.

- (2) Whenever the Commission is required, either in terms of the Act or these Rules, to publish a notice in the Gazette, that notice must contain at least the following information:
- (a) The name of any firm, or other person directly affected by the notice.
 - (b) The file number assigned by the Commission to the relevant matter.
 - (c) The provision of the Act or Rules in terms of which the notice is required.
 - (d) A brief and concise description of the nature of the relevant matter.
 - (e) If the notice invites submissions, the last date on which submissions may be received.
 - (f) If the notice reports a decision –
 - (i) a brief and concise description of the nature of the relevant decision;
 - (ii) a statement indicating whether reasons for the decision have been published, and if so, how a copy of those reasons may be obtained; and
 - (iii) a statement of any right of review of, or appeal from, that decision, including the period during which a review or appeal may be lodged.
 - (g) The name, address and contact numbers of the person in the Commission responsible for publishing the notice.

13. Form of Annual Report

- (1) The Annual Report to be submitted by the Commission in terms of section 41 must be divided into the following Parts:
- (a) **Statement of Progress**, being the statement required by section 41(1)(d).
 - (b) **The Proceedings of the Commission**, being a summary report of the Commission's work in relation to complaints, exemptions, mergers, and compliance.

- (c) **The Administrative Activities of the Commission**, being a summary report concerning the Commission's management, staff, infrastructure, Rules and related matters.
 - (d) **The Commission's Finances**, including the items required by section 41(1)(a) and (b).
- (2) In addition to the matters required in terms of section 41, each Annual Report must include a report on the following matters:
- (a) The Commission's public awareness programs.
 - (b) Relationships between the Commission and other regulatory authorities.
 - (c) Relationships between the Commission and foreign agencies.
 - (d) Research activities undertaken by the Commission and any proposals for law reform published by the Commission.

Part 3 - Access to Commission Records**14. Restricted information**

- (1) For the purpose of this Part, the following five classes of information are restricted:
- (a) Information -
 - (i) that has been determined to be confidential information in terms of section 45 (4), or
 - (ii) that, in terms of section 45 (3), must be treated as confidential information.
 - (b) Identity of a complainant, in the following circumstances:
 - (i) A person who provides information in terms of section 49B (2)(a) may request that the Commission treat their identity as restricted information; but that person may be a complainant in the relevant matter only if they subsequently waive the request in writing.
 - (ii) If a person has requested in terms of sub-paragraph (i) that the Commission treat their identity as restricted information –
 - (aa) The Commission must accept that request; and
 - (bb) That information is restricted unless the person subsequently waives the request in writing.
 - (c) Information that has been received by the Commission in a particular matter, other than that referred to in paragraphs (a) and (b), as follows:
 - (i) The Description of Conduct attached to a complaint, and any other information received by the Commission during its investigation of the complaint, is restricted information until the Competition Commission

issues a referral or notice of non-referral in respect of that complaint, but a completed form CC 1 is not restricted information.

- (ii) A Statement of Merger Information and any information annexed to it, or received by the Commission during its investigation of that merger, is restricted information until the Commission has issued a certificate, or been deemed to have approved the merger, in terms of section 13 or 14, or made a recommendation in terms of section 14A, as the case may be;
 - (iii) An application and any information received by the Commission during its consideration of the application, or revocation of an exemption granted to the applicant, is restricted information only to the extent that it is restricted in terms of paragraph (a).
- (d) A document -
- (i) that contains -
 - (aa) an internal communication between officials of the Competition Commission, or between one or more such officials and their advisors;
 - (bb) an opinion, advice, report or recommendation obtained or prepared by or for the Competition Commission;
 - (cc) an account of a consultation, discussion or deliberation that has occurred, including, but not limited to, minutes of a meeting, for the purpose of assisting to formulate a policy or take a decision in the exercise of a power or performance of a duty conferred or imposed on the Commission by law; or
 - (ii) the disclosure of which could reasonably be expected to frustrate the deliberative process of the Competition Commission by inhibiting the candid -
 - (aa) communication of an opinion, advice, report or recommendation;
 - or

- (bb) conduct of a consultation, discussion or deliberation; or
- (iii) the disclosure of which could, by premature disclosure of a policy or contemplated policy, reasonably be expected to frustrate the success of that policy.
- (e) Any other document to which a public body would be required or entitled to restrict access in terms of the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

15. Access to information

- (1) Any person, upon payment of the prescribed fee, may inspect or copy any Commission record -
 - (a) if it is not restricted information; or
 - (b) if it is restricted information, to the extent permitted, and subject to any conditions imposed, by
 - (i) this Rule; or
 - (ii) an order of the Tribunal, or the Court.
- (2) In a particular complaint the Commission may release otherwise restricted information, other than confidential information, relating to a possible agreement of terms of an appropriate order, or the consent of a complainant for an order to include an award of damages, to –
 - (a) The respondent; or
 - (b) Any person who has filed Form CT 3 in respect of that complaint.
- (3) In addition to the provisions of sub-rule (1) and (2), the Commission may release restricted information to, or permit access to it by, only the following persons:
 - (a) the person who provided that information to the Commission;

- (b) the firm to whom the confidential information belongs;
 - (c) a person who requires it for a purpose mentioned in section 69(2)(a) or (b);
 - (d) a person mentioned in section 69(2)(c);
 - (e) the Minister, if the information concerns a merger;
 - (f) the Minister of Finance, if the information concerns a merger referred to in section 18(2); or
 - (g) any other person, with the written consent of the firm to whom the information belongs.
- (4) When the Commission submits a Complaint Referral to the Tribunal, makes a recommendation to the Tribunal in respect of a large merger, or supplies any other information to the Tribunal, the Minister, or the Minister of Finance, the Commission must identify any information included in its submission –
- (a) in respect of which a claim has been made in terms of Section 44, that has not yet been determined by the Tribunal; or
 - (b) that has been finally determined to be confidential information.

Part 4 – Complaint Procedures**16. Withdrawal of complaints**

- (1) At any time before the Commission has referred a complaint to the Tribunal, the complainant may withdraw the complaint.
- (2) The Commission may continue to investigate a complaint after it has been withdrawn, as if the Commissioner had initiated it.

17. Multiple complaints

- (1) At any time after a complaint has been initiated by the Commissioner, or submitted by another person, the Commission may publish a notice disclosing an alleged prohibited practice and inviting any person who believes that the alleged practice has affected or is affecting a material interest of that person to file a complaint in respect of that matter.
- (2) The Commission may consolidate two or more complaints under a common investigation if they concern the same firm as potential respondent.
- (3) If the Commission consolidates two or more complaints as permitted by sub-rule (2)
 - (a) Each of those complaints must continue to be separately identified by its own complaint number;
 - (b) Each person who submitted one of those complaints to the Commission remains the complainant with respect to the complaint that they submitted; and
 - (c) After referring one of those consolidated complaints to the Competition Tribunal, or issuing a notice of non-referral in respect of it, the Commission may continue to investigate any of the remaining consolidated complaints, subject only to the time constraints set out in section 50.

18. Consent orders

- (1) If, at any time before issuing a Notice of Non-referral in Form CC 8, or referring a complaint to the Tribunal in Form CT 1(1), it appears to the Commission that the respondent may be prepared to agree terms of a proposed order, the Commission –
 - (a) must notify the complainant, in writing, that a consent order may be recommended to the Tribunal; and
 - (b) invite the complainant to inform the Commission in writing within 10 business days after receiving that notice –
 - (i) whether the complainant is prepared to accept damages under such an order; and
 - (ii) if so, the amount of damages claimed.
- (2) If the Commission and the respondent agree the terms of an appropriate order, the Commission must –
 - (a) refer the complaint to the Tribunal in Form CT 1(1) to be proceeded with in terms of section 49D;
 - (b) attach to the referral -
 - (i) a draft order
 - (aa) setting out the section of the Act that has been contravened;
 - (bb) setting out the terms agreed between the Commission and the respondent, including, if applicable, the amount of damages agreed between the respondent and the complainant; and
 - (cc) signed by the Commission and the respondent indicating their consent to the draft order; and
 - (ii) Form CT 3, completed by the complainant, if applicable; and

-
- (c) serve a copy of the referral and draft order on the respondent and the complainant.
 - (3) The Commission must not include an order of damages in a draft consent order unless it is supported by a completed Form CT3.
 - (4) A draft consent order may be submitted to the Tribunal in terms of section 49D and this Rule notwithstanding the refusal by a complainant to consent to including an award of damages in that draft order.

Part 5 – Exemption Procedures**19. Procedures relating to exemption applications (Section 10)**

- (1) Upon receiving an application for exemption in terms of section 10, the Commission, by issuing Form CC 10(3) to the applicant, may -
 - (a) if the application is materially incomplete, advise the applicant of any further information required before the application will be considered; or
 - (b) if the application does not specify a specific agreement, practice or category of agreements or practices, require the applicant to more specifically state the exemption sought before the application will be considered.
- (2) If the applicant
 - (a) does not respond to the Commission within 20 business days after being served with Form CC 10(3), the application will be deemed to have been abandoned by the applicant, and the filing fees paid by the applicant will be forfeited to the Commission; or
 - (b) responds to the Commission, but does not, to the satisfaction of the Commission, meet the requirements set out in the Form CC 10(3) as issued, the Commission, by issuing a new Form CC 10(3) to the applicant, may again stipulate any further information, or clarification, required before the application will be considered, and the provisions of this sub-rule (2) apply to such a new Form CC 10(3).
- (3) If an application is deemed to have been abandoned in terms of sub-rule (2), the Commission may close its file on that application without making a decision contemplated in section 10.
- (4) After receiving adequate information to begin consideration of an application, the Commission –

- (a) must publish in the Gazette the notice of the application required by section 10(6)(a), and –
- (b) may request further information from any person who submits
 - (i) an application for an exemption in terms of section 10(1) or (4), or
 - (ii) a representation in response to a notice published in terms of Section 10(6).
- (5) Upon publishing a notice in terms of section 10(7), the Commission must provide written reasons for its decision, unless the decision is a refusal in terms of section 10(2)(b)(ii) to grant an exemption.

20. Procedures concerning practices that are not prohibited

- (1) If the Commission determines that an application does not concern a prohibited practice (as contemplated by section 10(2)(b)(ii)), the following rules apply:
 - (a) The Commission must issue a notice of Refusal to Grant an Exemption, in Form CC 11(1).
 - (b) The Commission may later withdraw its notice of Refusal to Grant an Exemption, (as provided for in section 10 (9)), by –
 - (i) issuing notice in Form CC 11(3) to the applicant at least 60 business days before the withdrawal will take effect; and
 - (ii) providing the applicant with written reasons for its action.
 - (c) Between the date that the Commission issues Form CC 11(1), and the date that the subsequent notice in Form CC 11(3) takes effect, the Commission must not initiate or accept a complaint against the applicant in respect of the specific practice concerned.
 - (d) After the subsequent notice in Form CC 11(3) takes effect, the Commission must not at any time initiate or accept a complaint against the applicant

concerning anything done by the applicant during the period described in paragraph (c) above in respect of the specific practice concerned.

- (2) An applicant who has received Form CC 11(3) in terms of sub-rule (1)(b)(i) -
 - (a) must either -
 - (i) repay the annual fee that had been refunded in terms of Rule 10(3); or
 - (ii) withdraw the application; and
 - (b) if it repays the annual fee, may file up-to date information to be considered by the Commission in its reconsideration of the application, which is required by section 10(9)(b).
- (3) When the Commission reconsiders an application in terms of section 10(9)(b), the provisions of Section 10 apply.

21. Procedures related to revoking exemption certificates (Section 10)

- (1) If the Commission is contemplating revoking an exemption granted in terms of section 10(5), the Commission must advise the firm concerned, in writing, of the intention to do so, as well as publishing the notice required by Section 10(6).
- (2) The Commission may request further information from -
 - (a) the firm concerned, or
 - (b) any person who submits a representation in response to a notice published in terms of section 10(6).
- (3) After considering any submissions or other information received in relation to the proposed revocation, the Commission must -
 - (a) either revoke the exemption by issuing to the firm concerned a Notice of Revocation in Form CC 12(1), or confirm the exemption as previously granted, in writing to that applicant; and

- (b) give written reasons for its decision, as well as publishing the notice required by section 10(7).

22. Procedures relating to exemption applications (Schedule 1)

- (1) The Commission may request further information from any person who submits
 - (a) an application for an exemption in terms of item 1 of Schedule 1; or
 - (b) a representation in response to a notice published in terms of item 3 of Schedule 1.
- (2) Rule 19 (1) – (3), read with the changes required by context, applies to the consideration of an application for exemption in terms of Schedule 1.

23. Procedures related to revoking exemption certificates (Schedule 1)

- (1) If the Commission is contemplating revoking an exemption granted in terms of Schedule 1, the Commission, in addition to the requirements of item 5 of that Schedule, must advise the professional association concerned, in writing, of the intention to do so.
- (2) The Commission may request further information from –
 - (a) the professional association; or
 - (b) any person who submits a representation in response to a notice published in terms of item 5 of Schedule 1.
- (3) After considering any submissions or other information received in relation to the proposed revocation, and consulting with the responsible Minister or member of the Executive Council, the Commission must –
 - (a) either revoke the exemption by issuing to the professional association concerned a Notice of Revocation of Exemption in Form CC 12(2), or confirm the exemption as previously granted to the association, in writing;
 - (b) give written reasons for its decision; and
 - (c) publish a notice of that decision in the Gazette.

Part 6 - Merger Procedures**24. Review period and extensions**

- (1) In this Part, "Initial Period" means the 20 business day period allowed by section 13(5)(a), or section 14(1)(a), for the consideration of a small or intermediate merger, and the 40 business day period allowed by section 14A(1)(b) for the consideration of a large merger.
- (2) For each merger, the Initial Period begins on the date determined in accordance with Rule 29.
- (3) An extension of time, whether granted by the Commission in terms of section 13(5)(a) or 14(1)(a), or deemed to have been granted by the Commission in terms of Rule 34(2)(a), or granted to the Commission by the Tribunal in terms of section 14A(2), begins –
 - (a) on the business day following the date on which the Initial Period expires, or
 - (b) in the case of a second or subsequent extension granted in terms of section 14A(2), on the business day following the date on which the previous extension expires.
- (4) For each merger, the Initial Period, and any extension, once begun, continues without interruption for any reason, other than the issuance of a Demand for Corrected Information in Form CC 13 (4), and then only to the extent allowed by Rule 32.

25. Small merger notification

- (1) The Commission may require the parties to a small merger to notify the Commission of that merger in terms of section 13(3), by serving Form CC 9 on the parties to the merger.
- (2) The parties to a small merger must fulfil the notification requirements set out in this Part within 20 business days after receiving Form CC 9.

- (3) If a small merger has already been implemented before the Commission serves Form CC 9, the Commission will have complied with sub-rule (1) when it has served Form CC 9 on the Primary Acquiring Firm.
- (4) Rules 26 – 34 apply to the notification of a small merger, whether that notification is voluntary in terms of section 13(2), or in response to Form CC 9.

26. General merger notification requirements

- (1) Parties to a merger must notify the Commission of that merger –
 - (a) by filing a joint notification in terms of Rule 27, or
 - (b) if permitted by order of the Commission, by filing separately in terms of Rule 28.
- (2) If, given the nature of a particular transaction, a firm is both a primary target firm and a primary acquiring firm, that firm, before filing a Merger Notice, may request the Commission to issue directions as to how, in the context of the transaction, to calculate the filing fee and apply the threshold calculation.
- (3) Within 5 business days after receiving a direction in terms of sub-rule (2), a firm concerned may apply to the Tribunal to reconsider the direction of the Commission with respect to the calculation of the filing fee, or the application of the threshold calculation.

27. Joint merger notification

- (1) A joint merger notification must be made in a single filing by one of the primary firms, and must include:
 - (a) a Merger Notice in Form CC 4 (1), which must declare whether, in the opinion of the filing firm, the merger is small, intermediate or large;
 - (b) for each of the Primary Acquiring Firm and the Primary Target Firm, a Statement of Merger Information in Form CC 4 (2), which in each case -

- (i) satisfies all the filing instructions set out in that Form, and
 - (ii) has attached to it all the documents required by those instructions;
 - (c) if the merger as declared on the Merger Notice is an intermediate or large merger, proof of service of a copy of the Merger Notice as required in terms of section 13A(2); and
 - (d) the prescribed merger notice fee, in the appropriate amount for the merger as declared on the Merger Notice, subject to sub-rule (2).
- (2) The prescribed merger notice fee may be paid separately from the remaining items required under sub-rule (1), but must be received by the Commission on or before the date of filing of those items.
- (3) In respect of a merger that is jointly notified, the merger notification requirements of every firm that is a party to the merger will have been fulfilled, when a primary firm has fulfilled the notification requirements set out in Rule 27, subject to –
- (a) any Notice of Incomplete Filing in Form CC 13(2) issued to it by the Commission in terms of Rule 30, and either not appealed or confirmed on appeal; or
 - (b) any Demand for Corrected Information in Form CC 13(4) issued to it by the Commission in terms of Rule 32, and either not appealed or confirmed on appeal.

28. Separate merger notification

- (1) A primary firm may apply to the Commission for permission to file separate notification of a merger and, on considering an application under this sub-rule, the Commission –
- (a) may allow separate filing if it is reasonable and just to do so in the circumstances;

- (b) may give appropriate directions to give effect to the requirements of the Act and in particular, specifying which primary firm must satisfy which of the requirements set out in Rule 27; and
 - (c) in an appropriate case, may further permit the applicant to file any document on behalf of the other primary firm.
- (2) A primary firm may apply to the Commission for an order on good cause shown allowing it to file any document on behalf of the other primary firm, if that other primary firm has failed within 10 business days to file -
 - (a) a document that the Commission or the Tribunal has ordered it to file; or-
 - (b) any other document or additional information required by the Commission in terms of this Part.
- (3) If a primary firm files a Statement of Merger Information on behalf of the other primary firm, the firm that files that Statement is not required to file proof of service of a copy of that statement on the other primary firm.
- (4) In respect of a merger that is separately notified, the merger notification requirements of each firm will have been fulfilled when the notification requirements of their respective primary firms, as ordered by the Commission, have been fulfilled, subject to -
 - (a) any Notice of Incomplete Filing in Form CC 13(2) issued to it by the Commission in terms of Rule 30, and either not appealed or confirmed on appeal; or
 - (b) any Demand for Corrected Information in Form CC 13(4) issued to it by the Commission in terms of Rule 32, and either not appealed or confirmed on appeal.

29. Commencement of Initial Period

- (1) The Initial Period for a merger begins on the business day following the date on which a merger notification was filed unless –
 - (a) the Commission issues Form CC 13(2) to the filing firm within the time allowed by Rule 30; and
 - (b) either the filing firm does not appeal against that form, or the Tribunal, on hearing an appeal, does not set aside the form entirely.
- (2) If the Commission issues Form CC 13(2), and it is not set aside entirely by the Tribunal, the Initial Period for the merger begins on the business day following the date on which the filing firm subsequently files documents in response to Form CC 13(2), if as a result of that filing, the Commission subsequently issues, or is deemed to have issued, a Notice of Complete Filing in Form CC 13 (1).

