

NaCC COMPETITION

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NEWS



THE OFFICIAL NEWSLETTER OF THE
NAMIBIAN COMPETITION COMMISSION



Namibian
Competition
Commission

**FAIR COMPETITION,
PROSPEROUS ECONOMY**

MISSION

To safeguard and promote competition in the Namibian Market

VISION

Fair market competition

BRAND PROMISE

Fair competition, prosperous economy

VALUES

National economic interests come first

Our priority and commitment is to put National Economic interests towards attainment of Vision 2030 ahead of any other considerations

Impartiality

We shall be fair and equitable living our purpose and uphold principles of impartiality and confidentiality regardless of the circumstances

Consistency

We are consistent in our approach in every instance, regardless of the circumstances and pressures that may be brought to bear

Accountability for our role

We accept our responsibilities and are accountable for all our decisions and actions

We uphold and respect decisions taken by the Commission, whatever an individual was party to an agreement or not

Integrity

We act with integrity in matters of substance and procedure insofar as executing the mandate of the Commission

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The Editor
Corporate Communications Officer
Namibian Competition Commission
P.O.Box 2104
Windhoek, Namibia

Tel: +264 (61) 224 622
Fax: +264 (61) 401 900
Email: info@nacc.com.na
www.nacc.com.na

01

Editorial Note



By Dina Gowases
Editor

Dear Readers,

Competition law plays a vital role in the overall development of the economy in that it curbs the business practice of hindering the entry and development of other businesses. The Chief Executive Officer, Mr Mihe Gaomab II, highlights the advent of competition law and policies and its relevance to Namibia.

“Competition law plays a vital role in the overall development of the economy.”

In being pro-active in its advocacy efforts, the Commission informs its stakeholders on aspects related to business conduct expected from all industry sector. Particular focus is placed on the health sector. The Commission is conducting research to better understand the operations as well as costing structures of various economic sectors in the market. It is expected of all sectors to conduct themselves in a manner that promotes healthy competition.

The article by Justine Shikulo, the law officer within the Restrictive Business Practices division, provides insight into the aspects of bid-rigging or collusive tendering and how this practice can negatively impact on the economy.

There are certain processes that need to be followed when filling a complaint with the Commission. Therefore, in this edition, we provide you with the Commission’s processes and submission requirements for complaints about potential anti-competitive behaviour.

The laws governing copyright and competition are intertwined in that they are both concerned with consumer welfare. However, as Law Officer, Bernhard Tjatjara indicates that on the converse, these two legal regimes can conflict each other. The articles “Intellectual Property Rights Protection” and “Competition Law in Namibia at Crossroads” shed some light in this regard.

The Commission continuously strives to capacitate itself through various programmes such as the World Bank technical assistance project, in order to effectively implement competition law in Namibia. As such, a one-day workshop was held looking at areas of identifying barriers to the development of competition in Namibian markets.

The Commission partakes in the International Competition Network (ICN) annual conference, where affiliated competition authorities meet to collectively iron out issues on advancing competition policy and law in their respective jurisdictions. We provide you a write-up of aspects that were discussed at the 13th ICN annual conference.

Being strongly grounded in the principles of good governance, the Commission signed an agreement with the Namibian Public Workers Union (NAPWU), giving the union exclusive bargaining right to its members.

In this edition, we have compiled a list of mergers and acquisitions for your perusal, as well as brief write-ups of mergers and acquisitions as were filed with the Commission.

We trust that this edition is enlightening and informative as one of the Commission’s objectives is to advocate its mandate via platforms such as this newsletter.

Kind regards

02 Importance of Competition Law in Africa: Relevance for Namibia



By Mihe Gaomab II
Chief Executive Officer

Competition Laws In Africa

Competition laws and policies have long been present in industrialised economies but only started taking shape in the non-industrialised and emerging economies, including Africa, in the 1990s.

It was estimated that since the year 2000, only half of the forty-five Member States of Africa have enacted competition laws in their countries. The adoption of competition laws in Africa has largely been, as a motive, for African economies to comply with regional trade agreements and to regulate business competition.

A major milestone for the acceleration of a competition regime in Africa has been as a result of concerns expressed on multinational companies engaging in cross-border anti-competitive practices in Africa such as price abuse, dominance abuse and restrictive cartels and collusive behaviour.

It is recognised in Africa that enacting and operationalising competition policies and laws for an African economy is essential, if it wants to manage its economy through a regulatory system that fosters economic growth, innovation and development. Anecdotal and researched literature shows that competition law does discipline market competition in any economy.

Purpose of competition laws

Competition laws foster competitiveness of markets and businesses as well as assist in consumer protection where consumers get the best products for the least prices.

Competition laws condition and heal market failures, i.e. the private sector sometimes not doing what it ought to do in terms of proper and orderly competitive conduct in the marketplace.

Competition laws assist in fostering innovation by nudging businesses to constantly improve, bringing in new equipment and producing products which

are competitive and offering wide range of choice for consumers. The competitive dynamics ensure that new firms come into the market and prosper if they perform well in the marketplace and less efficient firms become unprofitable and are forced out or closed down. These have implications for the industrialisation and small business development efforts in an economy and industrial growth, in general, for Africa.

“Competition laws foster competitiveness of markets and businesses as well as assist in consumer protection”

Competition laws change the business landscape through mergers and acquisitions in African economies because they inadvertently reduced the number of market players.

Competition policy and law can assist in securing gains from trade liberalisation and market opening. The reduction of barriers to trade and the removal of barriers to entry for domestic and foreign investment can actually assist African economies to access its regional and continental markets. It can also spur competition for the production of goods and services unique to Africa through free trade, efficient production and industrial processes and proper market access.

Relevance for Namibia

In Namibia, competition law was enacted in 2003 and enforced in 2008 with operations of the Namibian Competition Commission, the country's supreme competition supervisor, commencing in 2009.

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Namibia is the second country to implement the competition law after South Africa in SACU and is the sixth country to do so in the SADC region after RSA, Malawi, Tanzania, Zambia and Zimbabwe. The Commission is a member of the African Competition Network (ACN) which is affiliated to the International Competition Network (ICN).