30. Review of notification

- (1) Within 5 business days after receiving a Merger Notice filed in respect of a merger declared to be a large merger, or within 10 business days after receiving a Merger Notice filed in respect of any other merger, the Commission must deliver to the filing firm either –
 - (a) a Notice of Complete Filing in Form CC 13 (1); or
 - (b) a Notice of Incomplete Filing in Form CC 13 (2).
- (2) The Competition Commission must issue Form CC 13 (1) in terms of sub-rule (1) if -
 - (a) the merger appears to fall within the jurisdiction of the Act;
 - (b) the declared category appears to be correct; and
 - (c) in the case of -

- (i) a merger notified jointly, all the requirements set out in Rule 27 have been satisfied,
 - (ii) a merger notified separately, all the requirements set out by order of the Commission in terms of Rule 28 have been satisfied;
 - (iii) a subsequent filing by a firm in response to Form CC 13(2), all the requirements set out in that Form have been satisfied; or
 - (iv) a subsequent filing by a firm in response to an order of the Tribunal in terms of sub-rule (4), all the requirements set out in that order have been satisfied.
- (3) The Commission may issue Form CC 13(2) if after a filing of a merger notice, or other information, the merger file does not meet the applicable criteria set out in sub-rule (2).
- (4) Within 5 business days after receiving Form CC 13 (2), the firm concerned may appeal to the Tribunal for an order setting aside any requirement set out in that form.
- (5) Upon hearing an appeal in terms of sub-rule (4), the Tribunal may make an order—
 - (a) Setting aside Form 13(2) entirely;
 - (b) Confirming any or all of the requirements set out in Form CC 13(2);
 - (c) Substituting other requirements for any of the requirements set out in Form CC 13(2); and
 - (d) Combining any or all of the requirements set out in Form 13(2) with additional or substitute requirements.
- (6) If the Commission does not issue either Form CC 13(1) or Form CC 13(2) within the time allowed by sub-rule (1), or if the Tribunal sets aside all requirements set out by the Commission in Form CC 13(2), the Commission will be deemed to have issued Form CC 13(1) to the filing firm -
 - (a) as of the date on which the last material was filed; and

- (b) subject to further review and subsequent notice in terms of Rule 31 or 32.
- (7) Sub-rules (1) - (6), read with the changes required by context, apply to a subsequent filing by any party to the merger in response to -
 - (a) a notice issued to it in Form CC 13(2); or
 - (b) an order of the Tribunal in terms of sub-rule (4).

31. Request for additional information

- (1) At any time during a merger investigation, the Commission may -
 - (a) informally request additional information from a party to a merger; and
 - (b) require a party to a merger to provide additional information, at any time, as provided in section 13B(2), by serving on the party a demand in Form CC 13(3), setting out the specific information that the Commission requires.
- (2) A request or demand for information in terms of this Rule does not -
 - (a) delay the beginning of the Initial Period; or
 - (b) suspend the Initial Period or any extension.

32. Apparently False or Misleading Information

- (1) If, at any time, the Commission believes that a document filed in respect of a merger contains false or misleading information, the Commission may issue a Demand for Corrected Information in Form CC 13(4) to the firm that filed that document.
- (2) Within 5 business days after being served with a Demand for Corrected Information, the firm concerned may appeal to the Tribunal for an order confirming or setting aside the Demand.

- (3) If a firm does not appeal a Demand for Corrected Information within the time allowed by sub-rule (1), or if the Tribunal, on hearing the appeal, confirms the demand in whole or in part,
 - (a) the firm concerned must file corrected information;
 - (b) even if the Initial Period or an extension had already begun, the parties to the merger will not have fulfilled their notification requirements until that corrected information has been filed to the satisfaction of the Commission; and
 - (c) the Initial Period for that merger begins anew on the day following the date on which the party concerned files replacing information to the satisfaction of the Commission.
- (4) If the Tribunal, on hearing an application in terms of sub-rule (2), sets aside the Demand entirely, the Demand is a nullity, and the fact that it was issued does not
 - (a) delay the beginning of the Initial Period; or
 - (b) suspend the Initial Period or any extension.

33. Questions of jurisdiction and categories

- (1) If the Commission has indicated on Form CC 13(2) that a merger appears to fall outside the jurisdiction of the Act -
 - (a) the Commission must -
 - (i) refund the filing fee to the firm that paid it;
 - (ii) return the Merger Notice to the primary firm that submitted it; and
 - (iii) send a copy of Form CC 13(2) to -
 - (aa) the other primary firm if the filing was in terms of Rule 29; and

- (bb) each person identified in the Merger Notice as being entitled to receive a copy of the Merger Notice in terms of section 13A(2); and
 - (b) no party to that merger is required to file any further documents concerning that merger.
- (2) If the Commission has indicated on Form CC 13(1) or CC13(2), as the case may be, that the merger appears to fall within the jurisdiction of the Act, the Commission must –
- (a) send a copy of the Merger Notice and accompanying Statement of Merger Information to the Minister;
 - (b) if it appears to be a large merger, send a copy of the Merger Notice to the Tribunal.
- (3) Within 5 business days after receiving Form CC 13(1) or Form CC 13(2), as the case may be, the firm concerned may appeal to the Tribunal for an order setting aside the opinion of the Commission –
- (a) that the merger is within the jurisdiction of the Act; or
 - (b) in the case of Form CC 13(2), that the merger falls within a particular category other than that declared on the Merger Notice.
- (4) If, upon hearing an appeal in terms of sub-rule (2) –
- (a) the Tribunal sets aside the opinion of the Commission that the merger is within the jurisdiction of the Act, the provisions of sub-rule (1) apply; or
 - (b) the Tribunal sets aside the opinion of the Commission that the merger falls within a particular category other than that declared on the Merger Notice, the opinion of the Commission is a nullity.
- (5) If, within the time allowed by sub-rule (4), a firm does not appeal against the opinion of the Commission that the merger falls within a particular category other than that declared on the Merger Notice, or if the Tribunal, on hearing the appeal, confirms the

Commission's opinion one of the primary parties must pay to the Commission the difference between --

- (a) the appropriate filing fee for the category determined by the Commission; and
 - (b) the filing fee previously paid in respect of the merger.
- (6) The Initial Period for a merger referred to in this Rule begins -
- (a) On the date following the day that the merger notice was filed if, following the order of the Tribunal, there are no outstanding notification requirements, and
 - (i) The application to the Tribunal concerned only a matter of the jurisdiction of the Act,
 - (ii) The Tribunal set aside the Commission's category determination, or
 - (iii) The Tribunal upheld the Commission's category determination and one of the firms concerned paid the amount required in terms of sub-rule (5) within 5 business days after the Tribunal makes its order; or
 - (b) In any case, on the date determined in accordance with Rule 29(2).

34. Abandonment of merger

- (1) The primary acquiring firm may notify the Commission in Form CC 6 that it has abandoned the intended merger transaction and has no intention to implement it.
- (2) Upon the filing of Form CC 6 -
 - (a) the parties to the merger are in the same position as if the merger had never been notified; and
 - (b) the filing fee paid in respect of that merger is forfeited to the Commission, unless the party that paid the fee applies within 10 business days to the Tribunal for a remission of the fee, and the Tribunal, on good cause shown, orders the Commission to refund all or part of the fee.

35. Participation by Minister in Commission merger proceedings

- (1) If the Minister decides to participate in any intermediate or large merger proceedings before the Commission, the Minister must file a Minister's Notice of Intention to Participate in Form CC 5(2) within 10 days after receiving a copy of the Merger Notice from the Commission.
- (2) Upon receipt of a Minister's Notice of Intention to Participate in terms of sub-rule (1), the Commission -
 - (a) in the case of an intermediate merger, is deemed to have issued an extension certificate for 40 business days in terms of section 14(1)(a);
 - (b) must deliver a copy of the Minister's Notice of Intention to Participate to the primary acquiring firm and the primary target firm; and
 - (c) must deliver to the Minister a copy of all documents filed in connection with the merger, up to the day on which the Minister's Notice of Intention to Participate was filed.
- (3) The Commission must deliver to the Minister any document that is filed in connection with a merger after the Minister's Notice of Intention to Participate was filed.
- (4) The Minister may file a concise statement of the public interest grounds on which the Minister relies in respect of a particular intermediate merger, and a statement of the decision, if any that the Minister prefers, at any time between -
 - (a) The date on which the Minister filed a Notice of Intention to Participate; and
 - (b) 10 business days after receiving advice from the Commission in terms of sub-rule (5), if applicable.
- (5) If, in respect of a particular merger the Minister has filed a Notice of Intention to Participate, but has not yet filed a statement in terms of sub-rule (4), the Commission must advise the Minister in writing at the time that it is prepared to make a decision in terms of section 13, 14 or 14A.

- (6) Upon receiving a concise statement from the Minister in terms of sub-rule (4), the Commission must serve a copy of the statement on each other participant in those proceedings, and each participant may file a written response to the statement within 5 business days after it has been served on them.

36. Minister of Finance intervention

- (1) The Commission must send to the Minister of Finance a copy of the Merger Notice, and all other documents filed in respect of a merger, if the merger meets the criteria set out in section 18(2)(a).
- (2) The Minister of Finance may issue a notice to the Commission in terms of section 18(2)(b) by filing Form CC 5(3) at any time between –
 - (a) The date on which the Commission sends a notice in terms of Sub-Rule (1); and
 - (b) 10 business days after receiving advice from the Commission in terms of sub-rule (3), if applicable.
- (3) If, in respect of a particular merger the Minister of Finance has received a notice in terms of Sub-rule (1), but has not yet issued a notice in terms of sub-rule (2), the Commission must advise the Minister of Finance in writing at the time that it is prepared to make a decision in terms of section 13, 14 or 14A.
- (4) Upon receiving a notice from the Minister of Finance in terms of sub-rule (2), the Commission must –
 - (a) serve a copy of the notice on the Tribunal and each other participant in those proceedings; and
 - (b) refund the filing fee to the firm that paid it.

37. Trade Union or employee participation

A person who receives a notice in terms of section 13A(2) may notify the Commission of its desire to participate in Merger proceedings by filing Form CC 5(1) within 5 business days after the date on which that person received the notice.

38. Small and intermediate merger procedures

- (1) If the Commission extends, or is deemed to have extended, the time period for considering a small or intermediate merger, it must issue a copy of the Extension Certificate in Form CC 14 to the firm that filed the merger notification.
- (2) If the Commission is deemed to have approved a merger in terms of section 13(6), or section 14(2), the Commission must –
 - (a) issue a Clearance Certificate, in Form CC 15, to the firm that filed the merger notification; and
 - (b) publish a notice of that approval in the Gazette.
- (3) After completing its investigation and consideration of a small or intermediate merger, the Commission must –
 - (a) issue, in terms of section 13 (5) or 14(1)(b), either a Clearance Certificate in Form CC 15, or a Notice of Prohibition in Form CC 16, to the firm that filed the Merger Notice; and
 - (b) at the same time, make available to each participant a copy of its reasons for decision, if required to issue reasons for decision by section 13 (7) or 14 (3); and
 - (c) publish a notice of its decision in the Gazette, as required by section 13(7) or 14(3).

39. Breach of merger approval conditions or obligations

- (1) If a firm appears to have breached an obligation that was part of an approval or conditional approval of its merger, the Commission must deliver to that firm a Notice of Apparent Breach in Form CC 19, before taking any action –
 - (a) in terms of section 15(1)(c) to revoke that approval or conditional approval; or
 - (b) in terms of section 59 or 60.
- (2) Within 10 business days after receiving a Notice of Apparent Breach, a firm referred to in sub-rule (1) may –
 - (a) submit to the Commission a plan to remedy the breach; or
 - (b) request the Competition Tribunal to review the Notice of Apparent Breach on the grounds that the firm has substantially complied with its obligations with respect to the approval or conditional approval of the merger.
- (3) If a firm submits a plan to the Commission in terms of sub-rule (2)(a), the Commission may either-
 - (a) accept the proposed plan; or
 - (b) reject the proposed plan, and invite the firm to consult with the Commission concerning the apparent breach, with the aim of establishing a plan satisfactory to the Commission by which all of the firm's obligations with respect to the approval or conditional approval may be satisfied.
- (4) If the Commission accepts a proposed plan, in terms of either sub-rule (3)(a) or (b), the Commission must monitor the firm's compliance with the plan.
- (5) The Commission may act in terms of section 15(1) to revoke the approval or conditional approval of a merger referred to in sub-rule (1), or in terms of section 59 or 60, only if –
 - (a) the firm concerned does not respond to the Notice of Apparent Breach within 10 business days after receiving it, in the manner anticipated in sub-rule (2);

- (b) the firm concerned does not agree to meet, or fails to meet as agreed, with the Commission, as required by sub-rule (3)(b);
- (c) the firm and the Commission are unable to agree a plan as contemplated in sub-rule (3)(b);
- (d) the firm acts in a manner calculated to frustrate the Commission's efforts to monitor compliance with a plan, as required by sub-rule (4); or
- (e) the firm fails to employ its best efforts to substantially comply with a plan established in terms of sub-rule (3).

40. Revocation of approval of small or intermediate merger

- (1) If the Commission is contemplating revoking its own decision to approve or conditionally approve a merger in terms of section 15(1), the Commission must –
 - (a) if the proposed revocation is based on section 15(1)(c), comply with Rule 39 before taking any further steps in terms of this Rule; and
 - (b) in any case -
 - (i) advise any firm concerned, in writing, of the intention to do so; and
 - (ii) publish a notice of the proposed revocation in the Gazette.
- (2) The Commission may request further information from any person who submits a representation in response to a notice published in terms of sub-rule (1)(b).
- (3) After considering any submissions or other information received in relation to the proposed revocation, the Commission must –
 - (a) either -
 - (i) confirm the approval or conditional approval, as the case may be, in writing, or

- (ii) revoke it by issuing a Notice of Revocation of Merger Decision in Form CC 18 to the firm that filed the merger notification; and
- (b) publish a notice of that decision in the Gazette.
- (4) Within 10 business days after receiving a Notice of Revocation of Merger Decision in terms of sub-rule (3), the firm concerned may request the Competition Tribunal to appeal against the notice on the grounds that there is no factual basis in terms of section 15(1) for the approval or conditional approval to be revoked.
- (5) If no appeal is brought in terms of sub-rule (4), or if the Competition Tribunal upholds the Notice of Revocation of Merger Decision, the effect of that notice is –
 - (a) the Certificate of approval or conditional approval in respect of the relevant merger is deemed to have been rejected as of the date of that Certificate;
 - (b) each party to the merger is, for all purposes of the Act, in the same position as if they had never notified the Commission of that merger; and
 - (c) the Commission may further consider that merger only if the primary acquiring firm subsequently files a new Merger Notice with respect to it; and
 - (d) if a new Merger Notice is subsequently filed in respect of that merger, the Commission must consider that merger on the basis of that new notice without reference to any previous notice filed in respect of it.

41. Large mergers

- (1) The Commission must submit a recommendation in Form CC 17 in respect of a large merger, with reasons for that recommendation, to the Tribunal and the Minister within -
 - (a) 40 business days after receiving the Merger Notice; or
 - (b) a longer period established by the Tribunal for that merger in terms of section 14A(2).
- (2) The Commission must deliver a copy of its recommendation and reasons to the firm that filed the merger notification, and to any other person, if required to do so in terms of an order made in terms of Rule 28.

COMPETITION COMMISSION RULES

REGULATING THE FUNCTIONS OF THE COMPETITION COMMISSION

Annexure 1 - Tables

Table CCR 1 – Methods and times for delivery of Documents

Nature of Person	Method of Delivery	Date and Time of Deemed delivery
ANY PERSON	By faxing the notice or a certified copy of the document to the person, if the person has a fax number; or	On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a copy of the document by electronic mail, if the person has an address for receiving electronic mail; or	On the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a certified copy of the document by registered post to the person's last-known address; or	On the 7 th day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.

	If the person is a participant in any proceedings of the Commission, and is represented by a representative, by delivering the notice, or handing a certified copy of the document to that representative; or	On the date and at the time recorded on a receipt for the delivery.
	By any other means authorised by the Tribunal; or	In accordance with the order of the Tribunal.
	By any other method allowed for that person in terms of the following rows of this Table.	As provided for that method of delivery.
ANY NATURAL PERSON	By handing the notice or a certified copy of the document to the person, or to any representative authorised in writing to accept service on behalf of the person; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time; or	On the date and at the time recorded on a receipt for the delivery.

	By leaving the notice or a certified copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
THE COMMISSION	By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Commission, if the document is a prescribed form; or	On the date and at the time recorded by the Commission's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the Commission; or	On the date and at the time recorded by the Commission's computer system, unless, within 1 business day after that date, the Commission advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the Commission; or	On the date and at the time of delivery of the registered post to the Commission, as recorded by the post office, unless, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.

	By handing the document, or a computer disk containing the document in electronic form, to the Commissioner, or a responsible employee who is apparently in charge of the Commission's office.	On the date and at the time noted in a receipt issued by the Commissioner. unless, the document is on a computer disk, and, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
A COMPANY OR SIMILAR BODY CORPORATE	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within the Republic; or	On the date and at the time recorded on a receipt for the delivery.
	If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A TRADE UNION	By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union or for the purposes of section 13(2), if there is a union office within the magisterial district of the firm required to notify its employees in terms of these Rules, at that office.	On the date and at the time recorded on a receipt for the delivery.

	If there is no person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
EMPLOYEES OF FIRM	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A PARTNERSHIP, FIRM OR ASSOCIATION	By handing the notice or a certified copy of the document to a person who is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of the partnership, firm or association; or	On the date and at the time recorded on a receipt for the delivery.
	If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairman or secretary of the managing or other controlling body of the association, as the case may be.	On the date and at the time recorded on a receipt for the delivery.

A MUNICIPALITY	By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any person acting on behalf of that person.	On the date and at the time recorded on a receipt for the delivery.
A STATUTORY BODY OTHER THAN THE COMMISSION	By handing the notice or a certified copy of the document to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body.	On the date and at the time recorded on a receipt for the delivery.
THE STATE OR A PROVINCE	By handing the notice or a certified copy of the document to a responsible employee in any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.

Table CCR 2 – Notices and Applications

Section #	Purpose of notice or Application	Form #	Conditions
49B	Complaint	CC 1	
10(1)	Application for Exemption from Chapter 2	CC 3 (1)	Payment of a filing fee.
10(4)	Application for Exemption re: intellectual Property for Professional Association Rules	CC 3 (2)	Payment of a filing fee.
Schedule 1	Application for Exemption re: Professional Association Rules	CC 3 (3)	Payment of a filing fee.
13 and 13A	Merger Notice	CC 4 (1)	Payment of a filing fee calculated in accordance with Rule 10(5). Must have Form CC 4(2) (Statement of Merger Information) attached.
13 and 13A	Statement of Merger Information	CC 4 (2)	Must be filed by one of the Primary firms involved in the merger.
Rule 37	Notice of Intention to Participate [13(2)]	CC 5 (1)	

s.18;Rule 35	Minister's Notice of Intention to Participate	CC 5(2)	
s. 18(2)	Minister of Finance Certificate	CC 5(3)	
Rule 34	Notice of Abandoned Merger	CC 6	
44	Claim that information is confidential	CC 7	Must be filed with the information to which it relates.

Table CCR 3 – Certificates and Notices of Referral

Section #	Purpose of Certificate or Notice	Form #	Conditions
50	Notice of Non-referral of Complaint	CC 8	
13(3)	Notice to report a Small Merger	CC 9	
10	Exemption Certificate (Chapter 2)	CC 10 (1)	
Schedule 1	Exemption Certificate (Schedule 1)	CC 10 (2)	
Rule 19	Request for Further Particulars (Chapter 2)	CC 10(3)	
Rule 22	Request for Further Particulars (Schedule 1)	CC 10(4)	
10	Notice of refusal to grant exemption (Chapter 2)	CC 11 (1)	
Schedule 1	Rejection of Application (Schedule 1)	CC 11 (2)	
10	Withdrawal of Notice 11(1)	CC 11(3)	
10	Notice of Revocation (of Chapter 2 Exemption Certificate)	CC 12 (1)	

Rules 39, 40	Notice of Apparent Breach	CC 19	
49A	Commission Summons	CC 20	
49	Receipt for items removed during search	CC 21	Must be distinctively numbered and produced in duplicate.
24	Appointment of Inspector	CC 22	May be supplemented by a card in a smaller size.

Schedule 1	Notice of Revocation (of Schedule 1 Exemption Certificate)	CC 12 (2)	
Rule 30	Notice of Complete Filing	CC 13(1)	
Rule 30	Notice of Incomplete Filing	CC 13(2)	
13B(2); Rule 31	Demand for Additional Merger Information	CC 13(3)	
Rule 32	Demand for Corrected Information	CC 13(4)	
14	Extension Certificate	CC 14	
14	Merger Clearance Certificate	CC 15	May be used either with or without conditions.
14	Notice of Prohibition of Merger	CC 16	
14A	Referral of Large Merger to Minister and Tribunal, with recommendation	CC 17	
15	Notice of Revocation of Merger Decision	CC 18	



competition commission south africa

Form CC 1

Complaint

About this Form

- This Form is issued in terms of section 49B of the Competition Act.
- This Form must be completed to the best of your ability, and submitted to the Competition Commission for consideration of your complaint.
- If this complaint is lodged by a person other than an individual, please provide contact details of the person authorised to discuss the complaint.
- This form is a public record. However, the attached description of conduct, and other information relating to this complaint is not part of the public record unless the Commission refers the complaint to the Competition Tribunal. You have a right to identify information that you believe is confidential by completing Form CC7 and submitting it with this Form.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

To: The Competition Commission

From:

(Name of person submitting complaint:)

Concerning:

(Name of person whose conduct is the subject of this complaint:)

Description of the complaint:

(Provide a concise statement of the conduct that is the subject of this complaint:)

Please attach to this form any relevant documents, as well as a typed statement describing the conduct that is the subject of this complaint, including

- the names of each party involved in the conduct;
- the dates on which the conduct occurred;
- a statement indicating when and how you became aware of the conduct, and
- any other information you consider relevant.

Is the conduct continuing? Yes No

If not, when did the conduct end? _____

Name and Title of person authorised to sign:

Authorised Signature:

Date:

**For Office
Use Only:**

Commission file number:

Date filed:



competition commission south africa

Form CC3(1)

About this Form

- This form is issued in terms of section 10(1) of the Competition Act.
- If this application is on behalf of a firm, insert the name of the firm in the box to the right.
- This application must be accompanied by a typed statement of particulars listed in points 1 - 6, and a certified copy of the agreement if applicable, and must be signed by a person authorised by the applicant.
- Generally, information relating to this application is part of the public record. You have a right to identify information that you believe is confidential by completing Form CC7 and submitting it with this application.
- An exemption or conditional exemption may be revoked if it is subsequently discovered that information provided by the applicant is incorrect. Please refer to s. 10(5) of the Act.
- Please see page 2

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Application for Exemption (Section 10(1))

To: The Competition Commission

From:

(Name of Applicant:)

We apply in terms of section 10(1) of the Competition Act for an exemption from the application of Chapter 2 of the Act for:

- a single agreement a category of agreements
 a single practice a category of practices

as described in the attached document..

We seek an exemption for a period of _____ years.

In respect of this matter, has a previous exemption been:

- granted ? Yes No
 refused ? Yes No

If you answered "yes" to either question above, please provide the case number for the previous exemption application. _____

Name and Title of person authorised to sign:

Authorised Signature:

Date:

**For Office
Use Only:**

Commission file number:

Date filed:



competition commission **south africa**

Form CC3(1)

Page 2

About this Form

The following information must be included in your description of the agreement or practice for which you seek an exemption.

1. Your address in South Africa for service of documents.
2. A short description of your business.
3. A brief description of the agreement or practice which you seek to have exempted from the application of Chapter 2, and, if an agreement has already been made, its date.
4. The names and addresses of other parties to that agreement or practice.
5. The objective in terms of s.10(3) of the Act on which you rely.
6. The facts and contentions on which you rely.
7. The sections of the Act that you believe may be contravened by the agreement, practice, or category of agreements or practices you have described, and a motivation for that belief.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za



competition commission south africa

Form CC3(2)

About this Form

- This form is issued in terms of section 10(4) of the Competition Act.
- If this application is on behalf of a firm, insert the name of the firm in the box to the right.
- This application must be accompanied by a typed statement of particulars listed in points 1 - 6, and a certified copy of the agreement if applicable, and must be signed by a person authorised by the applicant.
- Generally, information relating to this application is part of the public record. You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this application.
- An exemption or conditional exemption may be revoked if it is subsequently discovered that information provided by the applicant is incorrect. Please refer to s. 10(5) of the Act.

• Please see Page 2.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Application for Exemption (Section 10(4), Intellectual Property)

To: The Competition Commission

From:

(Name of Applicant:)

We apply in terms of section 10(4) of the Competition Act for an exemption from the application of Chapter 2 of the Act for:

- a single agreement a category of agreements
 a single practice a category of practices

as described in the attached document.

We seek an exemption for a period of _____ years.

In respect of this matter, has a previous exemption been:

- granted? Yes No
refused? Yes No

If you answered "yes" to either question above, please provide the case number for the previous exemption application. _____

Name and Title of person authorised to sign:

Authorised Signature:

Date:

For Office
Use Only:

Commission file number:

Date filed:



competition commission **south africa**

Form CC3(2)

About this Form

The following information must be included in your description of the agreement or practice for which you seek an exemption.

1. Your address in South Africa for service of documents.
2. A short description of your business.
3. A brief description of the agreement or practice which you seek to have exempted from the application of Chapter 2, and, if an agreement has already been made, its date.
4. The names and addresses of other parties to that agreement or practice.
5. A brief description of the intellectual property right exercised.
6. The facts and contentions on which you rely.
7. The sections of the Act that you believe may be contravened by the agreement, practice, or category of agreements or practices you have described, and a motivation for that belief.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za



competition commission south africa

Form CC 3 (3)

About this Form

- This form is issued in terms of Schedule 1 of the Competition Act.
- Generally, information relating to this application is part of the public record. You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this application.
- Please check the appropriate boxes.
- If the applicant association is registered, attach a copy of the registration certificate, or other comparable proof of registration.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Application for Exemption (Schedule 1)

To: The Competition Commission

From:

(Name of Applicant Association:)

We apply in terms of Schedule 1 of the Competition Act to exempt the professional rules of the applicant association from the provisions of Part A of Chapter 2 of the Act.

This profession is registered is not registered
in terms of a particular Act. *(Insert name of Act)*

We seek an exemption for a period of _____ years.

The exemption is required in order to maintain

Professional Standards the orderly function of the profession

as motivated in the attached document, which also sets out:

1. Our address in South Africa for service of documents.
2. The facts and contentions on which we rely.
3. The sections of the Act which we believe our rules may contravene, and a motivation for that belief.

Name of Minister or MEC referred to in item 3(c) of Schedule 1:

Authorised Signature:

Date:

**For Office
Use Only:**

Commission file number:

Date filed:



competition commission south africa

Form CC 4(1)

About this Form

- This Form is issued in terms of sections 13 and 13A of the Competition Act.
- Two copies of this form, and Schedule 1 and 2 as noted, together with a completed Statement of Merger Information in Form CC4(2), must be filed in accordance with Competition Commission Rules 26 - 28.
- Complete and sign the Statement of Accuracy on page 2.
- Parties to an intermediate or large merger must not implement that merger until they have received a certificate of approval, or conditional approval, in terms of the Competition Act.

(Instructions continued on page 2.)

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Merger Notice

To: the Competition Commission

From:

(Name, address and contact numbers of firm reporting the merger:)

Please take notice of a

small intermediate large

merger, as defined in section 12 of the Competition Act, involving the reporting firm as :

the primary acquiring firm the primary target firm

and involving _____ as

the primary acquiring firm the primary target firm.

Schedule 1

The names and principal address of all other acquiring or target firms as defined in the Competition Act, and of all trade union, or employee representatives of the primary acquiring and primary target firms, are listed on Schedule 1 to this Notice.

Schedule 2

A Summary of the effect of the proposed merger on employment, is attached as Schedule 2 to this Notice.

Particulars of the merger are set out in the attached Statement of Merger Information, which forms part of this Notice.

Notices and other documents concerning this merger may be served on the following person at the address and contact number shown:

For Office Use Only: Commission file number: _____ Date filed: _____

Instructions Continued:

- If any required information is not available, you must attach a sworn affidavit explaining why that information is unavailable.
- A party to a merger who does not file a notice of that merger as required by the Competition Act may be fined an administrative penalty of up to 10% of the party's annual turnover in the Republic, or be made subject to an order of divestiture.
- Approval, or conditional approval, of a merger may be revoked if it is subsequently discovered that this Notice does not provide correct and complete information.

Form CC4(1) - Page 2

(Name and file number of merger:)

Certification of Accuracy:

I, _____, have prepared, or supervised those who prepared, this Statement of Merger Information.

To the best of my knowledge, the information contained in this document, and the attachments to it, is true, correct and complete in terms of the Competition Act and Competition Commission Rules, except to the extent that I have indicated -

- (a) that requested data is not available in books or records, and reasonable estimates have been used instead; or
- (b) complete information has not been provided because it is unavailable, in which case I have attached a affidavit sworn by me, explaining why the information is unavailable.

I understand -

- (a) that it is an offence in terms of the Competition Act to provide false information to the Competition Commission in any manner, including in these documents; and
- (b) that sections 73 and 74 of the Competition Act provide for a penalty of a fine, or imprisonment, or both, if I am found guilty of knowingly providing false information to the Competition Commission.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

For Office Use Only:

Commission file number:

Date filed:



competition commission south africa

Form CC 4(2)

Statement of Merger Information

Instructions

- This Form is issued in terms of sections 13 and 13A of the Competition Act, and must be filed in accordance with Commission Rules 26 - 28.
- Attach to this Form the following items:
 - Schedules 3 - 7 inclusive as noted in the form.
 - The most recent version of all documents constituting the merger agreement.
 - Each report or other document assessing the transaction with respect to competitive conditions.
 - Any document, including minutes, reports, presentations and summaries, prepared for the Board of Directors regarding the transaction.
 - Your most recent annual report.
 - Your most recent business plan.
 - The most recent report you provided the Securities Regulation Panel during the past year.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

To: The Competition Commission

From:

(Name of firm filing this Statement:)

The firm filing this statement is:

- The Primary Acquiring Firm
- The Primary Target Firm

Schedule 3 - Identification

On a separate document, titled Schedule 3, provide the following information in the order listed in Items 1 - 8.

1. State the name and principal business address of the party filing this Notice.
2. State the name and principal business address of all firms directly or indirectly controlling you.
3. List the name and principal business address of each firm directly or indirectly controlled by each firm referred to in item 2.
4. List the name and principal business address of each firm you directly or indirectly control.
5. If you are an acquiring party, and you or any of the firms controlling you are owned or controlled by a member of a historically disadvantaged group as defined in Section 3(2) of the Competition Act, state the name(s) of the person(s) and the nature and extent of their ownership or control.

**For Office
Use Only:**

Commission file number:

Date filed:

This form is prescribed by the Minister of Trade and Industry in terms of section 21 (4) of the Competition Act 1998 (Act No. 89 of 1998).

Form CC 4(2) Page 2

- Until the Commission has reached a decision concerning the merger, you must submit any revised or final version of each document referred to in the instructions on Page 1 of this form, as it becomes available.
- For items 6 - 8, refer to the Threshold regulations for the instructions to calculate turnover and asset values.
- When describing the merger, please indicate any relevant facts concerning the impact of the merger on employment, or other public interest issues set out in section 16 (3) of the Act.
- You may include any other relevant information that you want the Commission to consider.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

6. State your annual turnover in, into or from the Republic for your preceding financial year and the range of months covered by your financial year.
7. State the value of your assets in the Republic as of the end of your preceding financial year, and as of the date of the Merger Notice.
8. State your annual turnover in, into or from the Republic as of the date of the Merger Notice.

Schedule 4 - Transaction Information

On a separate document, titled Schedule 4, provide the following information in the order listed in items 9 - 13.

9. Indicate whether the party filing this Notice is
 - (a) acquiring assets, shares, or other interests.
 - (b) selling assets, shares, or other interests.
 - (c) acquiring and selling assets, shares, or other interests.
10. Indicate whether the transaction involves:
 - (a) Foreign Direct Investment
 - (b) A management Buy-out
 - (c) A buy-back of shares
11. Describe the merger, including: the parties to the transaction; the assets, shares, or other interests being acquired; whether the assets, shares, or other interests are being purchased, leased, combined or otherwise transferred; the consideration, the contemplated timing for any major events required to bring about the completion of the transaction; and the intended structure of ownership and control of the completion of the merger.
12. Unless you have submitted a report addressing the issues listed below, provide the following details:
 - (a) The estimated market shares of the merging parties and their competitors.
 - (b) Information concerning barriers to entry, such as regulatory requirements, capital requirements and sunk costs, the time it will take for potential entrants to enter the market, the names and contact details of entrants to the market during the past three years.
 - (c) Information concerning import competition, such as existing import duties.
 - (d) Countervailing power (customers or suppliers)

Form CC 4(2) Page 3

- Approval, or conditional approval, of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.
- Generally, information relating to this merger is not part of the public record while the Commission is considering the merger. However, if the merger is referred to the Tribunal, information relating to it becomes a public record.
- You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this Statement

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
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fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

13. If you are relying on a "failing firm defence", please include the following information:
- (a) Financial information demonstrating that the firm will be unable to meet its financial obligations in future.
 - (b) Information concerning efforts taken to elicit reasonable alternative offers.
 - (c) Information indicating that the failing firm would reasonably be expected to exit the market unless the merger is implemented.

Schedule 5 - Products and services

On a separate document, titled Schedule 5, provide the following information in the order listed in items 14 - 18.

14. Identify each product that you or another acquiring firm (or target firm, if applicable) sell, and each service you or that other firm provide in, into or from the Republic. In addition, identify any products or services that you believe are considered by buyers as reasonably interchangeable with, or a substitute for, a product or service provided in, into or from the Republic by another party to the merger. Use the 5 digit Standard Industrial Codes to identify products, if possible.
15. For each identified product or service, state the geographic area(s) in the Republic in which you sell.
16. For each identified product or service, identify, and provide contact details for, the five producers or providers in each identified geographic area with the largest estimated turnover in value, and their estimated share of the total turnover during the last full 12 months.
17. For each identified product or service, state your turnover in each of identified geographic area during the last full 12 months.
18. For each identified product or service, identify and provide contact details for your five customers in each of identified geographic area with the largest aggregate purchases in value during the last full 12 months.

Business Relationships Among Parties:

**Form CC-4(2)
Page 4**

- If any required information is not available, you must attach a sworn affidavit explaining why that information is unavailable.
- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.

Schedule 6 - Business Relationships Among Parties

On a separate document, titled Schedule 6, provide the following information set out in item 19.

19. State the name of any other Acquiring firm(or Target firm, if applicable) that sells to you, identify each product or service sold, and for each such product or service, show the value of that product or service sold during your preceding financial year.

Schedule 7 - Certification of Accuracy:

I, _____, have prepared, or supervised those who prepared, this Statement of Merger Information.

To the best of my knowledge, the information contained in this document, and the attachments to it, is true, correct and complete in terms of the Competition Act and Competition Commission Rules, except to the extent that I have indicated -

- (a) that requested data is not available in books or records, and reasonable estimates have been used instead; or
- (b) complete information has not been provided because it is unavailable, in which case I have attached a affidavit sworn by me, explaining why the information is unavailable.

I understand -

- (a) that it is an offence in terms of the Competition Act to provide false information to the Competition Commission in any manner, including in these documents; and
- (b) that sections 73 and 74 of the Competition Act provide for a penalty of a fine, or imprisonment, or both, if I am found guilty of knowingly providing false information to the Competition Commission.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za



competition commission south africa

Form CC 5 (1)

About this Form

- This form is issued in terms of Competition Commission Rule 37.
- A trade union or other person representing employees must file this form within 5 business days after being served with a copy of the merger notice.
- Please refer to section 16(1) of the Competition Act.
- Please name in the space provided the firm or firms involved in this merger in which you represent workers.
- You must attach to this form a statement setting out briefly the representations you wish to make concerning the merger.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Notice of Intention to Participate

To: The Competition Commission

From:

(Name, address, contact person and contact numbers of Trade Union or employee's representative:)

- We represent workers in the following firm:

and we intend to participate in the following merger proceeding, which concerns that firm:

(Name and number of merger file:)

- We wish to make the representations briefly described in the attached sheet.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

**For Office
Use Only:**

Commission file number:

Date filed:



competition commission south africa

Form CC 5 (2)

About this Form

This form is issued in terms of Competition Commission Rule 35.

Minister's Notice of Intention to Participate

To: The Competition Commission, the Competition Tribunal and the Competition Appeal Court.

From: The Minister of Trade and Industry

(Name and file number of merger:)

Take notice that the Minister of Trade and Industry intends to participate in proceedings concerning the above named merger, as provided for in Chapter 3 of the Competition Act, the Competition Commission Rules, Competition Tribunal Rules and the Rules of the Competition Appeal Court.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

**For Office
Use Only:**

Commission file number:

Date filed:

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za



competition commission south africa

Form CC 5 (3)

About this Form

- This form is issued in terms of section 18(2) of the Competition Act and Competition Commission Rule 36.

Minister of Finance Certificate

To: The Competition Commission, the Competition Tribunal and the Competition Appeal Court.

From: The Minister of Finance

(Name and file number of merger:)

Take notice that the Minister of Finance certifies that:

1. The above named merger is a merger contemplated in the Competition Act, 1998 (Act No. 89 of 1998),
 section 18 (2)(a)(i) section 18 (2)(a)(ii).
2. It is in the public interest that this merger be subject only to the jurisdiction of the Banks Act, 1990 (Act No. 94 of 1990).

Name and Title of person authorised to sign:

Authorised Signature:	Date:

Contacting the Commission

The Competition Commission
 Private Bag X23
 Lynnwood Ridge
 Pretoria 0040
 Republic of South Africa
 tel: 27 012 482 9000
 fax: 27 012 482 9001
 e-mail: ccsa@compcom.co.za

For Office Use Only:	Commission file number: _____	Date filed: _____
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competition commission south africa

Form CC 6

About this Form

- This form is issued in terms of Competition Commission Rule 34.
- When this notice has been filed, the parties to the merger are in the same position as if the merger had never been notified.
- The party that paid the merger filing fee may apply to the Competition Tribunal, within 10 business days after filing this form, for a remission of the fee. If a remission is not ordered, the fee is forfeited to the Commission.
- Please refer to Competition Commission Rule 34, and Competition Tribunal Rule 31(1)(f).

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Notice of Abandoned Merger

To: The Competition Commission

From:

(Name of primary acquiring firm:)

(Name and file number of merger:)

Take notice that the above named firm -

- has abandoned the intended merger previously notified under the file number shown above; and
- has no intention of taking any further steps to implement that intended merger.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

**For Office
Use Only:**

Commission file number:

Date filed:



competition commission south africa

Form CC 7

About this Form

- This form is issued in terms of section 44 (1) of the Competition Act.
- The Commission must treat confidentially any information identified by you in this form, but may refer it to the Competition Tribunal to determine whether the information is confidential in terms of the Act. You will be notified if your claim is referred to the Tribunal.
- Until the Tribunal makes a decision about your information, it will be treated as confidential by the Commission, subject to any public notice requirements set out in the Act or Rules. Please see sections 44, 45 and 45A of the Act.
- Confidential information means trade, business or industrial information that belongs to a firm, has a particular economic value, and is not generally available to or known by others.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Confidentiality Claim

To: The Competition Commission and
The Competition Tribunal

Concerning:

(Name and file number:)

On a separate sheet of paper, list the following information, and set out the facts and contentions supporting your claim that the identified information is confidential.

Column 1 - name of the document that contains the confidential information.

Column 2 - the page and line number at which the confidential information begins and ends.

Column 3 - the name of the firm that owns the particular information.

Column 4 - the nature of the economic value of the information.

Column 5 - the existing restrictions on access to the information.