Competition law in the country is premised on the need to promote the competitiveness of Namibia by ensuring an efficient, adaptive and developmental state of the Namibian economy. Since its enforcement, the Commission entrusted with the full administration and operationalisation of the Competition Act 2 of 2003, handled 313 significant mergers and acquisitions and conducted over 20 restrictive business practises investigations in telecommunications, banking, manufacturing, commerce, retail, trade and mining sectors where business are compelled to not only maintain fair competition in the market, but to keep rivals in check. It also ensures that Namibian firms are compelled to constantly improve themselves, bringing in new equipment and producing products which are competitive and offering wide range of choice for consumers.

In a competition environment, usually companies compete on price or cause price and dominance abuse. The companies do this by managing its costs of producing a product and the costs of distributing this product to the market, which becomes a crucial factor in competition. Firms will normally try to beat their competitors on price by reducing the costs of production and distribution.

Thus, competition encourages firms to find alternative cheaper ways of production and distribution. But through such actions, they become dominant and behave in a fashion that would be collusive, causing unfair competition for other businesses. It is known that the greatest price and dominance abusers are multinational companies that would want to make their footprint in Africa.

Through the enforcement of the Act, the Commission continues to exercise its role that the market players do not only compete with each other for them to actually enjoy price reductions, but also to avoid any collusive and cartel conduct that frustrates other competitors and leads to consumer welfare loss and inefficient production and distribution outcomes.

Furthermore, the lessons from enforcement of African economies on competition law shows that price and dominance abuses can lead to frustration of free competition, misallocation of resources and

inefficient production and distribution. An industry which is not competing is not likely to be successful on the African and international markets because, when faced with fierce competition from competitive markets, they would not have any competitive and comparative advantage.

“Most Namibian industries and sectors are highly concentrated”

The Commission has a role to play to stop such collusive conduct and to ensure that an industry is not highly concentrated and if it is, there is no abuse of dominant position of market power by dominant firms. Most Namibian industries and sectors are highly concentrated and therefore the threat of abuse of dominance or possibility of collusion is real.

The role of the Commission is to ensure that dominant firms do not stifle competition and that competition needs to thrive for the benefit of the overall economy. The Commission have that responsibility to look at objects or effects that reduces competition in the industry, sector or economy whether caused by any company in Africa with its presence in Namibia or whether a Namibian company uses its African footprint to cause anti-competitive practices in Namibia.

Conclusion

The competitive dynamics in Namibia ensure that new firms come into the market and prosper if they perform well in the marketplace and less efficient firms become unprofitable and are forced out or closed down. These have implications for the industrialisation efforts in the economy and industrial policy in general in Namibia, spearheaded by the Ministry of Trade and Industry, towards economic transformation as envisioned in Vision 2030 locally as well as on the SADC and African Union wide Industrial Policy.

The main overarching objective for the Commission is to enhance the promoting and safeguarding of competition, in other words, it aims to promote a competition culture to protect competition using available recourse and tools provided for in the Act. The Commission continues to play its role of regulating businesses in a proper and facilitative fashion, without compromising the mandate provided to it by the Competition Act of 2003. ■

03 Intellectual Property Rights Protection & Competition Law in Namibia at crossroads



By Bernhard Tjatjara
Law Officer: Restrictive Business Practices

“You can’t have vanilla ice cream without having ice cream. You can’t have business or trade secrets without secrets. You don’t make the multiplication tables a secret merely by calling them a secret...” this was stated in *Arthur Murray Dance Studios of Cleveland Inc v Witter*, 105 N.E. 2nd 686, 709-710. This 62-year-old statement underscores a conception and rationale of protecting trade secrets, which is one of the intellectual property rights (IPRs). What are intellectual property rights? Intellectual property rights *“are the exclusive rights conferred upon the creator or the investor of the property to use and enjoy his creation or invention exclusively”* (Kaur, 2011:1). Examples of these rights are: copyright, patents, designs, trademarks, plant varieties, trade secrets, industrial designs and geographical indications.

In common parlance, the effect of intellectual property rights is that they give a firm or undertaking the right to exclude a competitor. They confer exclusively.

On the other side, there is competition law. Competition law preserves competition in the market. IPRs and competition law are often discussed together as they can complement or contradict each other.

IPRs and competition law both strive at one focal objective, which is the promotion of innovation. As the author, Arutyunyan (2010) puts it *“Both bodies of law share the same objective of promoting consumer*

welfare and an efficient allocation of resources. IPR promotes dynamic competition by encouraging undertakings to invest in developing new ideas or improved products and processes. So does competition by putting pressure on undertakings to innovate. Therefore both, IPR and competition are necessary to promote innovation and ensure competitive exploitation thereof”.

In Namibia, the following statutes deal with intellectual property rights: *Trade Marks Act 48 of 1973, Copyright and Neighbouring Rights Protection Act 6 of 1994, Competition Act No. 2 of 2003 and lastly the Industrial Property Act, 1 of 2012* (not yet in force). The subject scope on IPRS is immense and it will not suffice to realistically discuss all of them here, this article only attempt to deal with the interface between copyrights as one the intellectual property rights and the competition law in Namibia.

The interface between copyrights as part of Intellectual Property Rights (IPRs) and competition law in Namibia

In Namibia, the Competition Act 2 of 2003 (the 2003 Act) was published in the *Government Gazette* on 24 April 2003 and came into full operation on 3 March 2008. The Act replaced the fragmented and outdated

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South African competition law, namely the *Regulation of Monopolistic Conditions Act, 1955* (Act 24 of 1953). The 2003 Act now serves as the only comprehensive source of competition law in Namibia to date.