Statement of confidentiality:

I, _____, compiled, or supervised the persons who compiled, the attached list. I believe that the information identified in that list is confidential information as defined in section 1(1) of the Competition Act.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

For Office
Use Only:

Commission file number:

Date filed:



competition commission south africa

Notice CC 8

About this Notice

- This notice is issued in terms of section 50 of the Competition Act.
- The complainant may refer the complaint directly to the Competition Tribunal in Form CT 1(2), within 20 business days after the date of this notice. Please refer to Competition Tribunal Rules 14 to 17.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Notice of Non-referral of Complaint

Date: _____

Concerning:

(Name and file number of complaint:)

The Competition Commission received a complaint against the above named respondent on: _____

Having completed its investigation, or the time having expired for referring the complaint to the Tribunal in terms of section 50(2) of the Competition Act, the Competition Commission gives notice that:

- The Commission will not refer any part of the complaint to the Competition Tribunal.
- The Commission will not refer to the Competition Tribunal the particulars of the complaint listed on the attached sheet, but will refer the remaining particulars of the complaint.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 9

Notice to report small merger

About this Notice

- This notice is issued in terms of section 13(3) of the Competition Act.
- To notify the merger, you must complete Forms CC 4(1) and CC 4(2), and comply with Commission Rules 26 - 34.

Date: _____

Concerning:

(Name and file number of merger:)

The Competition Commission has received information concerning a merger involving the following firms:

which was implemented on or about: _____
(delete if not applicable)

In terms of section 13(3) of the Competition Act and Competition Commission Rule 25, you, as parties to the merger, are required to notify the merger to the Competition Commission within 20 business days after you receive this notice.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

**Name and Title of person authorised to sign on behalf of
the Competition Commission:**

Authorised Signature:



competition commission south africa

Notice CC 10(1)

Exemption Certificate (Chapter 2)

About this Notice

- This notice is issued in terms of section 10 of the Competition Act.
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette.
- You must use Form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 38.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Date: _____

To:

(Name of Applicant and file number:)

You applied to the Competition Commission on _____
for an exemption from Chapter 2 of the Competition Act.

Because the subject practice or agreement contributes to the objective set out in section 10(3)(b) _____ of the Act, the Competition Commission grants an exemption in terms of section 10(3) of the Act for a period of _____ years ending on _____, for:

- a single agreement a category of agreements
 a single practice a category of practice

as described in your application. This exemption is subject to:

- no conditions.
 the conditions listed on the attached sheet.

The Competition Commission has the authority in terms of section 10(5) of the Competition Act to revoke this exemption if

- (a) the exemption was granted on the basis of false or incorrect information;
(b) a condition for the exemption is not fulfilled; or
(c) the reason for granting the exemption no longer exists.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CG 10(2)

About this Notice

- This notice is issued in terms of Schedule 1 of the Competition Act.
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette.
- You must use Form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 38.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Exemption Certificate (Schedule 1)

Date: _____

To:

(Name of Applicant Association:)

You applied to the Competition Commission on _____
for an exemption from Schedule 1 of the Competition Act.

After reviewing the information you provided, the Competition Commission grants an exemption in terms of Schedule 1 of the Act for the rules of your professional association.

The Competition Commission has the authority in terms of item 5 of Schedule 1 of the Competition Act to revoke this exemption on good cause shown.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 10(3)

About this Notice

- This notice is issued in terms of Competition Commission Rule 19.
- You must comply with this request within 20 business days after receiving it, or your application for exemption will be deemed to have been abandoned.
- Please refer to Competition Commission Rule 19.

Request for Further Particulars Re: Chapter 2 Application

Date: _____

To:

(Name of Applicant:)

You applied to the Competition Commission on _____
for an exemption in terms of Chapter 2 of the Competition Act.

Following a preliminary review of your application and the information you have provided to date, the Competition Commission has concluded:

- Your Application is materially incomplete. Please file the additional materials listed on the attached sheet.
- We are unable to determine, as required by section 10 of the Act, the specific agreement, practice or category of agreements or practices that you wish exempted from the application of Chapter 2.

Please submit further information, specifying the agreement, practice or category of agreements or practices that you wish the Commission to consider exempting from the application of Chapter 2.

The Commission will not consider your application for exemption until the material requested in this form and any attached pages has been filed to the satisfaction of the Commission.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

**Name and Title of person authorised to sign on behalf of
the Competition Commission:**

Authorised Signature:



competition commission south africa

Notice CC 10(4)

Request for Further Particulars Re: Schedule 1 Application

About this Notice

- This notice is issued in terms of Competition Commission Rule 22.
- You must comply with this request within 10 business days after receiving it, or your application for exemption will be deemed to have been abandoned.
- Please refer to Commission Rule 22.

Date: _____

To:

(Name of Applicant:)

You applied to the Competition Commission on _____
for an exemption in terms of Schedule 1 of the Competition Act.

Following a preliminary review of your application and the information you have provided to date, the Competition Commission has concluded that your Application is materially incomplete. Please file the additional materials listed on the attached sheet.

The Commission will not consider your application for exemption until the material requested in this form and any attached pages has been filed to the satisfaction of the Commission.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

**Name and Title of person authorised to sign on behalf of
the Competition Commission:**

Authorised Signature:



competition commission south africa

Notice CC 11(1)

Refusal to Grant Exemption (Chapter 2)

About this Notice

- This notice is issued in terms of section 10 of the Competition Act.
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette.
- You must use Form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 38.

Date: _____

To:

(Name of Applicant:)

You applied to the Competition Commission on _____
for an exemption from Chapter 2 of the Competition Act for

- a single agreement a category of agreements
 a single practice a category of practices

as described in your application.

After reviewing the information you provided, the Competition Commission declines an exemption.

This refusal to grant the exemption applied for is issued in terms of:

- Section 10 (2)(b)(i), for the reasons set out in the attached Reasons for Decision.
- Section 10(2)(b)(ii); in this case, the Competition Commission has the authority to:
- reconsider its view of the subject practice or agreement at any time; and
 - withdraw this notice and advice upon 90 days notice, at any time and for any reason.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9000
e-mail: ccsa@compcom.co.za

**Name and Title of person authorised to sign on behalf of
the Competition Commission:**

Authorised Signature:



competition commission south africa

Notice CC 11(2) Rejection of Application (Schedule 1)

About this Notice

- This notice is issued in terms of Schedule 1 of the Competition Act.
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette.
- You must use Form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 38.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9003
e-mail: ccsa@compcom.co.za

Date: _____

To:

(Name of Applicant Association:)

You applied to the Competition Commission on _____
for an exemption in terms of Schedule 1 of the Act, for your Association's Professional Rules.

After reviewing the information you provided, and consulting as required by the Act, the Competition Commission has concluded that the rules of your association fail to meet the requirements set out in item 2 of Schedule 1 of the Act, and therefore rejects your application for the reasons set out in the attached Reasons for Decision.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 11(3)

About this Notice

- This notice is issued in terms of section 10 (9) of the Competition Act, and Competition Commission Rule 20.

Withdrawal of Notice 11(1)

Date: _____

To:

(Name of Applicant:)

You applied to the Competition Commission on _____
for an exemption from Chapter 2 of the Competition Act for

a single agreement a category of agreements

a single practice a category of practices

as described in your application.

On _____, the Competition Commission declined an exemption in terms of Section 10(2)(b)(ii) of the Competition Act.

In terms of Section 10(9) of the Competition Act, and Competition Commission Rule 20, the Commission withdraws Notice 11(1) previously issued to you, for the reasons attached.

This notice takes effect 60 business days after you receive it.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

**Name and Title of person authorised to sign on behalf of
the Competition Commission:**

Authorised Signature:



competition commission south africa

Notice CC 12(1) Revocation of Exemption (Chapter 2)

About this Notice

- This notice is issued in terms of section 10 of the Competition Act.
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette.
- You must use Form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 38.

Date: _____

To:

(Name of Applicant:)

You applied to the Competition Commission on _____ for an exemption from Chapter 2 of the Competition Act.

After reviewing the information you provided, the Competition Commission granted an exemption in terms of section 10(2)(a) of the Act for

a single agreement a category of agreements

a single practice a category of practices

as described in your application.

In terms of section 10(5) of the Competition Act, the Competition Commission advises that the exemption granted on _____ is revoked with effect from _____ for the reasons set out in the attached Reasons for Decision.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 12(2)

Revocation of Exemption (Schedule 1)

About this Notice

- This notice is issued in terms of Schedule 1 of the Competition Act.
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette.
- You must use Form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 38.

Date: _____

To:

(Name of Applicant Association:)

You applied to the Competition Commission on _____ for an exemption in terms of Schedule 1 of the Competition Act.

After reviewing the information you provided, the Competition Commission granted the exemption applied for.

In terms of item 5 of Schedule 1 of the Competition Act, the Competition Commission advises that the exemption granted on _____ is revoked with effect from _____ for the reasons set out in the attached Reasons for Decision.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 13(1)

About this Notice

- This notice is issued in terms of Competition Commission Rule 30.
- You have the right to appeal to the Competition Tribunal against the determination of the Commission that this merger falls within the jurisdiction of the Competition Act, by filing an appeal within 5 business days after you receive this notice.
- Please refer to Competition Commission Rule 33(3) and Competition Tribunal Rule 31(1).

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Notice of complete filing

Date: _____

To:

(Name of firm:)

(Name and file number of merger:)

On _____, you filed documents in connection with the above named merger, as required by the Competition Act and Competition Commission Rules.

Please be advised that the Commission has determined that -

- All documents filed by you are materially complete and accurate;
- All documents and other materials required to be filed to give notice of this merger have been received by the Commission; and
- The merger is within the jurisdiction of the Competition Act.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice of incomplete filing

Notice CC 13(2)

About this Notice

- This notice is issued in terms of Competition Commission Rule 30.
- You have the right to appeal to the Competition Tribunal against any determination of the Commission set out in this notice, by filing an appeal within 5 business days after you receive this notice.
- Please refer to Competition Commission Rule 30(3) and Competition Tribunal Rule 31.
- The Initial Period for consideration of this merger will not begin until you have satisfied all notification requirements set out in this form. Please refer to Competition Commission Rule 24.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Date: _____

To:

(Name of firm:)

(Name and file number of merger:)

On _____, you filed documents in connection with the above named merger, as required by the Competition Act and Competition Commission Rules. The Commission has determined that the merger is within the jurisdiction of the Competition Act, and:

- The Merger Notice is materially incomplete or inaccurate for the reasons set out on the attached sheet.
- The Statement of Merger Information is materially incomplete or inaccurate for the reasons set out on the attached sheet.
- You have failed to file proof of delivery of the documents as required by the Act and Rules, as specified on the attached sheet.
- The merger falls into a category different from that indicated on the merger notice. It is a(n) _____ merger. An additional amount of R _____ is required on account of the filing fee.
- A document filed by you, as noted on the attached Form CC 13 (4), appears to contain false or misleading information.

To complete your notification requirements, you must file any additional information requested, correct your previous submissions, file proof of delivery, or pay an additional filing fee, as applicable.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 13(3) About this Notice

- This notice is issued in terms of Section 13B(2) of the Competition Act, and Competition Commission Rule 31.

Demand for additional merger information

Date: _____

To:

(Name of firm:)

(Name and file number of merger:)

On _____, you filed documents in connection with the above named merger, as required by the Competition Act and Competition Commission Rules.

Following a preliminary review of your notice, and the information you have provided to date, the Competition Commission has concluded that your notification is incomplete.

In terms of section 13B(2) of the Competition Act, the Competition Commission requires you to file the following additional information in respect of your merger, as listed on the attached sheet, within _____ business days after you receive this notice.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of
the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 13(4)

About this Notice

- This notice is issued in terms of Competition Commission Rule 32.
- If the Initial Period for consideration of your merger had begun before this notice was issued, it has been cancelled, and will begin anew only after you have complied with this notice. If it had not begun, it will commence only after you have complied with this notice.
- You have the right to appeal to the Competition Tribunal against this notice, by filing an appeal within 5 business days after you receive this notice.
- Please refer to Competition Commission Rule 32 and Competition Tribunal Rule 31.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Demand for corrected information

Date: _____

To:

(Name of firm:)

(Name and file number of merger:)

On _____, you filed documents in connection with the above named merger, as required by the Competition Act and Competition Commission Rules.

Please be advised that the Competition Commission has reason to believe that a document filed by you in respect of this merger contains false or misleading information, as noted on the attached sheet.

Please note that you will not have completed your notification requirements until you have filed corrected information to the satisfaction of the Commission.

**Name and Title of person authorised to sign on behalf of
the Competition Commission:**

Authorised Signature:



competition commission south africa

Notice CC 14

About this Notice

- This notice is issued in terms of section 14 of the Competition Act.

Extension Certificate

Date: _____

To all participants in:

(Name and file number of merger:)

The merger referred to above was reported to the Competition Commission on _____

In terms of section 14(1)(a) of the Competition Act, the Competition Commission extends for a period of _____ business days the time within which it may consider the proposed merger.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 15

About this Notice

- This notice is issued in terms of section 14 of the Competition Act.
- If this merger is subject to any conditions, the primary acquiring firm or primary target firm may request the Competition Tribunal to consider the merger by filing a Request for Consideration in Form CT4 within 10 business days after the date of this certificate. Please see Tribunal Rules 32 through 34.
- If a firm appears to have breached an obligation that is part of this approval, before taking any action to revoke this approval, the Competition Commission must deliver to that firm a Notice of Apparent Breach in Form CC19. Please refer to Commission Rules 39 and 40.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Merger Clearance Certificate

Date: _____

To:

(Name and file number of merger:)

You applied to the Competition Commission on _____ for merger approval in accordance with Chapter 3 of the Competition Act.

After reviewing the information you provided, the Competition Commission approves the merger in terms of section 14(1)(b) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

- no conditions.
- the conditions listed on the attached sheet.

The Competition Commission has the authority in terms of section 15 of the Competition Act to revoke this approval if -

- it was granted on the basis of incorrect information for which a party to the merger was responsible,
- the approval was obtained by deceit, or
- a firm concerned has breached an obligation attached to this approval.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 16

Prohibition of Merger

About this Notice

- This notice is issued in terms of section 14 of the Competition Act.
- Any party to a merger may request the Competition Tribunal to consider the prohibition of this merger by filing a Request for Consideration in Form CT4 within 10 business days after the date of this certificate. Please see Tribunal Rules 32 through 34.

Date: _____

To:

(Name and file number of merger:)

You applied to the Competition Commission on _____ for merger approval in accordance with Chapter 3 of the Competition Act.

After reviewing the information you provided, the Competition Commission prohibits this merger in terms of section 14(1)(b) of the Act for the reasons set out in the Reasons for Decision.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 17

Referral of Large Merger

About this Notice

- This notice is issued in terms of section 14A of the Competition Act.

Date: _____

To: The registrar, Competition Tribunal, and
The Minister of Trade and Industry

(Name and file number of merger:)

In terms of section 14A of the Competition Act, the Commission recommends that the above referenced merger be:

- Approved
- Approved on the conditions noted on the attached sheet
- Prohibited

for the reasons set out in the attached Reasons for Recommendation.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 18

About this Notice

- This notice is issued in terms of section 15 of the Competition Act.
- Within 10 business days after receiving this Notice, the primary acquiring firm may request the Competition Tribunal to review it.

Revocation of Merger Decision

Date: _____

To:

(Name and file number of merger:)

You applied to the Competition Commission on _____
for merger approval in terms of Chapter 3 of the Competition Act.

After reviewing the information you provided, the Competition Commission granted approval in terms of section 14(1)(b) of the Act.

In terms of section 15 of the Competition Act, the Competition Commission advises that the approval granted on _____
is revoked with effect from _____
for the reasons set out in the attached Reasons for Decision.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

**Name and Title of person authorised to sign on behalf of
the Competition Commission:**

Authorised Signature:



competition commission south africa

Notice CC 19

About this Notice

- This notice is issued in terms of Competition Commission Rule 39 and 40.
- Within 10 business days after receiving this notice, you must either submit to the Commission a plan to remedy the breach, or request the Competition Tribunal to review this notice in terms of Commission Rule 39(2).
- If you fail to act within 10 business days as required, the Competition Commission may proceed to revoke the approval of your merger, or to seek an administrative fine, or an order of divestiture.
- Please refer to Commission Rules 39 and 40.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Notice of Apparent Breach

Date: _____

To:

(Name of participant:)

(Name and file number of merger:)

You applied to the Competition Commission on _____ for merger approval in terms of Chapter 3 of the Competition Act.

On _____, your merger was approved subject to certain conditions.

It appears to the Competition Commission that you have breached an obligation that was part of the approval of your merger, as noted on the attached sheet.

The Competition Commission is considering revoking the approval of your merger, in terms of section 15 of the Competition Act, or requesting the Tribunal to impose an administrative penalty in terms of section 59(1)(d)(iii) of the Act.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



competition commission south africa

Notice CC 20

About this Notice

- This notice is issued in terms of section 49A of the Competition Act.

Commission Summons

To:

Concerning:

(Name and file number:)

An investigation concerning this matter has been commenced by the Competition Commission.

You are required to appear at

_____ and give evidence before the Competition Commission on _____ at _____ o'clock, in the morning/afternoon.

You are also required to bring with you:

- the documents or items listed on the attached _____ sheet(s); and
- any other documents or items in your possession or under your control that relate to this matter.

Issued by the Commissioner on _____ in terms of section 49A(1) of the Competition Act.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsc@compcom.co.za

Competition Commissioner



competition commission south africa

Notice CC 21

Receipt for Items Removed

About this Notice

- This notice is issued in terms of section 49 of the Competition Act.

- Section 49(4) of the Act reads:

"A person who removes anything from a premises being search must -

a) issue a receipt for it to the owner of, or person in control of, the premises; and

b) return it as soon as practicable after achieving the purpose for which it was removed."

- Section 49(5) of the Act reads:

"During a search, a person may refuse to permit the inspection or removal of an article or document on the grounds that it contains privileged information."

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Date: _____ Receipt # _____

To:

(Name of person from whom items were received:)

Concerning:

(Name and file number:)

I, (inspector's name: _____) on behalf of the Competition Commission, acknowledge receiving from you the items listed below, and on the attached ___ sheet(s), which I removed from the following premises, during a search conducted in terms of section 49 of the Competition Act, on _____.

(Address of premises:)

(Items received:)

Inspector:



competition commission south africa

Notice CC 22

- This notice is issued in terms of section 24 of the Competition Act.
- Section 24(4) of the Act reads:

When an Inspector performs any function in terms of this Act, the Inspector must:

- be in possession of a certificate of appointment issued to that Inspector in terms of subsection 3; and
- show that certificate to any person who is affected by the exercise of the functions of the Inspector and requests to see the certificate.

Contacting the Commission

The Competition Commission
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
tel: 27 012 482 9000
fax: 27 012 482 9001
e-mail: ccsa@compcom.co.za

Appointment of Inspector

Date: _____

To:

(Name of Inspector:)

I hereby appoint you as an inspector to perform functions in terms of the Competition Act 1998, with effect from

_____.

_____, Commissioner.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:

This form is prescribed by the Minister of Trade and Industry in terms of section 21 (4) of the Competition Act 1998 (Act No. 89 of 1998)

RULES FOR THE CONDUCT OF PROCEEDINGS IN THE COMPETITION TRIBUNAL

In terms of section 27(2) of the Competition Act, 1998 (Act No. 89 of 1998), as amended, The Minister of Trade and Industry, in consultation with the Chairperson of the Competition Tribunal, has made the following regulations relating to the functions of the Competition Tribunal to come into operation at the time that the Competition Second Amendment Act, 2000 (Act No. 39 of 2000) comes into operation.

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COMPETITION TRIBUNAL RULES

REGULATING THE FUNCTIONS OF THE COMPETITION TRIBUNAL

Part 1 – General Provisions

Division A - Interpretation

1. Short title

These Regulations may be cited as the *Competition Tribunal Rules*.

2. Repeal of previous rules

The Competition Tribunal Rules published in Government Notice 1940 of 1999, in Government Gazette 20386 of 20 August 1999, are repealed.

3. Interpretation

- (1) Section 1 applies to the interpretation of these Rules.
- (2) A word or expression that is defined in a chapter of the Act bears the same meaning in these Rules as in the Act.
- (3) In these Rules,
 - (a) a reference to a section by number refers to the corresponding section of the Act;
 - (b) a reference to a Rule by number refers to the corresponding item of these Rules; and
 - (c) a reference to a sub-rule or paragraph by number refers to the corresponding item of the Rule in which the reference appears.

- (4) In these Rules unless the context indicates otherwise,
- (a) "Act" means the *Competition Act*, 1998 (Act No.89 of 1998), as amended from time to time;
 - (b) "Answer" means a document as described in Rule 16 and filed by a respondent;
 - (c) "appellant" means a party who initiates an appeal from an Exemption decision of the Commission;
 - (d) "applicant" means a person who files an application in terms of Part 4 Division B or E of these Rules;
 - (e) "Application" means a request submitted in terms of Part 4 - Division B or E of these Rules;
 - (f) "certified copy" means a copy of a document certified by a Commissioner of Oaths;
 - (g) "chairperson" means the officer of the Tribunal appointed in terms of section 26;
 - (h) "Commission" means the body established by section 19;
 - (i) "Commissioner" means the office holder appointed in terms of section 22;
 - (j) "complaint" means either
 - (i) a matter initiated by the Commission in terms of section 49B(1); or
 - (ii) a matter that has been submitted to the Commission in terms of section 49B(2)(b);
 - (k) "Competition Commission Rules" means the rules promulgated in terms of the Act for the regulation of procedures of the Commission;
 - (l) "Complaint Referral" means an initiating document as described in Rule 14;
 - (m) "Court" means the Competition Appeal Court established by section 36;

- (n) "deliver" depending on the context, means to serve, or to file, a document;
- (o) "Deputy Chairperson" means the officer appointed in terms of section 30;
- (p) "file", when used as a verb, means to deposit with the registrar;
- (q) "High Court Rules" means the Rules Regulating the Conduct of the Several Provincial and Local Divisions of the High Court of South Africa, published by Government Notice R48 in Government Gazette 999 of 12 January, 1965, as amended;
- (r) "initiating document", depending on the context, means either an Application, Complaint Referral, Notice of Appeal, a Merger Referral or Request for Consideration, or a Notice of Motion unless used to bring an interlocutory application in a matter before the Tribunal;
- (s) "initiating party", depending on the context, means either
 - (i) in the case of a Complaint Referral, the Commission, or other person referred to in Rule 14(1)(b);
 - (ii) in the case of a Merger Referral, the Commission;
 - (iii) in the case of consideration of a small or intermediate merger, the party who files the Request for Consideration; or
 - (iv) in any other proceedings, the Applicant or the Appellant, as the case may be;
- (t) "intervenor" means any person who, in terms of the Act or Rule 46, has been granted standing to participate in particular proceedings before the Tribunal;
- (u) "Judge President" means the Judge President of the Court;
- (v) "member" means a person appointed to the Tribunal in terms of section 26;
- (w) "Merger Notice" means a notification –
 - (i) voluntarily submitted in terms of section 13(2); or

- (ii) required in terms of either section 13(3) or section 13A;
- (x) "Merger Referral" means an initiating document as described in Rule 35;
- (y) "Notice of Appeal" means an initiating document as described in Rule 38;
- (z) "Notice of Motion", depending on the context, means either –
 - (i) an initiating document described in Part 4 - Division B or E; or
 - (ii) a document used to bring an interlocutory application in a matter before the Tribunal;
- (aa) "panel" means the group of members assigned by the chairperson in terms of section 31(1) to hear any particular matter before the Tribunal;
- (bb) "presiding member" means the member designated by the chair to preside over particular proceedings of the Tribunal;
- (cc) "public holiday" means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act 36 of 1994);
- (dd) "registrar" means the officer of the Tribunal appointed in terms of Rule 5 and includes any acting or assistant registrar;
- (ee) "Reply" means a document as described in Rule 17 and filed by a respondent;
- (ff) "Request for Consideration" means a document filed in terms of Rule 33;
- (gg) "respondent" means –
 - (i) in respect of an application, the firm against whom the relief is sought;
 - (ii) in respect of a Complaint Referral, the firm against whom that complaint has been initiated;
 - (iii) in respect of an appeal -

- (aa) the Commission, and
- (bb) the firm concerned, if that firm is not the appellant, or applicant, as the case may be;
- (hh) "Rule" includes any footnote to a Rule, and any Table included within or referred to in a Rule;
- (ii) "serve" means to deliver a document to a person other than the registrar;
- (jj) "sheriff" means a person appointed in terms of section 2 of the Sheriff's Act, 1986 (Act 90 of 1986), and includes a person appointed in terms of section 5 and section 6 of that Act as an acting sheriff and a deputy sheriff, respectively; and
- (kk) "Tribunal", depending on the context, means either –
 - (i) the body established by section 26;
 - (ii) a panel of the Tribunal convened in terms of section 31(1);
 - (iii) a member of the Tribunal sitting in terms of section 31(5); or
 - (iv) the registrar of the Tribunal.

Division B – Tribunal Office Functions**4. Office hours and address of Tribunal**

- (1) The offices of the Tribunal are open to the public every Monday to Friday, excluding public holidays, from 08h30 to 13:00 and from 13h30 to 15h30.
- (2) Despite sub-paragraph (1) –
 - (a) in exceptional circumstances the registrar may accept documents for filing on any day and at any time; and
 - (b) the registrar must accept documents for filing as directed by either the Tribunal or a member of the Tribunal assigned by its chairperson.
- (3) Subject to Rules 6 and 8, any communication to the Tribunal, or a member of the staff of the Tribunal, may be –
 - (a) Delivered by hand to:

The Registrar,

The Competition Tribunal

Glenfield Office Park

Cnr. Glenwood Road and Oberon Steet

Faerie Glen, Pretoria

Republic of South Africa
 - (b) Addressed by post to:

The Competition Tribunal

Private Bag X28

Lynnwood Ridge Pretoria 0040

Republic of South Africa

- (c) Communicated by telephone on 27 012 482 9200
- (d) Transmitted by Fax on 27 012 482 9201; or
- (e) Transmitted by electronic mail to ccsa@comptrib.co.za.

5. Registrar

The Chairperson of the Tribunal must appoint a suitably qualified person in terms of section 35 (a) to act as registrar of the Tribunal, with the authority to carry out the functions of that office in terms of these Rules.

Part 2 - Delivery of Documents**6. Delivery of documents**

- (1) A notice or document may be delivered in any manner set out in Table CTR 1.
- (2) Subject to sub-rule (4), a document delivered by a method listed in the second column of table CTR 1 will be deemed to have been delivered to the intended recipient on the date and at the time shown opposite that method, in the third column of that table.
- (3) If, in a particular matter, it proves impossible to serve a document in any manner provided for in these Rules –
 - (a) if the Tribunal is required to serve the document, the registrar may apply to the High Court for an order of substituted service; and
 - (b) in any other case, the person concerned may apply to the Tribunal for an order of substituted service.
- (4) Subject to Rule 4(2), if the date and time for the delivery of a document referred to in Table CTR I is outside of the office hours of the Tribunal as set out in Rule 4 (1), that document will be deemed to have been delivered on the next business day.
- (5) A document that is delivered by fax must include a cover page, and a document that is transmitted by electronic mail must accompany a cover message, in either case setting out –
 - (a) The name, address, and telephone number of the sender;
 - (b) The name of the person to whom it is addressed, and the name of that person's attorney, if it is being sent to the attorney for a participant;
 - (c) The date and time of the transmission;

- (d) The total number of pages sent, including the cover page; and
- (e) The name and telephone number of the person to contact if the transmission is incomplete or otherwise unsuccessful.

7. Issuing documents

- (1) If the Act or these Rules require the Tribunal to issue a document –
 - (a) the document will have been issued by the Tribunal when it has been signed, and served on any person to whom it is addressed; and
 - (b) the document may be signed and served at any time of day, despite Rule 4(1).
- (2) Rule 6 (4) does not apply to the service of a document issued by the Tribunal.

8. Filing documents

- (1) The registrar must assign distinctive case numbers to each initiating document.
- (2) Before serving a copy of an initiating document on any person, the initiating party must –
 - (a) obtain a case number for that document from the registrar; and
 - (b) note the case number on every copy of that document.
- (3) The registrar must ensure that every document subsequently filed in respect of the same proceedings is marked with the same case number.
- (4) The registrar may refuse to accept a document from any party subsequently filed in respect of the same proceedings if the document is not properly marked with the assigned case number.
- (5) A person who files any document in terms of the Act or these rules must provide to the registrar that person's –

- (a) legal name;
- (b) address for service;
- (c) telephone number;
- (d) if available, email address and fax number;
- (e) if the person is not an individual, the name of the individual authorised to deal with the Tribunal on behalf of the person filing the document; and
- (f) if the person filing the document does so as the representative of another person, they must comply with Rule 44(1).

9. Fees

- (1) The fee for filing an initiating document, other than a Merger Referral or request for Consideration, is R100-00.
- (2) The registrar may charge a fee of R1-00 per A4-size page or part thereof to any person wishing to copy a document in the possession of the Tribunal and R2-00 each for the registrar's certificate on certified copies of documents.

10. Form of Notices and Applications

- (1) Whenever an initiating document, or other document is required to be filed for a purpose listed in column 2 of Table CTR 2, the document must be substantially in the form of the annexure listed opposite that section number in column 3 of that table, and must be produced subject to any conditions listed opposite that section number in column 4 of that table.
- (2) Whenever these Rules require a document to be in a form whose number is prefixed by the letters "CC", that document must be substantially in the corresponding form prescribed in the Competition Commission Rules.

11. Form of Certificates and Notices

- (1) Whenever the Tribunal is required to issue a document in terms of a section of the Act shown in column I of Table CTR 3, for a purpose listed in column 2 of that table, the document must be substantially in the form of the annexure listed opposite that section number in column 3 of that table.
- (2) Whenever the Tribunal is required, either in terms of the Act or these Rules, to publish a notice in the Gazette, that notice must contain at least the following information:
 - (a) The name of any firm, or other person directly affected by the notice.
 - (b) The file number assigned by the Tribunal to the relevant matter.
 - (c) The provision of the Act or Rules in terms of which the notice is required.
 - (d) A brief and concise description of the nature of the relevant matter.
 - (e) If the notice invites submissions, the last date on which submissions may be received.
 - (f) If the notice reports a decision –
 - (i) a brief and concise description of the nature of that decision;
 - (ii) a statement indicating whether reasons for the decision have been published, and if so, how a copy of those reasons may be obtained; and
 - (iii) a statement of any right of review of, or appeal from, that decision, including the period during which a review or appeal may be lodged.

12. Form of Annual Report

The Annual Report to be submitted by the Tribunal in terms of section 42 must be divided into the following Parts:

- (a) Statement of Progress, being the statement required by section 41(1)(d).
- (b) The Proceedings of the Tribunal, being a summary report of matters that came before the Tribunal for decision.
- (c) The Administrative Activities of the Tribunal, being a summary report concerning the Tribunal's membership, staff, infrastructure, Rules and related matters.
- (d) The Tribunal's Finances, including the items required by section 41(1)(a) and (b).

Part 3 - Access to Tribunal Records**13. Access to, and use of, information**

- (1) Any person, upon payment of the prescribed fee, may inspect or copy any record of the Tribunal's proceedings
 - (a) if it is not confidential information; or
 - (b) if it is confidential information, to the extent permitted, and subject to any conditions imposed, by
 - (i) this Rule; or
 - (ii) an order of the Tribunal, or the Court
- (2) In addition to the provisions of sub-rule (1) the Tribunal may release confidential information to, or permit access to it by, only the following persons:
 - (a) The person who provided that information to the Tribunal, or the Commission' as the case may be;
 - (b) The firm to whom the confidential information belongs;
 - (c) A person who requires it for a purpose mentioned in section 69(2)(a) or (b);
 - (d) A person mentioned in section 69(2)(c);
 - (e) The Minister, if the information concerns a merger; or
 - (f) The Minister of Finance, if the information concerns a merger referred to in section 18(2).
- (3) When the Tribunal supplies any information to the Minister, or the Minister of Finance, the registrar must identify any information included in its submission -
 - (a) in respect of which a claim has been made in terms of Section 44 that has not yet been determined by the Tribunal; or
 - (b) that has been finally determined to be confidential information.

Part 4 - Tribunal Procedures**Division A - Complaint Procedures****14. Initiating complaint proceedings**

- (1) A Complaint Referral may be filed -
 - (a) by the Commission, in terms of section 50(1) or 50(2)(a), in Form CT 1(1);
 - (b) by a complainant, in terms of section 51(1), in Form CT1(2) within 20 business days after the Commission has issued, or has been deemed to have issued, a Notice of non-referral to that complainant; or
 - (c) by any party to an action in a civil court that has been referred to the Tribunal in terms of section 65(2), in Form CT 1(3).
- (2) If, in respect of a particular matter, more than one person files a Complaint Referral in terms of sub-rule (1), the registrar must combine those referrals under a common case number.
- (3) The person who files a Complaint Referral must serve a copy of it within 3 business days after filing on -
 - (a) The respondent;
 - (b) The Commission, if the Commission did not file the Referral; and
 - (c) On each other person who has previously filed a Complaint Referral in that matter.

15. Form of Complaint Referral

- (1) A complaint proceeding may be initiated only by filing a Complaint Referral in Form CT 1(1), CT 1(2) or CT 1(3), as required by Rule 14.

- (2) Subject to Rule 24 (1), a Complaint Referral must be supported by an affidavit setting out in numbered paragraphs -
 - (a) a concise statement of the grounds of the complaint; and
 - (b) the material facts or the points of law relevant to the complaint and relied on by the Commission or complainant, as the case may be.
- (3) A Complaint Referral may allege alternative prohibited practices based on the same facts.

16. Answer

- (1) Within 20 business days after being served with a Complaint Referral filed by the Commission, a respondent who wishes to oppose the Complaint Referral must -
 - (a) serve a copy of their Answer on the Commission; and
 - (b) file the Answer with proof of service.
- (2) Within 20 business days after being served with a Complaint Referral filed by a person other than the Commission, a respondent who wishes to oppose the Complaint Referral must -
 - (a) serve a copy of their Answer on the Commission, on the person who filed the Referral, and on each other person who has previously filed a Complaint Referral in that matter; and
 - (b) subject to sub-rule (4), file the Answer with proof of service.
- (3) An Answer that raises only a point of law must set out the question of law to be resolved.
- (4) Any other Answer must be in affidavit form, setting out in numbered paragraphs -
 - (a) a concise statement of the grounds on which the Complaint Referral is opposed;
 - (b) the material facts or points of law on which the respondent relies; and

- (c) an admission or denial of each ground and of each material fact relevant to each ground set out in the Complaint Referral.
- (5) An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an Answer will be deemed to have been admitted.
- (6) In an answer, the respondent must qualify or explain a denial of an allegation, if necessary in the circumstances.

17. Reply

- (1) Within 15 business days after being served with an Answer that raises issues not addressed in the Complaint Referral, other than a point of law alone, the person who filed the Complaint Referral may –
 - (a) serve a Reply on the respondent and the Commission, if the Commission did not file the Referral, and on each other person who filed a Complaint Referral in the matter; and
 - (b) file a copy of the Reply and proof of service.
- (2) A Reply must be in affidavit form, setting out in numbered paragraphs –
 - (a) an admission or denial of each new ground or material fact raised in the Answer; and
 - (b) the position of the replying party on any point of law raised in the Answer.
- (3) If a person who filed a Complaint Referral does not file a Reply, they will be deemed to have denied each new issue raised in the Answer, and each allegation of fact relevant to each of those issues.

18. Amending documents

- (1) The person who filed a Complaint Referral may apply to the Tribunal by Notice of Motion in Form CT 6 at any time prior to the end of the hearing of that complaint for an order authorising them to amend their Form CT 1(1), CT 1(2) or CT 1(3), as the case may be, as filed.
- (2) If the Tribunal allows the amendment, it must allow any other party affected by the amendment to file additional documents consequential to those amendments within a time period allowed by the Tribunal.

19. Completion of complaint file

Subject to any order made in terms of Rule 18 or Rule 22, the filing of documents is complete when a Complaint Referral or Answer has not been responded to within the time allowed.

20. Complaint hearings

Proceedings in a complaint hearing, other than a hearing under section 49D, will be governed by orders made in terms of Rule 22, except to the extent that the presiding member at the hearing rules otherwise.

21. Pre-hearing conferences

- (1) Before, or within 20 business days after, the filing of documents is completed, a member of the Tribunal assigned by the Chairperson may convene a pre-hearing conference on a date and at a time determined by that member with -
 - (a) the Commission;
 - (b) each complainant who has filed a Complaint Referral, subject to section 53(a)(ii);
 - (c) intervenors; and
 - (d) the Respondent.

- (2) If a point of law has been raised, and it appears to the assigned member of the Tribunal at a pre-hearing conference to be practical to resolve that question before proceeding with the Conference, the member may -
 - (a) direct the registrar to set only that question down for hearing by the Tribunal; and
 - (b) may adjourn the pre-hearing conference pending the resolution of that question by the Tribunal, and the Court, if applicable.
- (3) The assigned member of the Tribunal may adjourn a pre-hearing conference from time to time.
- (4) Pre-hearing conferences may be conducted in person or by telephone or both, need not follow formal rules of procedure, and are not open to the public.

22. Other powers of member at pre-hearing conference

- (1) At a pre-hearing conference, the assigned member of the Tribunal may -
 - (a) establish procedures for protecting confidential information, including the terms under which participants may have access to that information;
 - (b) direct the Commission to investigate specific issues or obtain certain evidence; or
 - (c) give directions in respect of -
 - (i) technical or formal amendments to correct errors in any documents filed in the matter;
 - (ii) any pending Notices of Motion;
 - (iii) clarifying and simplifying the issues;
 - (iv) obtaining admissions of particular facts or documents;
 - (v) the production and discovery of documents whether formal or informal;

- (vi) witnesses to be called by the Tribunal at the hearing, the questioning of witnesses and the language in which each witness will testify;
 - (vii) a timetable for
 - (aa) the exchange of summaries of expert opinions or other evidence that will be presented at the hearing; and
 - (bb) any other pre-hearing obligations of the parties;
 - (viii) determine the procedure to be followed at the hearing, and its expected duration;
 - (ix) a date, time and schedule for the hearing; or
 - (x) any other matters that may aid in resolving the complaint.
- (2) At a pre-hearing conference, the assigned member of the Tribunal may require each participant to submit at a date to be determined, but before the hearing, a written statement summarising its argument, if any, with respect to the complaint, and identifying what it believes are the major unresolved issues.
- (3) After concluding a pre-hearing conference, the assigned member of the Tribunal must issue an order recording any agreements or rulings arising from matters considered at the pre-hearing conference.
- (4) A member of the Tribunal assigned by the Chairperson may schedule a further pre-hearing conference on their own motion, and the provisions of this rule apply to such a conference.

23. Settlement conference

At any time before the Tribunal makes a final order in a complaint proceeding, the Tribunal, on its own initiative or at the request of the participants, may order an adjournment of the proceedings to allow the participants to attempt to reach agreement on any outstanding issue.