The purpose of the 2003 Act is *inter alia*, to 'promote the efficiency, adaptability and development of the Namibian economy and to provide consumers with competitive prices and product choices.' It can be said that the quest for product choices can enhance innovation and competition in itself exerts pressure on people to innovate. The Act mentions intellectual property rights under exemptions of certain restrictive practices. Section 30(1) of the 2003 Act provides that "*The Commission may, upon application, and on such conditions as the Commission may determine, grant an exemption in relation to any agreement or practice relating to the exercise of any right or interest acquired or protected in terms of any law relating to copyright, patents, designs, trademarks, plant varieties or any other intellectual property rights.*"

Section 30(1) of the 2003 Act serves to complement and protect intellectual property rights, such as copyrights, patents, trademarks etc. It does this by requiring the Commission to exempt any agreement or practice relating to these rights, which are exercised in terms of the relevant laws. The determination of an exemption application by the Commission in this regard, will require a consideration of various factors, such as exports, the improving or prevention of decline in the product or distribution of goods or services, public benefit and enabling SMEs (small to medium enterprises) to remain competitive.

Copyrights in Namibia are protected in terms of the *Copyrights and Neighbouring Rights Protection Act 6 of 1994* (the 1994 Act). The purpose of the 1994 Act is to provide for the protection of copyright and performer's rights. The 1994 Act does not offer a helpful definition of a copyright. The Act only states simply that copyright means copyright under that Act. However, in general terms, copyright, is the "*intellectual property right of a copyright owner to prevent unauthorised productions of a work which is entitled to copyright. The objectives of copyright are, firstly, to protect the author in his intellectual and personal relationship to his work and the use of the work; and secondly, it serves to secure reasonable remuneration for the use of the work.*" (Harms, 2012: 165). Lastly, copyright also protect creative individuals such as authors and artists from having their work copied or reproduced without their authorization (Briscoe and Kiggundu, 2001:16).

Section 2(1) of the 1994 Act sets out works that are eligible for a copyright and these include literary works, artistic works, musical works, cinematograph, sound recordings, broadcasts, programme carrying signals, published editions and computer programs.

The duration of copyrighted work in Namibia is 50 years in case of works relating to cinematograph film, sound recording, broadcast, or programme carrying signal, and for literary and musical work is during the lifetime of the author, and persist for a further 50 years after the death of the author.

Copyrights can prevent or substantially lessen competition in trade in goods or services because it confers exclusive rights of use by the creator or inventor of a certain product.

Why do we discuss the Copyright Act of 1994 in conjunction with the Competition Act 2 of 2003?

As a start, these Acts do not make reference to each other. Even though the Competition Act 2 of 2003 came into existence after the 1994 Copyright Act, it does not refer to it.

Copyrights are recognised subjective legal rights, which if acquired properly under the 1994 Act, should be protected. In this regard, it seems as if this is the case, the undertaking in question need not apply for exemption, because the exercise of that right is recognised in terms of another law.

Competition law will concern itself if such a right, properly acquired in terms of the 1994 Act, is being abused beyond what is permissible in terms of the 1994 Act, i.e. refusal to license copyrighted work, which can amount to a restrictive business practice such as abuse of dominance under Chapter 3, and Part II of the 2003 Act. In a nutshell, it means that those whose copyrights are protected under the Copyright Act of 1994 need not apply for exemption per se, but can only do so, if the use of such copyright amounts to a restrictive business practice and/or an abuse of dominance as contemplated in Chapter 3 of the 2003 Act.

The intersection where IPRs and competition law meet is the point of fostering innovation, which can enhance efficiency, consumer welfare and economic growth. On the converse, these two legal regimes can conflict each other. IPRs confer exclusive monopoly rights to innovators and creators and these monopoly rights could lead to substantial market power which may be used to remove competition. Where there is only one firm in a specific market, there is no competition. IPRs are legal rights to exclude (and to refuse to deal is one manifestation of that right).

It can be said that generally, competition law does not pursue what a holder of an IPR does, but there can be occasions when the acts of an IPR holder goes beyond the legal right given under the IPR. This is when the competition law kicks in to determine whether that amounts to a restriction, distortion and lessening of competition in the market. ■■■

04 Competition in the Health Sector of Namibia



By Mihe Gaomab II
Chief Executive Officer

The Namibian Competition Commission regulates most sectors in terms of competition within Namibia, including the health sector. It is noted that Namibia's health sector comprises a public and private sector, with recent statistics indicating that close to 6% of the Gross Domestic Product (GDP) in Namibia is spent on healthcare.

The Namibian Government is cognisant of the fact that public health care is crucial in terms of its wider coverage, affordability and accessibility. Over 80% of the Namibian population relies on public health service provision and over 70% of healthcare spending is by Public Health Service provision.

There are four public referral hospitals in the country, namely, the Oshakati State Hospital, Rundu State Hospital, Gobabis State Hospital and the Windhoek Central Hospital. There are medical outreach services in the form of clinics and mobile vans to cater for health needs over a wider geographical distribution of Namibians in terms of public healthcare access.

“Namibia has a well-organised private healthcare sector.”

Namibia has a well-organised private healthcare sector. The private healthcare sector is primarily based on various medical aid funds, medical administrators, medical service providers, private hospitals and private health professionals.

The standard practice for any sector, including the health sector, is to operate on a competition basis through pricing, costing, structures and conduct that ensures a competitively efficient outcome, providing costs sensitive and competitively priced medical services and/or medical products, with high-quality affordable and accessible health services.

The Commission has regard for the state of competition in any sector, including the health sector in Namibia. The Commission has powers to investigate on merit and validity, any pro or anti-competitive conduct of the entire sector and the actions of any parties in that sector. The Commission is cognisant that any sector in Namibia should work optimally towards achieving competitively efficient outcomes which are not only desirable for the sector, but also for its market participants, interested stakeholders, and the consumer.

The Commission is in the process of expanding its Competition Act 2 of 2003 to include formal market enquiry provisions that would understand sectors better such as the health sector, but also to keep in check and streamline competition-related factors (such as pricing, costing, structure, and conduct) that drive the sector for all stakeholders.

The Commission is guided by its Act and the rules governing the Act to investigate, if need be, any sector objectively and in accordance with the legal and economic provisions. Commission has regard for administrative justice and procedural fairness in order to ensure a platform where all concerned parties can articulate their positions, views and concerns about the functioning of any sector, including the health sector.