24. Initiating consent hearings

- (1) If a Complaint Referral is to be proceeded with in terms of section 49D(1) -
 - (a) Rules 14(3), 15(2) and 16 - 23 inclusive, do not apply to the Complaint Referral; and
 - (b) the person filing the Complaint Referral must attach the following documents to it:
 - (i) a Notice of Motion in Form CT 6, for a consent order to be made;
 - (ii) a copy of each Form CT 3 filed with the Commission in respect of the matter, if any; and
 - (iii) a draft order in the terms agreed, signed by the Commission and the respondent indicating their consent to the order.
- (2) At any time before the Tribunal makes a final order in a complaint proceeding, a party may request the Tribunal to make a consent order by filing a Notice of Motion in Form CT 6 with the documents listed in sub-rule (1)(b).
- (3) A party intending to file a Notice of Motion in terms of sub-rule (2) -
 - (a) must notify each complainant, in writing, that a consent order may be proposed to the Tribunal; and
 - (b) invite the complainant to inform the Commission in writing within 10 business days after receiving that notice -
 - (i) whether the complainant is prepared to accept damages under such an order; and
 - (ii) if so, the amount of damages claimed.
- (4) A draft order filed in terms of this Rule must meet the requirements set out in Competition Commission Rule 18 (2) - (4), read with the changes required by context.

25. Consent hearings

- (1) Upon receiving a Complaint Referral in terms of Rule 24(1), or a Notice of Motion in terms of Rule 24(2), the registrar must convene a hearing of the Tribunal at the earliest possible date.
- (2) If the Tribunal refuses to make a consent order as requested, or requires any changes that a party is unwilling to accept –
 - (a) The Commission or other complainant, as the case may be, may, as of right, amend the Referral and statement of particulars;
 - (b) The registrar must serve each party, and complainant, if applicable, with –
 - (i) a notice that the motion for a consent order has been denied; and
 - (ii) a copy of the Complaint Referral and statement of particulars, in their original or amended form, as applicable;
 - (c) the Tribunal must proceed to consider the complaint in accordance with these Rules as they apply to contested complaints generally –
 - (i) after the time for an appeal from the decision of the Tribunal in terms of sub-rule (2) has expired; or
 - (ii) if an appeal has been noted from that decision, after the Court has decided that appeal; and
 - (d) none of the members of the Tribunal who considered the motion for the consent order may participate in any further proceedings relating to that complaint.

Division B - Interim Relief in terms of Section 49C**26. Initiating interim relief procedures**

- (1) A person wishing to apply for an interim order in terms of section 49C(1) must file a Notice of Motion in Form CT 6, and supporting affidavit setting out the facts on which the application is based.
- (2) The applicant must serve a copy of the Notice of Motion and affidavit on the Commission and each respondent named in the Notice of Motion, within 3 business days after filing it.
- (3) A Notice of Motion in terms of this Rule must -
 - (a) allege each prohibited practice in respect of which the application is made by specific reference to the relevant section, subsection, paragraph or subparagraph of the Act;
 - (b) indicate the order sought, and the section of the Act under which that order may be granted;
 - (c) state the name and address of each person in respect of whom an order is sought.
- (4) A Notice of Motion may allege alternative prohibited practices based on the same facts.
- (5) Rules 18 and 19, each read with changes required by the context, apply to an application under this Rule.

27. Answering and Replying affidavits

- (1) Within 15 business days after being served with a Notice of Motion, a respondent against whom an interim order is sought -
 - (a) may serve an answering affidavit on the Commission, the applicant and any other person against whom the order is sought; and

- (b) must file proof of service with the affidavit.
- (2) Within 10 business days after being served with an answering affidavit that raises issues not addressed in the Notice of Motion or its supporting affidavit, the applicant may –
- (a) serve a replying affidavit on the respondent, the Commission and on any other person against whom the order is sought; and
 - (b) file a copy of the replying affidavit and proof of service.

28. Interim relief hearings

- (1) Rules 21, 22 and 23, each read with the changes required by context, apply to the pre-hearing procedures of an interim relief application.
- (2) Subject to section 55, evidence on an application for interim relief must be by affidavit.
- (3) In urgent circumstances, the Tribunal on good cause shown may shorten any time period or dispense with any formalities provided for in this Division.

Division C - Merger Proceedings**29. Participation by Minister in merger proceedings**

- (1) If the Minister participated in merger proceedings before the Commission, the Minister is a participant in proceedings concerning that merger before the Tribunal.
- (2) If the Minister did not participate in merger proceedings before the Commission the Minister may file a Minister's Notice of Intention to Participate in Form CC 5(2) within 5 business days after –
 - (a) the Commission refers a large merger to the Tribunal; or
 - (b) a person entitled to do so in terms of section 16(1) files a Request for Consideration in respect of an intermediate merger.
- (3) If the Minister files a Minister's Notice of Intention to Participate in terms of sub-rule (1) –
 - (a) the Minister is a participant in proceedings concerning that merger before the Tribunal, and
 - (b) the registrar must –
 - (i) deliver a copy of the Minister's Notice of Intention to Participate to every other participant; and
 - (ii) deliver to the Minister a copy of all documents filed in connection with the merger, up to the day on which the Minister's Notice of Intention to Participate was filed.
- (4) The registrar must deliver to the Minister any document that is filed in connection with a merger while the Minister is a participant in those merger proceedings.

- (5) The Minister may file a concise statement of the public interest grounds on which the Minister relies in respect of a particular merger, and a statement of the decision, if any that the Minister prefers, at any time between –
 - (a) The date on which the Minister became a participant in those proceedings; and
 - (b) 10 business days after receiving advice from the registrar in terms of sub-rule (6), if applicable.
- (6) If, in respect of a particular merger the Minister is a participant, but has not yet filed a statement in terms of sub-rule (5), the registrar must advise the Minister in writing at the time that the Tribunal is prepared to make a decision in terms of section 16.
- (7) Upon receiving a concise statement from the Minister in terms of sub-rule (5), the registrar must serve a copy of the statement on each other participant in those proceedings, and each participant may file a written response to the statement within 5 business days after it has been served on them.

30. Minister of Finance intervention

- (1) The Minister of Finance may issue a notice to the Tribunal in terms of section 18(2)(b) by filing Form CC 5(3) at any time between –
 - (a) The date on which the Commission refers a large merger to the Tribunal, or a person files a Request for Consideration in terms of section 16(1), as the case may be; and
 - (b) 10 business days after receiving advice from the registrar in terms of sub-rule (2), if applicable.
- (2) If, in respect of a particular merger, the Commission served the Minister of Finance with a Notice as required under Commission Rule 36, but the Minister of Finance has not yet issued a notice in terms of sub-rule (1), the registrar must advise the Minister of Finance in writing at the time that the Tribunal is prepared to make a decision in terms of section 16.

- (3) Upon receiving a notice from the Minister of Finance in terms of sub-rule (1), the registrar must serve a copy of the notice on the Commission and each other participant in those proceedings.

31. Preliminary merger decisions

- (1) An application may be made by filing a Notice of Motion and affidavit, as described in Rule 42(1), for any of the following matters:
- (a) For an order extending time in terms of section 14A(2).
 - (b) An appeal against directions by the Commission concerning the application of the Threshold requirements and fee calculations, in terms of Competition Commission Rule 26(3).
 - (c) An appeal against an opinion of the Commission concerning the jurisdiction of the Act, in terms of Competition Commission Rule 33.
 - (d) An appeal against Form CC 13(2) issued by the Commission in terms of Competition Commission Rule 30.
 - (e) An appeal against a Demand for Corrected Information issued by the Commission, in terms of Competition Commission Rule 32.
 - (f) For an order for a remission of filing fees, in terms of Competition Commission Rule 34(2).
- (2) A person appealing against Form CC 13(2) in terms of both Competition Commission Rule 30(4) and Competition Commission Rule 33(3) must combine both appeals on a single Notice of Motion.
- (3) A Notice of Motion and affidavit filed in terms of this Rule –
- (a) must be served on the Commission, or if the Commission is the applicant, on the firm that filed the Merger Notice; and,

- (b) if the applicant seeks an order in terms of Competition Commission Rule 33(3), must also be served on the other primary firm.
- (4) Upon receiving a Notice of Motion and affidavit filed in terms of this Rule, the registrar must set the matter down for hearing at the earliest convenient date.
- (5) A motion in terms of sub-rule (1)(a) may be heard by a single member of the Tribunal in terms of section 31(5).
- (6) Division E, other than the requirements set out in Rule 42 (1) and (3), does not apply to a Notice of Motion brought in terms of this Rule.
- (7) Upon hearing an appeal in terms of Competition Commission Rule 30 (3), the Tribunal may make an order –
 - (a) Setting aside Form CC 13(2) entirely;
 - (b) Confirming any or all of the requirements set out in Form CC 13(2);
 - (c) Substituting other requirements for any of the requirements set out in Form CC 13(2); or
 - (d) Combining any or all of the requirements set out in Form CC 13(2) with additional or substitute requirements.

32. Requests for consideration of small or intermediate mergers

- (1) A person contemplated in section 16(1) may request the Tribunal to consider the Commission's decision in a merger in the manner allowed in that section, by filing a Request for Consideration in Form CT 4 within 10 business days after the Commission issues its decision in that merger.
- (2) A Request for Consideration must contain a concise statement indicating whether party seeks to have the merger prohibited, approved without conditions, or approved with conditions, and if the latter, what conditions the party is prepared to accept, and must be –

- (a) accompanied by a summary of the factual and legal basis upon which the request is based; and
 - (b) served on –
 - (i) the Commission; and
 - (ii) any participant in the relevant merger proceedings before the Commission who is not a party to the Request for Consideration.
- (3) Upon receiving a copy of a Request for Consideration, the Commission must give the Tribunal
- (a) a copy of the Clearance Certificate or Notice of Prohibition;
 - (b) a copy of the statement of reasons for the decision; and
 - (c) access to the Commission's file in respect of that merger.

33. Small or Intermediate merger pre-hearing procedures

- (1) When a Request for Consideration has been filed, the registrar must –
- (a) schedule a date within 10 business days after the filing date for either –
 - (i) the beginning of the hearing of the Request; or
 - (ii) the beginning of a pre-hearing conference in terms of sub-rule (3); and
 - (b) serve a Notice of Set-Down in Form CT 15 on the Commission, on the party who filed the Request for Consideration and on each person who has indicated an intention to participate.
- (2) The period provided for in sub-rule (1) may be extended –
- (a) for a further 10 business days by the Chairperson; or

- (b) for a further period by the Chairperson with the consent of the primary acquiring firm and the primary target firm.
- (3) A member assigned by the Chairperson may convene a pre-hearing conference of those persons who have indicated an intention to participate either to the Commission or to the Tribunal and Rules 21 and 22, each read with the changes required by context, apply to that conference.
- (4) In addition to the provisions of Rules 21 and 22, at a pre-hearing conference in terms of this Rule, the member assigned by the Chairperson may also determine whether there will be a formal hearing or whether the matter may be decided on the basis of written argument only.

34. Small or Intermediate merger hearing procedures

After completing its hearing in respect of a small or intermediate merger, the Tribunal must –

- (a) either approve the merger, approve the merger subject to conditions, or prohibit the merger within 10 business days after the end of the hearing by issuing a certificate in the appropriate Form CT 10 or CT 11; and
- (b) within 20 business days after issuing a certificate –
 - (i) issue written reasons for its decision; and
 - (ii) publish a notice of its decision in the Gazette.

35. Referral of large mergers

- (1) When a Merger Referral has been filed, the registrar must –
 - (a) schedule a date within 10 business days after the filing date for either –
 - (i) the beginning of the hearing of the Referral; or
 - (ii) the beginning of a pre-hearing conference in terms of sub-rule (3); and

- (b) serve a Notice of Set-Down in Form CT 15 on the Commission and on each person who has indicated an intention to participate.
- (2) The period provided for in sub-rule (1) may be extended –
- (a) for a further 10 business days by the Chairperson; or
 - (b) for a further period by the Chairperson with the consent of the primary acquiring firm and the primary target firm.
- (3) At any time after receiving a notice of a large merger in terms of section 14A(1)(a), but before the hearing, a member of the Tribunal assigned by the Chairperson may convene a pre-hearing conference of those persons who have indicated an intention to participate either to the Commission or the Tribunal, and Rules 21 and 22, each read with the changes required by context, apply to that conference.
- (4) In addition to the provisions of Rules 21 and 22, at a pre-hearing conference in terms of this Rule, the assigned member of the Tribunal may also determine whether there will be a formal hearing or whether the matter may be decided on the basis of written argument only.
- (5) After completing its hearing in respect of a merger, the Tribunal must –
- (a) either approve the merger, approve the merger subject to conditions, or prohibit the merger within 10 business days after the end of the hearing by issuing a certificate in the appropriate Form CT 10, or CT 11; and
 - (b) within 20 business days after issuing a certificate –
 - (i) issue written reasons for its decision; and
 - (ii) publish a notice of its decision in the Gazette.

36. Applications in terms of section 14A (3)

- (1) An application in terms of section 14A (3) must be made by Notice of Motion in Form CT6.

- (2) The Chairperson may give procedural directions regarding an application under this Rule.

37. Revocation of approval or conditional approval

- (1) In respect of a merger that has been approved or conditionally approved by the Tribunal, the Commission may file a Notice of Motion in Form CT 6 to revoke the approval or conditional approval of that merger provided, if the proposed revocation is based on section 15(1)(c), that it has taken the steps set out in Rule 39 of the Competition Commission Rules.
- (2) A Notice of Motion in terms of sub-rule (1) must specify the provision of section 15(1) on which the request is based.
- (3) Upon receiving a Notice of Motion in terms of sub-rule (1), the registrar must –
 - (a) advise any firm concerned, in writing, of the Notice; and
 - (b) publish a notice of the requested revocation in the Gazette.
- (4) The Tribunal may request further information from any person who submits a representation in response to a notice published in terms of sub-rule (3)(b).
- (5) After considering the application, and any submissions or other information received in relation to the requested revocation, the Tribunal must –
 - (a) either confirm the approval or conditional approval, as the case may be, in writing, or revoke it by issuing a Notice of Revocation in Form CT 12;
 - (b) publish a notice of that decision in the Gazette; and
 - (c) report its decision in writing to each participant in the merger proceedings.
- (6) Within 10 business days after receiving a Notice of Revocation in terms of sub-rule (5)(a), the firm concerned may request the Court to review the notice on the grounds that there is no basis in terms of section 15(1) for the approval or conditional approval to be revoked.

- (7) If no review is applied for in terms of sub-rule (6), or if the Court upholds the Notice of Revocation, the effect of that notice is -
- (a) the Certificate of approval or conditional approval in respect of the relevant merger is deemed to have been rejected as of the date of that Certificate;
 - (b) each party to the merger is, for all purposes of the Act, in the same position as if they had never notified the Commission of that merger; and
 - (c) the Commission and the Tribunal may further consider that merger only if a party to the merger subsequently files a new Merger Notice with respect to it; and
 - (d) if a new Merger Notice is subsequently filed in respect of that merger, the Commission and Tribunal must consider that merger on the basis of that new notice without reference to any previous notice filed in respect of it.

Division D - Exemption Appeal Proceedings**38. Initiating exemption appeals**

- (1) A person referred to in section 10(8), or Item 8 of Schedule 1, may initiate an exemption appeal proceeding in terms of that section by filing a Notice of Appeal in Form CT 7 within 20 business days after notice of the relevant decision is published in the Gazette.
- (2) Upon the filing of a Notice of Appeal in terms of this Part, and pending a final decision in the matter –
 - (a) an exemption that has been granted remains in effect;
 - (b) an exemption that has been revoked remains in effect; and
 - (c) a refusal to grant an exemption remains in effect.
- (3) A Notice of Appeal in terms of this Rule must –
 - (a) name as a respondent –
 - (i) the Commission;
 - (ii) the person who applied for the exemption, if that person is not the appellant; and
 - (iii) if the appeal is in respect of an exemption decision in terms of Schedule 1, the Minister or member of the Executive Council who was consulted in terms of that Schedule, if they are not the appellant.
 - (b) set out the grounds on which the appeal is based; and
 - (c) indicate the order sought.
- (4) A Notice of Appeal may set out alternative grounds of appeal based on the same facts.

- (5) The appellant must serve a copy of the Notice of Appeal on each respondent, within 3 business days after filing it.
- (6) The registrar must publish a notice of each appeal in terms of this Division in the Gazette.

39. Appeal record

- (1) The Commission must file a record of the exemption proceedings in the Commission within 20 business days after being served with a copy of the Notice of Appeal.
- (2) The record referred to in sub-rule (1) must include a copy of –
 - (a) the application for exemption submitted to the Commission;
 - (b) any written representations concerning that application that were considered by the Commission;
 - (c) any Exemption certificate, Notice of Refusal, Notice of Revocation, or Decision concerning a revocation issued to the person who applied for the exemption; and
 - (d) any written reasons given by the Commission for a decision issued to the person who applied for the exemption.

40. Heads of argument

- (1) No later than 15 business days before the date set for hearing the appeal, the appellant must –
 - (a) serve a copy of the appellant's heads of argument on each respondent; and
 - (b) file those heads of argument and proof of service.
- (2) No later than 10 business days before the date set for hearing the appeal, each respondent must –
 - (a) serve a copy of their heads of argument on the appellant; and

- (b) file those heads of argument and proof of service.

41. Appeal hearing

- (1) Upon receiving a Notice of Appeal filed in terms of this Division, the registrar must –
 - (a) Set down a date and time for the hearing of the appeal; and
 - (b) serve a Notice of Set-Down in Form CT 15 on the Appellant and each respondent.
- (2) After issuing written reasons for its decision, the Tribunal must publish a notice of its decision in the Gazette.

Division E - Other Appeals, Reviews, Variations, or Enforcement Proceedings**42. Initiating other proceedings**

- (1) Any proceedings not otherwise provided for in these Rules may be initiated only by filing a Notice of Motion in Form CT 6 and supporting affidavit setting out the facts on which the application is based.
- (2) The applicant must serve a copy of the Notice of Motion and affidavit on each respondent named in the Notice, within 5 business days after filing it.
- (3) A Notice of Motion in terms of this Rule must –
 - (a) indicate the basis of the application; or
 - (b) depending on the context –
 - (i) set out the Commission's decision that is being appealed or reviewed;
 - (ii) set out the decision of the Tribunal that the applicant seeks to have varied or rescinded;
 - (iii) set out the Tribunal or Commission Rule in respect of which the applicant seeks condonation;
 - (iv) allege conduct referred to in –
 - (aa) section 59(1)(c) in respect of which the Commission seeks an administrative fine; or
 - (bb) section 60(1) in respect of which the Commission seeks an order of divestiture;
 - (c) indicate the order sought; and
 - (d) state the name and address of each person in respect of whom an order is sought.

43. Answering and Replying affidavits

- (1) Within 10 business days after being served with a Notice of Motion applying for any relief other than condonation, a respondent against whom an order is sought –
 - (a) may serve an answering affidavit on the applicant, and on any other person against whom the order is sought; and
 - (b) must file the affidavit with proof of service.

- (2) Within 10 business days after being served with an answering affidavit that raises issues not addressed in the Notice of Motion or its supporting affidavit, the applicant may –
 - (a) serve a replying affidavit on the respondent, the Commission and on any other person against whom the order is sought; and
 - (b) file a copy of the Replying affidavit and proof of service.

Part 5 - Representation of Parties, Intervenors, Witnesses, and Interpreters**44. Representation of parties**

- (1) A representative acting on behalf of any person in any proceedings must notify the registrar and every other party, advising them of the following particulars:
 - (a) The representative's name.
 - (b) The postal address and place of employment or business.
 - (c) If a fax number and telephone number are available, those numbers.
- (2) A person who terminates their representative's authority to act in any proceedings, and then acts in person or appoints another representative, must notify the registrar and every other party of that termination, and of the appointment of another representative, if any, and include that representative's particulars, as set out in subrule (1).
- (3) On receipt of a notice in terms of sub-rule (1) or (2), the address of the representative or the party, as the case may be, will become the address of record for notices to and for service on that party of all documents in the proceedings.
- (4) Despite sub-rule (3), a person who, before receiving a notice in terms of sub-rule (1) or (2), has sent a notice to, or effected service on, a party somewhere other than at the address of record will be deemed to have validly served that item, unless the Tribunal orders otherwise.
- (5) A representative in any proceedings who ceases to act for a party must deliver a notice to that effect to that party and every other party concerned.
- (6) A notice delivered in terms of sub-rule (5) must state the names and addresses of each party who is being notified.

- (7) After receiving a notice referred to in sub-rule (5), the address of the party formerly represented becomes the address for notices to, and for service on, that party of all documents in the proceedings, unless a new address is furnished for that purpose.

45. Joinder or substitution of parties

- (1) The Tribunal, or the assigned member, as the case may be, may combine any number of persons, whether jointly, jointly and severally, separately, or in the alternative, as parties in the same proceedings, if their respective rights to relief depend on the determination of substantially the same question of law or facts.
- (2) If a party to any proceedings has been incorrectly or defectively cited, the Tribunal or the assigned member, as the case may be, on application and on notice to the party concerned, may correct the error or defect and may make an order as to costs.
- (3) If in any proceedings it becomes necessary to substitute a person for an existing party, any party to those proceedings, on application and on notice to every other party, may apply to the Tribunal or the assigned member, as the case may be, for an order substituting that party for an existing party, and the Tribunal or the assigned member, as the case may be, may make an order, including an order as to costs, or give directions as to the further procedure in the proceedings.
- (4) An application to join any person as a party to proceedings, or to be substituted for an existing party, must be accompanied by copies of all documents previously delivered, unless the person concerned or that person's representative is already in possession of those documents.
- (5) No joinder or substitution in terms of this rule will affect any prior steps taken in the proceedings.

46. Intervenor

- (1) At any time after an initiating document is filed with the Tribunal, any person who has a material interest in the relevant matter may apply to intervene in the Tribunal proceedings by filing a Notice of Motion in Form CT 6, which must –
 - (a) include a concise statement of the nature of the person's interest in the proceedings, and the matters in respect of which the person will make representations; and
 - (b) be served on every other participant in the proceedings.
- (2) No more than 10 business days after receiving a motion to intervene, a member of the Tribunal assigned by the Chairperson must either –
 - (a) make an order allowing the applicant to intervene, subject to any limitations –
 - (i) necessary to ensure that the proceedings will be orderly and expeditious; or
 - (ii) on the matters with respect to which the person may participate, or the form of their participation; or
 - (b) deny the application, if the member concludes that the interests of the person are not within the scope of the Act, or are already represented by another participant in the proceeding.
- (3) Upon making an order in terms of sub-rule (2), the assigned member may make an appropriate order as to costs.
- (4) If an application to intervene is granted –
 - (a) the registrar must send to the intervenor a list of all documents filed in the proceedings prior to the day on which the request for leave to intervene was granted; and
 - (b) access by an intervenor to a document filed or received in evidence is subject to any outstanding order of the Tribunal restricting access to the document.

47. Summoning witnesses

- (1) If the Tribunal requires a witness to attend any proceedings to give evidence the presiding member may have a summons issued in Form CT 13 for that purpose.
- (2) If a witness is required to produce in evidence any document or thing in the witness's possession, the summons must specify the document or thing to be produced.
- (3) After the summons has been issued, it must be served by the sheriff in any manner authorised by Rule 4 of the High Court Rules.
- (4) A witness who has been required to produce any document or thing at the proceedings must hand it over to the registrar as soon as possible after service of the summons, unless the witness claims that the document or thing is privileged.

48. Witness fees

- (1) A witness in any proceedings is entitled to be paid in accordance with the tariff of allowances prescribed by the Minister of Justice and published by notice in the Gazette in terms of section 42 of the Supreme Court Act, 1959 (Act 59 of 1959).
- (2) Despite sub-rule (1), the Tribunal may order that no allowance or only a portion of the prescribed allowances be paid to any witness.

49. Interpreters and translators

- (1) Before an interpreter may interpret in Tribunal proceedings, the interpreter must take an oath or make an affirmation in the following form before a member of the Tribunal:

"I,(full name)
swear/ affirm that whenever I am called on to interpret in any proceedings before the Tribunal, I will correctly interpret to the best of my ability from the language I am called on to interpret into one or her of the official languages, and vice versa."

- (2) An oath or affirmation must be taken or made in the manner prescribed for the taking of an oath or the making of an affirmation in the High Court Rules, read with the changes required by context and a printed copy of the oath or affirmation must be signed by the interpreter.
- (3) Any person admitted and enrolled as a sworn translator of any division of the High Court is deemed to be a sworn translator for the Tribunal.

Part 6 - Withdrawals, Postponements, Set-down, and Matters Struck-off**50. Withdrawals and postponements**

- (1) At any time before the Tribunal has determined a matter, the initiating party may withdraw all or part of the matter by –
 - (a) serving a Notice of Withdrawal in Form CT 8 on each party; and
 - (b) filing the Notice of Withdrawal with proof of service.
- (2) If the parties agree to postpone a hearing, the initiating party must notify the registrar as soon as possible.
- (3) Subject to section 57 –
 - (a) a Notice of Withdrawal may include a consent to pay costs; and
 - (b) if no consent to pay costs is contained in a Notice of Withdrawal the other party may apply to the Tribunal by Notice of Motion in Form CT 6 for an appropriate order for costs.

51. Set-down of matters

- (1) If a matter has been postponed to a date to be determined in the future, any party to the matter may apply to the registrar for it to be re-enrolled, but no preference may be given to that matter on the roll, unless the Chairperson decides otherwise.
- (2) The registrar must allocate a time, date and place for the hearing and send a Notice of Set - Down in Form CT 15 to each party.
- (3) If a matter is postponed to a specific date, the registrar need not send a Notice of Set-Down to the parties.

52. Matters struck-off

- (1) The Tribunal member presiding at a hearing may strike a matter off the Roll if the initiating party is not present.
- (2) If a matter is struck off the roll, the matter may not be re-enrolled unless –
 - (a) that party concerned files an affidavit setting out a satisfactory explanation for the failure to attend the hearing; and
 - (b) a member of the Tribunal assigned by the Chairperson, on considering the explanation offered, orders the matter to be re-enrolled.

53. Default orders

- (1) If a person served with an initiating document has not filed a response within the prescribed period, the initiating party may apply in accordance with Part 4 – Division E to have the order sought issued against that person by the Tribunal.
- (2) On an application in terms of sub-rule (1), the Tribunal may make an appropriate order –
 - (a) after it has heard any required evidence concerning the motion; and
 - (b) if it is satisfied that the initiating document was adequately served.
- (3) Upon an order being made in terms of sub-rule (2), the registrar must serve the order on the person described in subsection (1) and on every other party.

Part 7- Procedures Generally**54. Late filing, extension and reduction of time**

- (1) A party to any matter may apply to the Tribunal to condone late filing of a document, or to request an extension or reduction of the time for filing a document, by filing a request in Form CT 6.
- (2) Upon receiving a request in terms of sub-rule (1), the registrar, after consulting the parties to the matter, must set the matter down for hearing in terms of section 31(5) at the earliest convenient date.

55. Conduct of hearings

- (1) If, in the course of proceedings, a person is uncertain as to the practice and procedure to be followed, the member of the Tribunal presiding over a matter –
 - (a) may give directions on how to proceed; and
 - (b) for that purpose, if a question arises as to the practice or procedure to be followed in cases not provided for by these Rules, the member may have regard to the High Court Rules.
- (2) Subject to these Rules, the member of the Tribunal presiding over a matter may determine the time and place for the hearing before the Tribunal.
- (3) The Tribunal may condone any technical irregularities arising in any of its proceedings.

56. Guidelines

The Tribunal, by notice published in the Gazette, may issue guidelines or requirements concerning the form and style of any documents provided for in these Rules, other than forms listed in Tables CTR 2 and CTR 3.

57. Record of hearing

The registrar must compile a record of any proceeding in which a hearing has been held including –

- (a) the initiating document;
- (b) the notice of any hearing;
- (c) any interlocutory orders made by the Tribunal or a member;
- (d) all documentary evidence filed with the Tribunal;
- (e) the transcript, if any, of the oral evidence given at the hearing; and
- (f) the final decision of the Tribunal and the reasons.

Part 8 - Orders, Costs and Taxation**58. Costs and taxation**

- (1) Upon making an order under Part 4, the Tribunal may make an order for costs.
- (2) Where the Tribunal has made an award of costs in terms of section 57, the following provisions apply:
 - (a) The fees of one representative may be allowed between party and party, unless the Tribunal authorises the fees of additional representatives.
 - (b) The fees of any additional representative authorised in terms of paragraph (a) must not exceed one half of those of the first representative, unless the Tribunal directs otherwise.
 - (c) The costs between party and party allowed in terms of an order of the Tribunal, or any agreement between the parties, must be calculated and taxed by the taxing master at the tariff determined by the order or agreement, but if no tariff has been determined, the tariff applicable in the High Court will apply.
 - (d) Qualifying fees for expert witnesses may not be recovered as costs between party and party unless otherwise directed by the Tribunal during the proceedings.
 - (e) The registrar may perform the functions and duties of a taxing master or appoint any person as taxing master who in the registrar's opinion is fit to perform the functions and duties signed to or imposed on a taxing master by these rules.
 - (f) The taxing master is empowered to tax any bill of costs for services actually rendered in connection with proceedings in the Tribunal.
 - (g) At the taxation of any bill of costs, the taxing master may call for any book, document, paper or account that in the taxing master's opinion is necessary to determine properly any matter arising from the taxation.

- (h) The taxing master must not proceed to the taxation of any bill of costs unless the taxing master has been satisfied by the party requesting the taxation (if that party is not the party liable to pay the bill) that the party liable to pay the bill has received due notice as to the time and place of the taxation and of that party's entitlement to be present at the taxation.
- (i) Despite sub-rule (h), notice need not be given to a party –
 - (i) who failed to appear at the hearing either in person or through a representative; or
 - (ii) who consented in writing to the taxation taking place in that party's absence.
- (j) Any decision by a taxing master is subject to the review of the High Court on application.

COMPETITION TRIBUNAL RULES

REGULATING THE FUNCTIONS OF THE COMPETITION TRIBUNAL

Annexure 1 - Tables

Table CTR 1- Methods and times for delivery of Documents

Nature of Person being served	Method of Delivery	Date and Time of Deemed delivery
ANY PERSON	By faxing the notice or a certified copy of the document to the person, if the person has a fax number; or	On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a copy of the document by electronic mail, if the person has an address for receiving electronic mail; or	On the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a certified copy of the document by registered post to the person's last-known address; or	On the 7th day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.
	By any other means authorised by the High Court; or	In accordance with the order of the High Court.
	By any other method allowed for that person in terms of the following rows of this Table.	As provided for that method of delivery.

ANY NATURAL PERSON	By handing the notice or a certified copy of the document to the person, or to any representative authorised in writing to accept service on behalf of the person; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
THE TRIBUNAL	By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Tribunal, if the document is a prescribed form; or	On the date and at the time recorded by the Tribunal's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the registrar of the Tribunal; or	On the date and at the time recorded by the Tribunal's computer system, unless, within 1 business day after that date, the registrar advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the registrar of the Tribunal; or	On the date and at the time of delivery of the registered post to the registrar of the Tribunal, as recorded by the post office, unless, within business day after that date, the registrar advises the sender that the disk is unreadable.

	By handing the document, or a computer disk containing the document in electronic form, to the registrar of the Tribunal.	On the date and at the time noted in a receipt issued by the registrar of the Tribunal unless, the document is on a computer disk, and, within 1 business day after that date, the registrar advises the sender that the disk is unreadable.
THE COMMISSION	By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Commission, if the document is a prescribed form; or	On the date and at the time recorded by the Commission's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the Commission; or	On the date and at the time recorded by the Commission's computer system, unless, within 1 business day after that date, the Commission advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the Commission; or	On the date and at the time of delivery of the registered post to the Commission, as recorded by the post office, unless, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
	By handing the document, or a computer disk containing the document in electronic form, to the Commission, or a responsible employee who is apparently in charge of the Commission's office.	On the date and at the time noted in a receipt issued by the Commission unless, the document is on a computer disk, and, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
A COMPANY OR SIMILAR BODY CORPORATE	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within the Republic; or	On the date and at the time recorded on a receipt for the delivery.

	If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A TRADE UNION	By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union or for the purposes of section 13(2), if there is a union office within the magisterial district of the firm required to notify its employees in terms of these Rules, at that office.	On the date and at the time recorded on a receipt for the delivery.
	If there is no person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
EMPLOYEES OF FIRM	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A PARTNERSHIP, FIRM OR ASSOCIATION	By handing the notice or a certified copy of the document to a person who is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of the partnership, firm or association; or	On the date and at the time recorded on a receipt for the delivery.

	If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairman or secretary of the managing or other controlling body of the association, as the case may be.	On the date and at the time recorded on a receipt for the delivery.
A MUNICIPALITY	By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any person acting on behalf of that person.	On the date and at the time recorded on a receipt for the delivery.
A STATUTORY BODY OTHER THAN THE COMMISSION AND TRIBUNAL	By handing the notice or a certified copy of the document to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body.	On the date and at the time recorded on a receipt for the delivery.
THE STATE OR A PROVINCE	By handing the notice or a certified copy of the document to a Responsible employee in any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.

Table CTR 2 - Notices and Applications

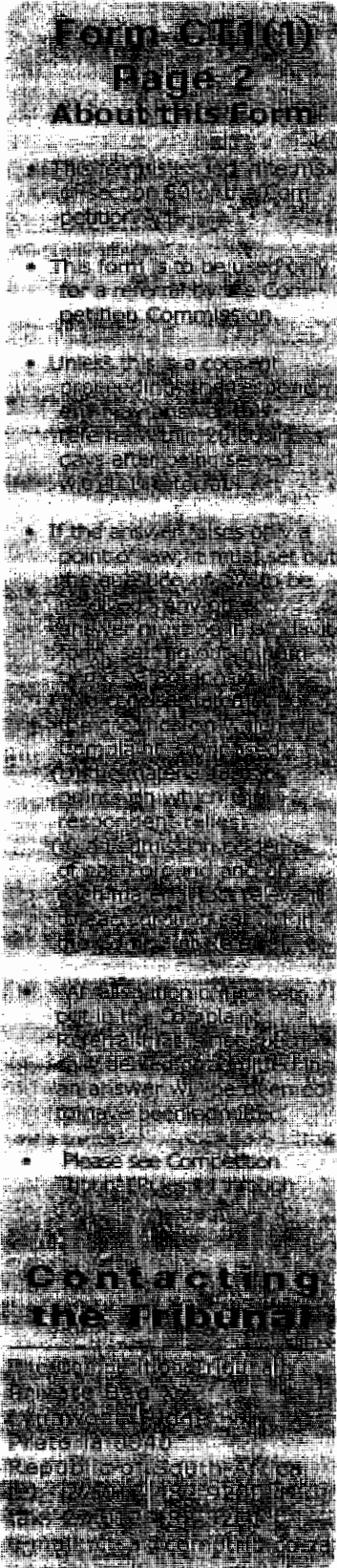
Rule #	Purpose of notice or Application	Form #	Conditions
Section 50	Referral of Complaint by Commission	CT 1(1)	
Section 51	Referral of Complaint by Complainant	CT 1(2)	May be used only after the Commission has issued a Notice of Non-Referral in respect of that matter.
Section 14(1)(c)	Referral of Complaint by Complainant	CT 1(3)	
Rules 24 and 25	Consent to include damages in consent order	CT 3	Must be attached to a Referral of Complaint and Draft Order in Form CT 6.
Rule 32	Request for Consideration of an Intermediate Merger	CT 4	
Several	Notice of Motion	CT 6	
Rule 38	Notice of Appeal	CT 7	
Rule 50	Notice of Withdrawal	CT 8	

Table CTR 3 – Certificates and Notices

Rule #	Purpose of Certificate or Notice	Form #	Conditions
Section 14A	Extension Certificate	CT 9	
Section 16	Merger Clearance Certificate	CT 10	May be used either with or without conditions.
Section 16	Notice of Prohibition of Merger	CT 11	
Section 16(3)	Notice of Revocation of Merger Decision	CT 12	
Section 54 & Rule 47	Tribunal Summons	CT 13	
Several	Notice of Set - Down	CT 15	
Section 65(6)(b)	Certificate of Decision	CT 16	



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Referral of Complaint by Commission

The Competition Commission seeks an order granting the following relief:

(Concise statement of the order or relief sought:)

This referral is to proceed as a consent proceeding.

This referral is to proceed as a contested proceeding. Attached is an affidavit setting out the grounds of this complaint, and a statement of the material facts and the points of law relevant to it, as required by Competition Tribunal Rule 15(2).

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



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Referral of Complaint by Complainant

In terms of section 65 (2)(b) of the Competition Act, the Party named above seeks an order granting the following relief:

(Concise statement of the order or relief sought:)

Complainant's Address for Service

The Complainant will accept service of any document in terms of this complaint at any of the following addresses:

(Provide Name of Contact person, Postal and Physical addresses, Telephone Number, Fax Number and email address, if available.)

- This referral is to proceed as a consent proceeding.
- This referral is to proceed as a contested proceeding. Attached is an affidavit setting out the grounds of this complaint, and a statement of the material facts and the points of law relevant to it, as required by Competition Tribunal Rule 15(2)..

Name and Title of person authorised to sign:

Authorised Signature:	Date:

This form is prescribed by the Minister of Trade and Industry in terms of section 27 (2) of the Competition Act 1998 (Act No. 89 of 1998)



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Consent to Include Damages in Consent Order

Date: _____

To: The Competition Commission and
the Competition Tribunal

From:

(Name of complainant:)

Concerning:

(Name and file number of complaint:)

Statement of Claimant:

The complainant has suffered material damages as a result of the conduct that is the subject matter of this complaint, and agrees to having compensation for those damages, payable on the terms set out in the attached sheet, and in the amount of R_____, included in a consent order made by the Competition Tribunal in terms of section 49D of the Competition Act.

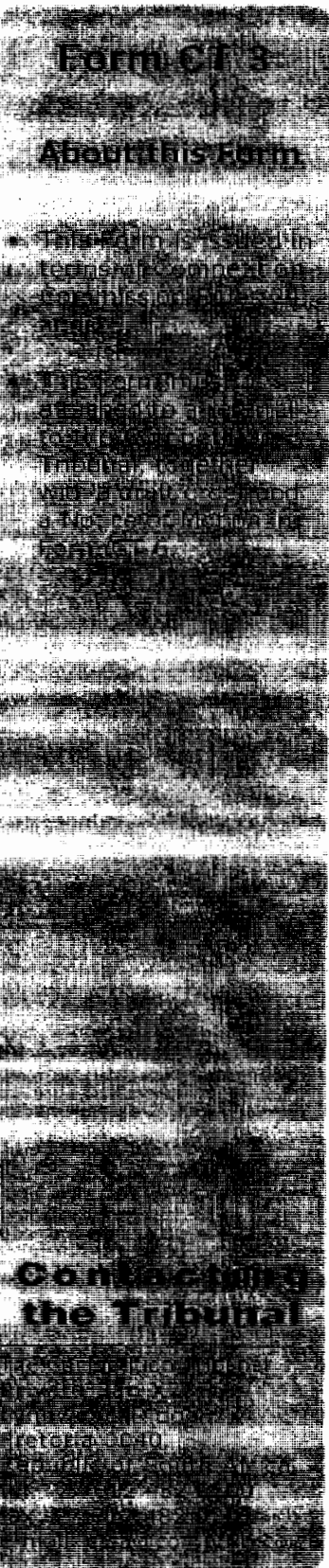
The complainant understands that if damages are awarded in a consent order as contemplated, any right of the complainant to damages in a civil action arising out of the same conduct is precluded in terms of section 49D(4), read with section 65(6)(a) of the Competition Act.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

For Office Use Only: Tribunal file number: _____ Date filed: _____





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Request for Consideration of Small or Intermediate Merger

To: The registrar, Competition Tribunal and
the Competition Commission:

From:

(Name of person filing this request:)

Concerning:

(Name and file number of merger:)

On _____, the Competition
Commission

prohibited

conditionally approved

the above referenced merger.