Namibia requires all sectors to be competitively efficient, strong and dynamic to foster innovation, with improved quality of service with a fair and responsive pro-competition driven state. The health sector offers such conducive conditions in Namibia, but leaves more room for improvement for medical needs of its market participants, interested stakeholders and consumers. These should be at the heart of how the sector functions and operates as a fully competitively regulated sector in Namibia. ■

05 Complaint Filing Guidelines: Restrictive Business Practices & Abuse of Dominance



By Paulus Hangula
Economist: Restrictive Business Practices

The Namibian Competition Commission is mandated under *Chapter 3 of the Competition Act 2 of 2003* to deal with anti-competitive behaviour within the Namibian economy. The Commission has powers to investigate complaints and make determinations on business conduct found to be contravening the provisions of the Act.

This article provides the reader with guidelines intended to assist individuals or businesses to understand the Commission's processes and how best to present a case when filing a complaint with the Commission. These guidelines are not binding on anyone filing a complaint. However, they should be followed to prevent delays in investigating complaints.

The difference between information provided and a complaint

In terms of competition law, a '*complaint*' means a statement made to the Commission in a prescribed manner and form, that sets out facts and possible competition infringements and course of action(s) that the filing party or parties (the complainant(s)) believe are sufficient to support a claim against the

party or parties against whom the claim is brought (the respondent(s)) that warrants a relief or entitles the complainant(s) to a remedy.

A person may provide information, in any manner to the Commission, about perceived anti-competitive behaviours in any manner and at any time. A complainant, who provides information to the Commission, may request that his/her identity be treated as confidential information, but that person may be a complainant in the relevant matter only if he or she subsequently waives the request in writing.

“How best to present a case when filing a complaint”

The Commission will assess the validity of the information and decide whether or not to initiate a complaint against an alleged perpetrator. In terms of the complaint process, the complainant is party to the investigation and should an infringement be



found against the respondent(s), the complainant having suffered losses as a result of the infringement may claim damages.

Furthermore, a complaint should be made in the prescribed format and must be as detailed as possible, provided that:

- It is in respect of the matter that is within the scope of the *Act*;
- The complaint is done within three years from the date the infringement has ceased;
- The Commission has not initiated or has not already accepted a complaint; and
- The complaint is not frivolous.

Preferred Complaint Format

FORM 2: Complaint

A person wishing to lodge a complaint with the Commission may submit a complaint to the Commission by completing Form 2. This form is contained in the Rules made under the Competition Act (the “Rules”) and can also be obtained from the Commission or be downloaded from the Commission’s website, www.nacc.com.na. Form 2 makes provisions by way of blocks, among others, for the following:

- The name of person(s) submitting complaint;
- The name of person(s) whose conduct is the subject of the complaint;
- A concise statement of the complaint;
- The date(s) on which the conduct occurred;
- A statement indicating when and how you became aware of the conduct;
- Any other information you consider relevant;
- Is the conduct continuing?; and
- Relief claimed.

A complaint must indicate whether the alleged anti-competitive behaviour is continuing or not. If not, the date the behaviour has ceased must be specified. However, it should be noted that the Commission does not investigate anti-competitive behaviour three years from the date it has ceased.

Form 1: Confidentiality Claim

Any person filing a complaint may attach any information and/or document(s) he/she thinks is relevant for the Commission’s investigation. However, should the person deem all or some of the information accompanying the complaint as confidential, he or she should complete a Form 1 which can be obtained at the Commission’s premises or easily be downloaded from its website. A complaint and any information received by the Commission during its consideration of the application, or revocation of an exemption granted to the applicant, are regarded confidential information only to the extent provided for in rule 11 which deals with the right of informants to claim confidentiality or request restricted access.

Statements and Affidavits

A complaint should be accompanied by a statement detailing the facts of the complaint highlighted in

Form 2, as well as detailed information about the market the alleged anti-competitive behaviour is taking/has taken place in, products and services involved, as well as product names and descriptions. Most importantly, the Commission encourages sworn statements (affidavits) made under Oath. Affidavits are vital as they can be used in Court to capture the facts of the complaint, should the case be heard in Court. Complainants can appear before the Commission to provide statements under Oath.

Evidence

Investigations into allegations of anti-competitive behaviour take time and sometimes impose significant costs to the Commission as crucial information is not always readily available. However, the burden of proof lies with the complainant. A complainant is therefore encouraged to provide as much evidence as possible to back up the complaint. Doing so will enable the Commission from the onset to focus on the concerns raised in the complaint and allow it to target its resources on the most important issues and speedily conclude its investigation.

Process of Dealing with Complaints

- Once a complaint is received, the Commission verifies the information provided.
- Requests the complainant to clarify identified issues, when required.
- Gathers information gathering and conduct consultations with relevant parties.
- A decision will then be made whether or not to investigate.
- When the Commission decides to conduct an investigation, it must give notice of the proposed investigation to every undertaking the conduct of which is to be investigated.
- The Commission normally restricts the scope of its investigation to the complainant’s original submission. However, where the Commission uncovers indications of other anti-competitive behaviours that raise additional concerns, it can initiate its own complaint in that respect.

Timelines fo Dealing with Complaints

There are no specified timelines for dealing with complaints. However, once the Commission has accepted a complaint and decides to conduct an investigation, it does its utmost to investigate the issues raised within a reasonable time, depending on information provided and the nature and complexity of the issues to be investigated.

Conclusion

The Commission refers those who wish to file complaints to Sections 2, 3, 23, 25, 26 and 33 of the *Act*, as well as Rules 13 and 15 of the *Rules*. A complaint should be made on Form 2 and where the complainant deems certain information confidential, he/she must complete Form 1. Following these guidelines when filing a complaint, will save the Commission time and resources when dealing with complaints. ■

06 Collusive Tendering or Bid-rigging Explained



By Justine Shikulo
Law Officer: Restrictive Business Practices

Collusive tendering is an agreement amongst competitors not to compete on the bids they submit after being invited to tender. It occurs when two or more competitors agree they will not compete genuinely with each other for tenders, allowing one of the undertakings to 'win' the tender.

The Model Law on Competition, as prepared and published by UNCTAD (United Nations Conference on Trade and Development), provides an explanation on the form of collusive tendering as follows: *"Collusive tendering may take different forms, namely: agreements to submit identical bids, agreement as to who shall submit the lowest bid, agreement for the submission of cover bids (voluntary inflated bids), agreements not to bid against each other, agreements on common norms to calculate prices or terms on bid, agreements to squeeze out outsiders bidders, agreements designating bid winners in advanced on a rational basis, or an a geographical or customer allocation basis."*

In Namibia the rule on prohibition of tender collusion (or bid rigging) is regulated under Section 23(3) (c) of the Competition Act 2 of 2003. Theoretically, collusive tendering can be distinguished into two types of arrangements, the horizontal relationship,

i.e. between undertakings, persons, associations, etc. engaged in identical or similar trade of goods or provision of services; and vertical relationship, i.e. amongst undertakings or persons at different stages or levels of the production chain in different markets.

Section 23(1) of the Act prohibition does not apply to agreements where there is only one undertaking that is between entities, which form a single economic unit; particularly, an agreement between a parent company and its subsidiary or between undertakings other than companies which are owned or controlled by the same person or persons.

A concerted practice means deliberate conjoint conduct between undertakings achieved through direct or indirect contact that replaces their independent actions.

Agreements and concerted practices contemplated in subsection (1), include agreements concluded between:

- (a) parties in a horizontal relationship, being undertakings trading in competition; or
- (b) parties in a vertical relationship, being an undertaking and its suppliers or customers or both.



There are different types of bid rigging:

- **cover bidding** - where competitors choose a winner and everyone but the winner deliberately bids above an agreed amount to establish the illusion that the winner's quote is competitive
- **bid suppression** - where an undertaking agrees not to tender to ensure that the pre-agreed participant will win the contract
- **bid withdrawal** - where an undertaking withdraws its winning bid so that an agreed competitor will be successful instead
- **bid rotation** - where competitors agree to take turns at winning business, while monitoring their market shares to ensure they all have a predetermined slice of the pie
- **non-conforming bids** - where undertakings deliberately include terms and conditions that they know will not be acceptable to the requirements of tender.

Signs of possible bid rigging include:

- Suppliers appear to be taking turns at winning tenders or sharing the contracts by value
- Regular suppliers decline to tender for no obvious reason
- Bidders appear to deliberately include unacceptable terms in their tenders
- Bidders sometimes bid low and sometimes high on what appears to be the same type of supply
- Awareness that bidders meet before the close of tender, without you being present
- The winning undertaking regularly subcontracts to competitors that submitted higher tenders
- One undertaking of professional advisers represents several of the businesses submitting tenders.
- Bid documents contain the same corrections and alterations, indicating last-minute changes
- A party brings multiple bids to a bid opening and submits its bid after coming to know who else is bidding.
- A bidder makes a statement indicating advanced knowledge of the offers of the competitors.

Case Example

In 2013, the Commission finalised its finding in the case involving a local authority and four other undertakings on an alleged practice of tender collusion/bid rigging.

The case dealt with collusive tendering for the provision of construction of road traffic signs, and the paving and interlocking of roadways and parking lots (including kerbing).

The investigation involved a number of construction quotations put out to tender by various undertakings. The parties involved in the conduct had individual quotations and therefore different parties were involved. The conduct concerned was mainly affected

through cover quoting by the various undertakings involved in bidding for contracts.

In its analysis of evidence, the Commission took note of the effect of the procurement process on competition in the relevant market. First, the Commission recognised that construction services in this market were procured through a tendering process which mainly involved the local authority and construction companies.

However, the Commission found that the local authority short-listed a number of undertakings already on its standing list of suitable contractors. When quotations were called for construction work by the local authority, all four undertakings submitted bids. It was alleged through a complaint submitted to the Commission that the undertakings entered into an agreement and submitted bids with identical tender prices. All quotations were completed by one person for the same construction period and identical rates were offered with similar information on previous work done.

“Collusive tendering is an agreement amongst competitors not to compete on the bids they submit after being invited to tender”

As it was evident from the ownership structure of the undertakings, the undertakings are owned by and controlled by the same persons. The undertakings are run for the benefit of a family and Section 23(1) of the Act did not apply to the conduct which the undertakings were alleged to have engaged in as they are excluded by the provisions of Section 23(8) of the Act.

Although the evidence at hand indicated possible tender collusion in this matter, the ownership structure of the undertakings did not allow the Commission to pursue the case further.

Impacts of Collusive tender/Bid-rigging

Bid rigging leads to uncompetitive tender processes that can result in organisations paying higher prices or receiving lower quality goods or services. Businesses that are the victims of bid-rigging can pass on extra costs or reduced quality to consumers and other businesses in the supply chain. If a government agency pays an inflated price for services provided by tender, these additional costs or reduced quality are eventually passed on to taxpayers. —

07

NaCC-World Bank Stakeholders Workshop



By Dina Gowases
Editor

In its strive to be efficient and relevant in implementing competition law in Namibia, the Namibian Competition Commission (NaCC) continues to engage in activities geared towards strengthening its capacity in enforcement of the law. On 9 June 2014, the Commission hosted a one-day World Bank Stakeholders workshop, which falls under the technical assistance project themed “**Strengthening Competition Policy in Namibia**”. The objective of the project is to support private sector growth by promoting competition in key markets.

The project aims to:

- (1) Identify barriers to the development of competition in Namibian markets;
- (2) Propose recommendations to eliminate barriers to competition and anti-competitive product market regulation derived from restrictive government policies; and
- (3) Strengthen the anti-trust framework and enforcement capacity of NaCC.

Components discussed under the project include:

- Component 1: An analysis of the restrictiveness of Product Market Regulation, which identifies areas to foster open markets and remove anti-competitiveness regulation.
- Component 2: A review of the Namibian antitrust legal framework and its enforcement, to

identify areas where antitrust framework and its enforcement can be strengthened.

- Component 3: An analysis of price competition and consumer welfare in key markets, to analyse potential exercise of market power and possible associated economic losses in the Namibian economy, including impact on consumer welfare.

Two background reports will be prepared under components 1 and 2, which will form part of the Competition Policy Assessment (CPA). The CPA will propose recommendations on eliminating barriers to competition and supporting the development of well-functioning markets. A third background report under component 3 is expected to be compiled in 2015.