For the reasons set out on the attached sheet, we request
that the Competition Tribunal consider the merger in terms
of section 16(1) of the Act, and substitute the following
decision in place of the decision of the Commission.

State whether you want the merger prohibited, approved without
conditions, or approved with conditions, and if the latter, state
the conditions you are prepared to accept:

Name and Title of person authorised to sign:

Authorised Signature:

Date:

**For Office
Use Only:**

Tribunal file number:

Date filed:



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Form CT 6

Notice of Motion

About this Form

- This form is issued in terms of the Competition Tribunal Rules.
- Please indicate in the space provided the nature of your motion, including specific reference to the relevant section of the Act or Tribunal Rules.
- If this Notice of Motion concerns a matter being brought in terms of Division E of Part 4 of the Competition Tribunal Rules, it must comply with the requirements of Competition Tribunal Rules 42(3).

Date: _____ **File #** _____

To: The registrar of the Competition Tribunal

Concerning the matter between:

_____ (Applicant)

and

_____ (Respondent)

Take notice that the _____ intends to apply to the Tribunal for the following order:

Name and Title of person authorised to sign:

Authorised Signature:

Date:

For Office Use Only:

Tribunal file number:

Date filed:

Contacting the Tribunal

The Competition Tribunal
Private Bag 27
Lynnwood Ridge
Pretoria 0001
Republic of South Africa
Tel: 011 230 6543
Fax: 011 230 6542
E-mail: info@comptribunal.co.za



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Notice CT 7

About this Form

This form is issued in terms of the Competition Tribunal Rules, to be used for filing an appeal in terms of the Tribunal Rules.

Please attend to this notice in the order mentioned, you must comply with the requirements of the Competition Tribunal Rules (31/2001) setting out the grounds for your appeal.

Contacting the Tribunal

The Competition Tribunal
 Private Bag 23
 Lynwood, Pretoria
 Republic of South Africa
 Tel: 011 482 9200
 Fax: 011 482 9201
 e-mail: cta@comptrib.co.za

Notice of Appeal

Date: _____

To: The registrar, Competition Tribunal

From:

Concerning:

(Name and Commission file number:)

(Date of Commission decision being appealed:)

Take notice that we appeal from the decision of the Competition Commission, to the Competition Tribunal in terms of the Competition Act :

section 10(2) section 10(4A)

section 10(5) Item 8 of Schedule 1

The decision being appealed, the grounds for appeal, and the facts and contentions on which we rely, are set out on the attached sheet.

Name and Title of person authorised to sign:

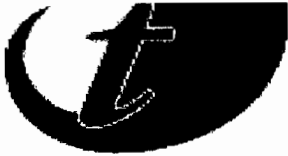
Authorised Signature:

Date:

For Office Use Only:

Tribunal file number:

Date filed:



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Notice of Withdrawal

Date: _____

To: The registrar, Competition Tribunal

From:

(Name of initiating party:)

Concerning the matter between:

_____ (Applicant)

and

_____ (Respondent)

Take Notice that the initiating party withdraws

all of the initiating document in this matter.

that part of the initiating document in this matter that is noted on the attached sheet.

The _____ consents to pay costs as set out in the attached sheet.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

**For Office
Use Only:**

Tribunal file number:

Date filed:



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Extension Certificate

Date: _____

To all participants in:

(Name and file number of merger:)

The Competition Commission received notice of the merger referred to above on _____.

In terms of Competition Act section 14A(2), and Commission Rule 41(1)(b), the Competition Tribunal extends for a period of _____ business days, the period within which the Competition Commission must refer the above referenced merger to the Tribunal with a recommendation.

The registrar, Competition Tribunal:



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Merger Clearance Certificate

Date: _____

To:

(Name and file number of merger:)

You applied to the Competition Commission on _____
for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act, or was the subject of a Request for Consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 16(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

no conditions.

the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 16(3) of the Competition Act to revoke this approval if

- (a) it was granted on the basis of incorrect information for which a party to the merger was responsible.
- (b) the approval was obtained by deceit.
- (c) a firm concerned has breached an obligation attached to this approval.

The registrar, Competition Tribunal:



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Prohibition of Merger

Date: _____

To:

(Name and file number of merger:)

You applied to the Competition Commission on _____
for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14A of the Act, or was the subject of a Request for Consideration by the Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal prohibits the implementation of this merger in terms of section 16 (2) of the Act, for the reasons set out in the Reasons for Decision.

Notice CT 11

About this Notice

This notice is issued in terms of section 16 of the Competition Act.

You may appeal against this decision to the Competition Appeal Court within 30 days of the date of publication of this notice.

Appeal of a decision to implement a merger that has been prohibited in terms of section 16 of the Act may be made in terms of section 16(2) of the Act.

Contacting the Tribunal

Private
Lynnwood
Pretoria 0010
Republic of South Africa
Tel: 27 11 492 2200

The registrar, Competition Tribunal:



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Notice of Revocation of Merger Decision

Date: _____

To:

(Name and file number of merger:)

You applied to the Competition Commission on _____
for merger approval in terms of Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section
14A of the Act, or was the subject of a Request for Consideration by the
Tribunal in terms of section 16(1) of the Act.

After reviewing all relevant information, and the recommendation or
decision of the Competition Commission, the Competition Tribunal
approved your merger.

In terms of section 16(3) of the Competition Act, the Competition Tribu-
nal advises that the approval granted on _____ is
revoked with effect from _____
for the reasons set out in the attached Reasons for Decision.

The registrar, Competition Tribunal:

Notice of Revocation

About this Notice

- This notice is issued in terms of section 16(3) of the Competition Act.
- You may appeal against this decision to the Appeal Court within 30 business days after you receive this notice.

Contacting the Tribunal

Phone: 011 300 1234
Fax: 011 300 1234
E-mail: info@ct.ac.za



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south africa

Tribunal Summons

To:

Concerning:

(Name and file number:)

A proceeding concerning this matter has been brought before the Competition Tribunal.

You are required to appear at

_____ and give evidence before the Competition Tribunal
 on _____
 at _____ o'clock, in the morning/afternoon.

You are also required to bring with you:

- (a) the documents or items listed on the attached _____ sheet(s); and
- (b) any other documents or items in your possession or under your control that relate to this matter.

Issued on _____, by _____,
 the member of the Tribunal presiding over this matter,
 in terms of section 54 of the Competition Act.

The registrar, Competition Tribunal:



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Notice GT 15

Notice of Set - Down

About this Notice

- This notice is issued in terms of Competition Tribunal Rules.

Date: _____

From: The registrar of the Competition Tribunal

To: participants in the following matter:

(Name and file number of merger:)

The hearing of this matter will commence at :

The hearing of this matter will resume at:

on _____,

at _____ o'clock in the morning/afternoon.

Contacting the Tribunal

The Competition Tribunal
 Private Bag X23
 Lynnwood Ridge
 Pretoria 0010
 Republic of South Africa
 tel: 27 012 482 9200
 fax: 27 012 482 9201
 e-mail: ctsa@comptrib.co.za

The registrar, Competition Tribunal:



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Notice CT 16

About this Notice

- This notice is issued in terms of section 65(6)(b) of the Competition Act 1998.
- Section 65(7) of the Competition Act states:

"A certificate ... is conclusive proof of its contents and is binding on a civil court."

Certificate of Decision

Date: _____

From: Chairperson, the Competition Tribunal

To: Registrar/Clerk of the court of _____:

(In the matter of:)

Upon hearing a complaint referred to it, in terms of the Competition Act 1998, the Competition Tribunal, on _____, found the practice described below to be a prohibited practice in terms of section _____ of that Act.

(Name of party engaging in the prohibited practice:)

(Section of the Act in terms of which the Tribunal made its finding:)

(Nature of prohibited practice:)

Contacting the Tribunal

The Competition Tribunal
Private Bag X23
Lynnwood Ridge
Pretoria 0040
Republic of South Africa
Tel: 27 012 482 9200
fax: 27 012 482 9201
e-mail: ctsa@comptrib.co.za

The Chairperson, Competition Tribunal:

GENERAL NOTICES

NOTICE 253 OF 2001**DEPARTMENT OF TRADE AND INDUSTRY****THE COMPETITION ACT, 1998****(ACT 89 OF 1998)****Determination of Threshold**

I, Alexander Erwin, Minister of Trade and Industry, in consultation with the Competition Commission, do hereby determine in terms of section 6(1) of the Competition Act, 1998 (Act 89 of 1998), and section 23 of the Competition Second Amendment Act, 2000 (Act 39 of 2000) (collectively, "the Act") as follows:

- (1) Part B of Chapter 2 of the Act applies to any firm –
 - (a) whose annual turnover in, into or from the Republic is valued at or above R 5 million; or
 - (b) whose assets in the Republic are valued at or above R 5 million.
- (2) For the purposes of Section 6 of the Act, the assets and the turnover of a firm in, into or from the Republic must be calculated in accordance with the provisions of the following Schedule.

Schedule

Method of Calculation

1. Generally accepted accounting practices apply

For the purposes of section 11 of the Act, the assets, and the turnover, of a firm must be calculated in accordance with South African generally accepted accounting practice ("G.A.A.P."), subject only to the following provisions of this notice.

2. Valuation of Assets

- (1) For the purpose of section 11 of the Act, the asset value of a firm at any time is based on the gross value of the firm's assets as recorded on the firm's balance sheet for the end of the immediately previous financial year, subject to the provisions of sub-items (2) and (3).
- (2) In particular –
 - (a) the asset value equals the total assets less any amount shown on that balance sheet for depreciation or diminution of value;
 - (b) the assets are to include all assets on the balance sheets of the firm, including any goodwill or intangible assets included in their balance sheets;
 - (c) no deduction may be taken for liabilities or encumbrances of the firm;
 - (d) assets in the Republic includes all assets arising from activities in the Republic.

- (3) If, between the date of the financial statements being used to calculate the asset value of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements –
- (a) The following items must be added to the calculation of the firm's asset value if these items should in terms of G.A.A.P. be included in the firm's asset value;
- (i) The value of those recently acquired assets; and
 - (ii) Any asset received in exchange for those recently divested assets.
- (b) The following items may be deducted in calculating the firm's asset value if these items were included in the firm's asset value:
- (i) The value of those recently divested assets at the date of their divestiture; and
 - (ii) Any asset that was shown on the balance sheet and was subsequently used to acquire the recently acquired asset.

3. Calculation of annual turnover

- (1) For the purpose of section 6 of the Act, the annual turnover of a firm at any time is the gross revenue of that firm from income in, into or from the Republic, arising from the following transactions and events as recorded on the firm's income statement for the immediately previous financial year, subject to the provisions of sub-items (2), (3) and (4):
- (a) the sale of goods;
 - (b) the rendering of services; and
 - (c) the use by others of the firm's assets yielding interest, royalties and dividends.
- (2) In particular –

- (a) When calculating turnover the following amounts may be excluded:
- (i) any amount that is properly excluded from gross revenue in accordance with G.A.A.P.;
 - (ii) taxes, rebates, or any similar amount calculated and paid in direct relation to revenue, as for example, sales tax, value added tax, excise duties, and sales rebates, may be deducted from gross revenue;
- (b) revenue excludes gains arising from non current assets and from foreign currency transactions; and
- (c) for banks and insurance firms revenue includes those amounts of income required to be included in an income statement in terms of generally accepted accounting practice, but excluding those amounts noted in 3(2)(b).
- (3) If, between the date of the most recent financial statements being used to calculate the turnover of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements –
- (a) the turnover generated by those recently acquired assets must be included in the calculation of the firm's turnover if this turnover should in terms G.A.A.P. be included in the turnover of the firm; and
 - (b) the turnover generated by those recently divested assets in the immediately previous financial year may be deducted from the firm's turnover if this turnover was included in the turnover of the firm.
- (4) If the financial statements used as a basis for calculating turnover or the turnover included in terms of sub-item 3(a) are for more or less than twelve months, the values recorded on those statements must be pro-rated to the equivalent of twelve months.

4. Form of financial statements

Financial statements used as a basis for calculating assets or turnover of a firm –

- (a) must be the firm's audited financial statements, if, -
 - (i) in terms of any law, the firm is required to produce such statements; or
 - (ii) the firm has audited statements for the relevant period; and
- (b) otherwise, must be prepared in accordance with G.A.A.P.

NOTICE 254 OF 2001

DEPARTMENT OF TRADE AND INDUSTRY**THE COMPETITION ACT, 1998****(ACT 89 OF 1998)****Determination of Threshold**

I, Alexander Erwin, Minister of Trade and Industry, in consultation with the Competition Commission, do hereby determine in terms of section 11(1) of the Competition Act, 1998 (Act 89 of 1998), and section 23 of the Competition Second Amendment Act, 2000 (Act 39 of 2000) (collectively, "the Act") as follows:

- (1) The lower threshold required to be determined in terms of section 11 of the Act is reached in respect of a merger if the value of that merger equals or exceeds both of the values set out in paragraphs (a) and (b), below:
 - (a) Either –
 - (i) The combined annual turnover in, into or from the Republic of the acquiring firms and the target firms is valued below R 200 million; or

- (ii) The combined assets in the Republic of the acquiring firms and the target firms are valued at less than R 200 million; or
 - (iii) The annual turnover in, into or from the Republic of the acquiring firms plus the assets in the Republic of the target firms are valued at less than R 200 million; or
 - (iv) The annual turnover in, into or from the Republic of the target firms plus the assets in the Republic of the acquiring firms are valued at less than R 200 million.
- (b) Either –
- (i) The annual turnover in, into or from the Republic, of the target firms is less than R 30 million; or
 - (ii) The asset value of the target firm is less than R 30 million.
- (2) The higher threshold required to be determined in terms of section 11 of the Act is reached in respect of a merger if the value of that merger equals or exceeds both of the values set out in paragraphs (a) and (b), below:
- (a) Either –
- (i) The combined annual turnover in, into or from the Republic of the acquiring firms and the target firms is valued at or above R 3,5 billion; or
 - (ii) The combined assets in the Republic of the acquiring firms and the target firms are valued at or above R 3,5 billion; or
 - (iii) The annual turnover in, into or from the Republic of the acquiring firms plus the assets in the Republic of the target firms are at or above R 3,5 billion; or
 - (iv) The annual turnover in, into or from the Republic of the target firms plus the assets in the Republic of the acquiring firms are at or above R 3,5 billion.

- (b) Either –
 - (i) The annual turnover in, into or from the Republic, of the target firms is valued at or above R 100 million; or
 - (ii) The asset value of the target firm is valued at or above R 100 million.
- (3) The provisions of the Act respecting a “small merger” apply to a merger if it falls below either value of the lower threshold.
- (4) The provisions of the Act respecting an “intermediate merger” apply to a merger if –
 - (a) it equals or exceeds both values of the lower threshold; but
 - (b) if falls below either value of the higher threshold.
- (5) The provisions of the Act respecting a “large merger” apply to a merger if it equals or exceeds both values of the higher threshold.
- (6) For the purposes of Section 11 of the Act, the assets and the turnover of a firm in, into or from the Republic, must be calculated in accordance with the provisions of the following Schedule.

Schedule

Method of Calculation

1. Generally accepted accounting practices apply

For the purposes of section 11 of the Act, the assets, and the turnover, of a firm must be calculated in accordance with South African generally accepted accounting practice ("G.A.A.P."), subject only to the following provisions of this notice.

2. Valuation of Assets

- (1) For the purpose of section 11 of the Act, the asset value of a firm at any time is based on the gross value of the firm's assets as recorded on the firm's balance sheet for the end of the immediately previous financial year, subject to the provisions of sub-items (2) and (3).
- (2) In particular –
 - (a) the asset value equals the total assets less any amount shown on that balance sheet for depreciation or diminution of value;
 - (b) the combined assets are to include all assets on the balance sheets of the firms concerned, including any goodwill or intangible assets included in their balance sheets;
 - (c) no deduction may be taken for liabilities or encumbrances of the firm;
 - (d) the combined assets are to be calculated on the basis of the combined assets before giving affect to the merger and accordingly the combined assets do not

- include any goodwill or intangible assets that would arise as a result of the merger;
- (e) the combined assets are not adjusted for any investments the acquiring firm might have in the target firm or amounts due by one firm to the other; and
 - (f) assets in the Republic includes all assets arising from activities in the Republic.
- (3) If, between the date of the financial statements being used to calculate the asset value of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements –
- (a) The following items must be added to the calculation of the firm's asset value if these items should in terms of G.A.A.P. be included in the firm's asset value;
 - (i) The value of those recently acquired assets; and
 - (ii) Any asset received in exchange for those recently divested assets.
 - (b) The following items may be deducted in calculating the firm's asset value if these items were included in the firm's asset value:
 - (i) The value of those recently divested assets at the date of their divestiture; and
 - (ii) Any asset that was shown on the balance sheet and was subsequently used to acquire the recently acquired asset.

3. Calculation of annual turnover

- (1) For the purpose of section 11 of the Act, the annual turnover of a firm at any time is the gross revenue of that firm from income in, into or from the Republic, arising from the following transactions and events as recorded on the firm's income statement for

the immediately previous financial year, subject to the provisions of sub-items (2), (3) and (4):

- (a) the sale of goods;
- (b) the rendering of services; and
- (c) the use by others of the firm's assets yielding interest, royalties and dividends.

(2) In particular –

- (a) When calculating turnover the following amounts may be excluded:
 - (i) any amount that is properly excluded from gross revenue in accordance with G.A.A.P.;
 - (ii) taxes, rebates, or any similar amount calculated and paid in direct relation to revenue, as for example, sales tax, value added tax, excise duties, and sales rebates, may be deducted from gross revenue;
- (b) no adjustment is made for any amount that represents a duplication arising from transactions between the acquiring firm and the target firm;
- (c) revenue excludes gains arising from non current assets and from foreign currency transactions; and
- (d) for banks and insurance firms revenue includes those amounts of income required to be included in an income statement in terms of generally accepted accounting practice, but excluding those amounts noted in 3(2)(c).

(3) If, between the date of the most recent financial statements being used to calculate the turnover of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements –

- (a) the turnover generated by those recently acquired assets must be included in the calculation of the firm's turnover if this turnover should in terms G.A.A.P. be included in the turnover of the firm; and
 - (b) the turnover generated by those recently divested assets in the immediately previous financial year may be deducted from the firm's turnover if this turnover was included in the turnover of the firm.
- (4) If the financial statements used as a basis for calculating turnover or the turnover included in terms of sub-item 3(a) are for more or less than twelve months, the values recorded on those statements must be pro-rated to the equivalent of twelve months.

4. Combined valuation of firms

- (1) If the acquiring firm is a subsidiary of a group of companies as contemplated in the Companies Act, 1973 (Act No. 61 of 1973) for the purposes of calculations required in terms of this notice –
- (a) the combined assets of the firms that are part of that group, and the combined turnover of those firms, must be consolidated;
 - (b) the consolidated assets and turnover of the group are to exclude turnover or assets arising as a result of transactions by one part of the group with another part of the same group.
- (2) If the target firm controls any other firm or business for the purposes of calculations required in terms of this notice –
- (a) the combined assets of those firms and businesses, and their combined turnover, must be consolidated; and
 - (b) the consolidated assets and turnover of the group are to exclude turnover or assets arising as a result of transactions by one part of the group with another part of the same group.

5. Form of financial statements

Financial statements used as a basis for calculating assets or turnover of a firm –

- (a) must be the firm's audited financial statements, if, -
 - (i) in terms of any law, the firm is required to produce such statements; or
 - (ii) the firm has audited statements for the relevant period; and
 - (b) otherwise, must be prepared in accordance with G.A.A.P.
-