This workshop was aimed at reviewing Namibia’s restrictiveness of product market regulations to identify sector-specific and economy wide policy areas that would require investigation to promote private sector development.

The project implementation is led by Dr Chunlin Zhang, the Lead Private Sector Development Specialist, together with his team, comprised of Dr Graciela Miralles Murciego, Competition Lawyer and Ms Georgiana Pop, Economist. ■



Dr Chunlin Zhang, Lead Private Sector Development Specialist;
Dr Graciela Miralles Murciego, Competition Lawyer; Ms Georgiana Pop, Economist, from the World Bank.



08 NAPWU and NaCC Signs Agreement



The Namibian Competition Commission (NaCC) and the Namibian Public Workers Union (NAPWU) signed a Recognition and Procedural Agreement, solidifying and formalising the existing relations between the Commission and NAPWU. The Commission acknowledges NAPWU as an exclusive bargaining agent, to negotiate on behalf of its members in the bargaining unit, the terms of this agreement, which include all labour-rated grievances and other matters to be agreed upon by social partners. —



Mr Gabes Andumba, Deputy General Secretary of NAPWU and Mr Mihe Gaomab II, Chief Executive Officer of NaCC

09 13th ICN Annual Conference: Marrakech, Morocco

More than 500 participants from international competition authorities as well as non-governmental agencies from various jurisdictions attended this year's International Competition Network (ICN) annual conference, hosted by the Moroccan Conseil de la concurrence, in Marrakech, Morocco from 22-25 April 2014. The theme for this year's annual conference was *"More than a meeting, our future."*

The Chief of Government in the Kingdom of Morocco, Mr Abdelilah Benkirane, in a keynote speech, commended the ICN for its role in building, uniting and advancing competition issues within its member states. Ms Iris Boutros from the International Development Research Centre in her presentation on *"Experiences from Middle East and Africa, the perspective of development partners"* emphasised that *"Competition is not a privilege, it is a cornerstone of inclusive growth. Competition authorities are as important as other regulatory counterparts such as Ministries. We need to remind ourselves to deliver a clear message as sometimes it is difficult to explain, even to a policymaker, and therefore the aim should be to explain as simple as possible, so that even the man on the street understands."*

The first plenary session comprising panellists from South Africa, Netherlands, United States, France, Germany and Brasil, focused on the relationship between state-owned enterprises and competition law authorities. The panellists shared experiences on how their respective competition laws are applied with respect to state-owned enterprises (SOEs). They concurred that competition laws should apply to state-owned businesses for as long as they are involved in service delivery.

It is also imperative for agencies to be independent and not allow government influence in their decision-making processes. The major lesson learned from these discussions was that although it is difficult to be independent in practice, because of the tendency for political influence, independence of the competition authority itself must be priority.

The penal recommended that a competitive neutrality principle prevails, in that: competition law should cover SOEs, including those with exclusive privileges and ensure competitive neutrality for SOEs; SOEs should honour penalties before they are allowed to carry out any public functions; and SOEs must have the burden to prove the benefits of its anti-competitive behaviour.

"Agency Effectiveness", with emphasis on the investigative processes was discussed. It was noted that in order for an investigation to be effective it should ensure that:

- The procedural rights of the parties are protected (confidentiality).
- It issues clear guidelines so that parties know what processes to follow through enforcement.
- It engages businesses to foster understanding of the basis of agencies' decisions.
- It issues open processes and perform fact-finding exercises through investigations.
- Make detailed reports, not only on findings, but also on challenges experienced on cases,
- It is essential for investigators to communicate with parties to gather accurate information.
- Intense discussion meetings should be held with review teams within the agency for the purpose of analysis.
- Court systems should be revised in order to avoid delays of investigation processes.
- Test the strengths and weaknesses of cases before they are sent out for court hearings (mock court set-up).

In a break-out session on **"New tools and approaches in effective case management"**, the panellists discussed the importance of building a case by structuring evidence (element-based investigation).



The most important elements in an investigation include the allegations, missing facts, planning and the action. The process is repetitive until a complete picture is finalised. In Netherlands, a tool called Mind Manager is used as a way of managing information that is collected through an investigation. The advantage of this is that it manages large amounts of information, visualises complex cases, shares information between analysts and has helped the authority in planning the next investigation steps.



The Portuguese Competition Authority presented a paper on moving towards paperless case management. It is a computerised system tracks and takes action from the start of a case investigation up to the end. The system also allows the Commission to receive merger notifications online at any given time. The other tool presented was that of Lean and Swim Lane by Sweden, which is basically a visual element in the process flow diagram, distinguishing responsibilities for sub-processes.

In the session on **“Investigative process, engagement, transparency and confidentiality”**, the discussions were focused on legality of the competition authorities’ actions. The penal advised that competition authorities must provide some degree of transparency and fairness and that there must be a balance between transparency and other procedural rules. In order to achieve effectiveness, authorities must depend on evidence and therefore it is important for investigators to gather relevant information.

“Competition is not a privilege, it is a cornerstone of inclusive growth”

On the topic of **“Promoting a culture of competition”**, the panellists agreed that promoting a competition culture involves creating interactions between players in the competition market. Amongst other things, competition authorities need to:

- Create delicate interactions with stakeholders
- Cooperate with other regulators in the hope of growing competition
- Essential to integrate advocacy in core activities of competition authorities
- Identify students as stakeholders as they are the future and their understanding of competition law will be good for growing competition law
- Create awareness of competition law. This could be done through winning cases and appeals.

In a break-out session on **“Explaining the benefits of competition to businesses”**, a project paper which was drafted at the 2011 Hague ICN Annual Conference was presented. The report established that there is a misconception by businesses that competition law is targeted at them. Businesses need to be made aware that this is not true. In fact, authorities should put the message across that competition law is meant to protect competition, thereby protecting the businesses.

A break-out session on **“Competition assessment project”** highlighted some key selection processes, which included choosing policies that have the greatest threat to competition; defining selection criteria to assess competition; considering institutional

arrangements and relationships with policymakers. On evaluating the likely impact of competition, the project indicates taking into account general economic principles, existing empirical evidence and conducting competition impact assessment.

“Looking at ways of how ICN can promote effective cartel enforcement”, the Commission of Taiwan stated that leniency needs to thrive as it is the best tool for detecting cartels. It is evident that cartels are becoming more sophisticated, therefore fines should be increased and leniency programmes revised, as some of the ways of detected cartels. Challenges experienced:

- Information exchanged through leniency is restricted
- Businesses are almost always hesitant to apply for leniency because of some business cultures.

Taiwan competition authority believes that the way forward is to change the penalty from 3-5 years for businesses applying for leniency. The leniency programme is an effective and reliable tool for detecting and prosecuting cartels and sophisticated cartels.

It was noted that strict sanctions should be imposed to convince businesses of benefits of cooperating and reporting cartels. There is also a need for authorities to reinforce their capacities for cartels detections (investigation units) and use the best available technologies and government bodies to help detect cartels. Immunity from criminal punishment, which is offered as part of the benefits of the leniency programme serves a tool in encouraging many businesses to apply.

During the mini-plenary discussion on **“Defining markets and assessing effects”**, the panellists agreed that the use of market power is a better indicator than market share as market share alone does not indicate market power. It is important to show evidence of competitive harm to support market share analysis. Unilateral effects should not entirely rely on market share. In exclusionary conducts, focus should be more on the price effect of the alleged conduct than the market share. Analysts should pose the question as to what the effect could be of exclusionary conduct. This would in turn determine the importance of market share in such cases.

A renowned competition law expert, Dr Simon Roberts presented a paper on the role of economists in competition cases. The role of economists is crucial in defining markets, especially when prices do not correlate. Economists have a better understanding of consumer behaviour and are better at pulling/collecting information that relates to defining markets. They can assist in reviewing of documents with regard to economic evidence, check what information in documents point to the

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economic effect of the conduct, communicate clear economic analysis and use natural experiments, do econometric analysis and set up a check list to ensure that the analysis is as robust as possible.

In the session, **“Many Sides of Foreclosure”**, the panellists discussed that foreclosure relates to customers of dominant firms being denied access to inputs.

Elements of foreclosure:

- Other firms denied access to a market
- Dominant firms discouraged expansion of smaller firms
- Weakening of firms so that they will not be able to compete
- Dominant firm is able to reduce the demand of consumers for competitors’ products
- Reasons for foreclosure is to raise prices and keep them at a higher competitive level

It is important to determine if the foreclosure is legitimate. This applies to whether the product in question can be easily replicated or not. Is the product identified an essential facility or not?

Relevance in establishing foreclosure:

- Dominance
- Competitive conditions of the relevant market
- Barriers to entry
- Rates of innovation

Anti-competitive foreclosure happens when a dominant firm(s), after it/they pushed competitors out of the market, can increase its/their prices. It is described as anti-competitive when the conduct hinders competitors from becoming efficient competitors. Authorities should be cautious and try to understand the origin of dominance, whether it is due to a natural monopoly or if it is through a legitimate natural growth brought about efficiencies in conducting business, as sometimes foreclosure cases are brought about by inefficient undertakings. Authorities should concentrate more on controlling abuse of dominance that destroys markets which leads to market failure.

In the breakout session, **“An economist’s toolbox-defining markets and assessing effects”**, the discussants dwelled on some of the tools that an economist may apply. Defining a reasonable timeframe was mentioned as an important factor to look at when conducting price correlations. A positive large number indicates that products are in the same market, while a small number indicates otherwise. Natural experiments’ were also mentioned including consumer survey, though found to be not too reliable. The difference in difference (“DID”) approach was also mentioned as a very important tool in assessing effects. The DID can also be used as an effective policy valuation tool. Lastly, communication was identified to be very important and addressing economic jargons in laymen’s terms.

The Merger working group, discussing the theme “International cooperation in merger cases”

noted that the increase in the number of jurisdictions with merger review control means that international enforcement cooperation practiced mainly on a bilateral basis and only by a few jurisdictions or group of jurisdictions, face growing challenges.

The panellists agreed that when dealing with international mergers, co-operation among authorities is crucial. It is also important to have a clear idea as to which functions and roles are applicable to respective competition authorities when cooperating in international mergers. Additionally, the discussion addressed the effectiveness of cooperation and emphasised that this is only achievable when the timetables of the investigations by the reviewing agencies run more or less in parallel, meaning agencies make key decisions about a review investigation timetable.

Allowing for meaningful communication with other agencies, involved at key decision making stages throughout the investigation of multi jurisdictional mergers, is also helpful in fostering cooperation. As a closing note it was mentioned that, cooperation must however not just be aimed at the benefit of the cooperating agencies but also at the interest of the merging parties.

Conclusion

From the many discussions and papers presented during the conference, relating to competition law, it is evident that competition policy is of paramount importance, as markets liberalisation and adopting a competitive neutrality principle has been proved to be a step in the right direction. This is beneficial to the consumers and saves governments, around the world, billions if not trillions of dollars when markets are free and contestable.

The 13th Annual Conference once more allowed members and other stakeholders to have in-depth discussions of work products already produced and future topics and thereby reinforced the focus of the ICN and its Working Groups. Through these activities, the ICN will be able to meet members and non-governmental advisers’ needs and provide one of the most important forums for experience sharing and an informal venue for maintaining regular contacts to address practical competition concerns.

Mr. Andreas Mundt, President of the German Bundeskartellamt and Chair of the ICN Steering Group, emphasised that the ICN *“has produced an encyclopaedic collection of written work products containing vast knowledge about competition enforcement around the world. No other forum can provide such a basis for international cooperation among competition authorities.”* The Namibian Competition Commission was represented by the CEO, Mr. Mihe Gaomab II, Ms. Cynthia Mukendwa, Ms. Latungala Haiping and Mr. Justin Muyendekwa.

10 News on Mergers and Acquisitions



1. Proposed Merger: Guinea Fowl Investments Twenty Five (Pty) Ltd and the Private Label Store Card Portfolio of Edgars Stores Namibia (Pty) Ltd

On 11 February 2014, the Commission received a notification in terms of Section 44(1) of the Competition Act 2 of 2003 on the proposed merger between the Private Label Store Card Portfolio of Edgars Stores Namibia (Pty) Ltd (“Edgars Namibia”) and Guinea Fowl Investments Twenty Five (Pty) Ltd (“Guinea Fowl”).

The Acquirer

The primary acquiring undertaking is Guinea Fowl Investments Twenty Five (“Guinea Fowl”) (to be renamed EFS Namibia (Pty) Limited), a company incorporated in accordance with the laws of the Republic of Namibia. Guinea Fowl is a special purpose vehicle through which Barclays Africa Group Limited (“BAGL”) proposed to acquire the Private Label Store Card Portfolio of Edgars Stores Namibia (Pty) Ltd and it is a wholly-owned subsidiary of BAGL. Guinea Fowl does not conduct any business in Namibia or control, directly or indirectly, any other undertaking in Namibia.

Guinea Fowl’s holding company BAGL, is listed on the Johannesburg Stock Exchange (“JSE”), and operates within the broader financial services industry. In Namibia, BAGL, through its wholly-owned

subsidiary, ABSA Bank Limited (“ABSA”) was granted a licence by Bank of Namibia to operate as a Representative Office. In terms of the licence, ABSA, as a Representative Office, facilitates cross-border structured finance transactions to Namibian corporate sector and parastatals.

The Target

The primary target undertaking is the Private Label Store Card Portfolio of Edgars Stores Namibia (Pty) Ltd (“Edgars Namibia”). Edgars Namibia is a private company incorporated in accordance with the laws of Namibia and it is a wholly-owned subsidiary of Edcon (Pty) Ltd (“Edcon”), a company incorporated in accordance with the laws of the Republic of South Africa.

Edgars Namibia, forms part of Edcon’s unincorporated Credit and Financial Services Division and does not control any other undertaking. Edcon through its Departmental Store Division represented in Namibia by Edgars, Edgars Active, CNA and Boardmans; and the Discount Division represented by Jet, Jet Mart, and Legit, offers qualifying customers six-month and twelve-month private label store cards through which they can purchase clothing, footwear, mobile phones, cosmetics, home ware, stationery and books.

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The proposed transaction

In terms of the proposed transaction, BAGL, through Guinea Fowl, acquired the right title and interest to the accounts and receivables relating to the Namibian private label store card portfolio of Edcon. The Commission defined the relevant product market as the market for the provision of unsecured credit to individuals, and the geographical market as national being within the boundaries of Namibia.

Competition analysis

The merger raised horizontal overlaps between merging parties' activities as BAGL, through ABSA, is in a joint venture with Woolworths Financial Services (Pty) Ltd which manages Woolworth's Private Label Store Card Portfolio in South Africa and Namibia. The joint venture offers customers private label store cards, which can be used at any Woolworth's store.

In order to address the possible exchange of sensitive commercial business information such as cardholders data, marketing plans, to the detriment of competition between Edcon and Woolworths through ABSA, based on their involvement in the Woolworths JV and their ownership over the Private Label Store Card Portfolio of Edgars Namibia post merger, BAGL made an undertaking that it will continue to adhere to the confidentiality provisions pertaining to its contractual relationships with Edcon (Pty) Ltd and Woolworths (Pty) Ltd.

Further, merging parties have low market shares in the relevant market and compete with various competitors such as major commercial banks who provide unsecured personal loans, overdrafts and credit card, clothing retailers, and micro-lenders, amongst others.

Conclusion

In view of the above, the Commission found that the undertaking by merging parties is sufficient to address the competition concern raised, and the proposed transaction is unlikely to lessen or prevent competition; or result in any undertaking acquiring or strengthening a dominant position in the relevant market and therefore approved the proposed merger without conditions on 10 April 2014.

2. Acquisition of Metcash Trading Namibia (Pty) Ltd by Sefalana Cash & Carry (Namibia) (Pty) Ltd

On 24 January 2014, the Commission received a notification in terms of Section 44(1) of the Competition Act 2 of 2003 on the proposed acquisition of the Metro Namibia business of Metcash Trading Namibia (Pty) Ltd ("Metcash Namibia") by Sefalana Cash & Carry (Namibia) (Pty) Ltd ("Sefalana Namibia").

The Acquirer

The primary acquiring undertaking, Sefalana Namibia is a private company incorporated in accordance with the laws of Namibia. It operates a business situated in Katima Mulilo which sells groceries and general merchandise on a wholesale and retail basis. It is owned by a company incorporated in accordance with the laws of Botswana, Sefalana Cash & Carry Limited ("Sefcash Botswana"). The Sefalana Group is active in a diverse range of business activities. Their major area of operation is the wholesale and retail of groceries and general merchandise through Sefcash Botswana.

The Target

The primary target undertaking, Metcash Namibia is a private company incorporated in terms of the laws of Namibia. Metcash Namibia wholesales and retails groceries, general merchandise and liquor through several stores throughout Namibia under the name Metro Namibia. It is owned by a South African company, SW United Agency (Pty) Ltd, which is in turn owned by Metcash Trading Africa (Pty) Ltd.

Proposed transaction

The transaction involves Sefalana Namibia acquiring the Metro Namibia business from Metcash Namibia as a going concern.

Competition analysis

As the Sefalana Group is not active in the wholesale or retail of liquor, there are no overlaps between the activities of the merging parties in these markets.

Both parties are active in the wholesale and retail of groceries and general merchandise. However, since their stores are situated in different towns, there is no overlap between the activities of the merging parties in any of the relevant geographic markets.

Conclusion

It was found that the transaction will not increase the market share of the Sefalana Group in any of the relevant markets. Given the fact that it faces competition from several competitors, the Commission noted that the merger is unlikely to lessen or prevent competition or result in any undertaking strengthening or acquiring a dominant position in any of the relevant markets. In light of this, the Commission approved the proposed acquisition without conditions on 10 April 2014.

NB: The public is urged to refer to the Government Gazette for official merger determinations. ■■■

11

Mergers & Acquisitions Update



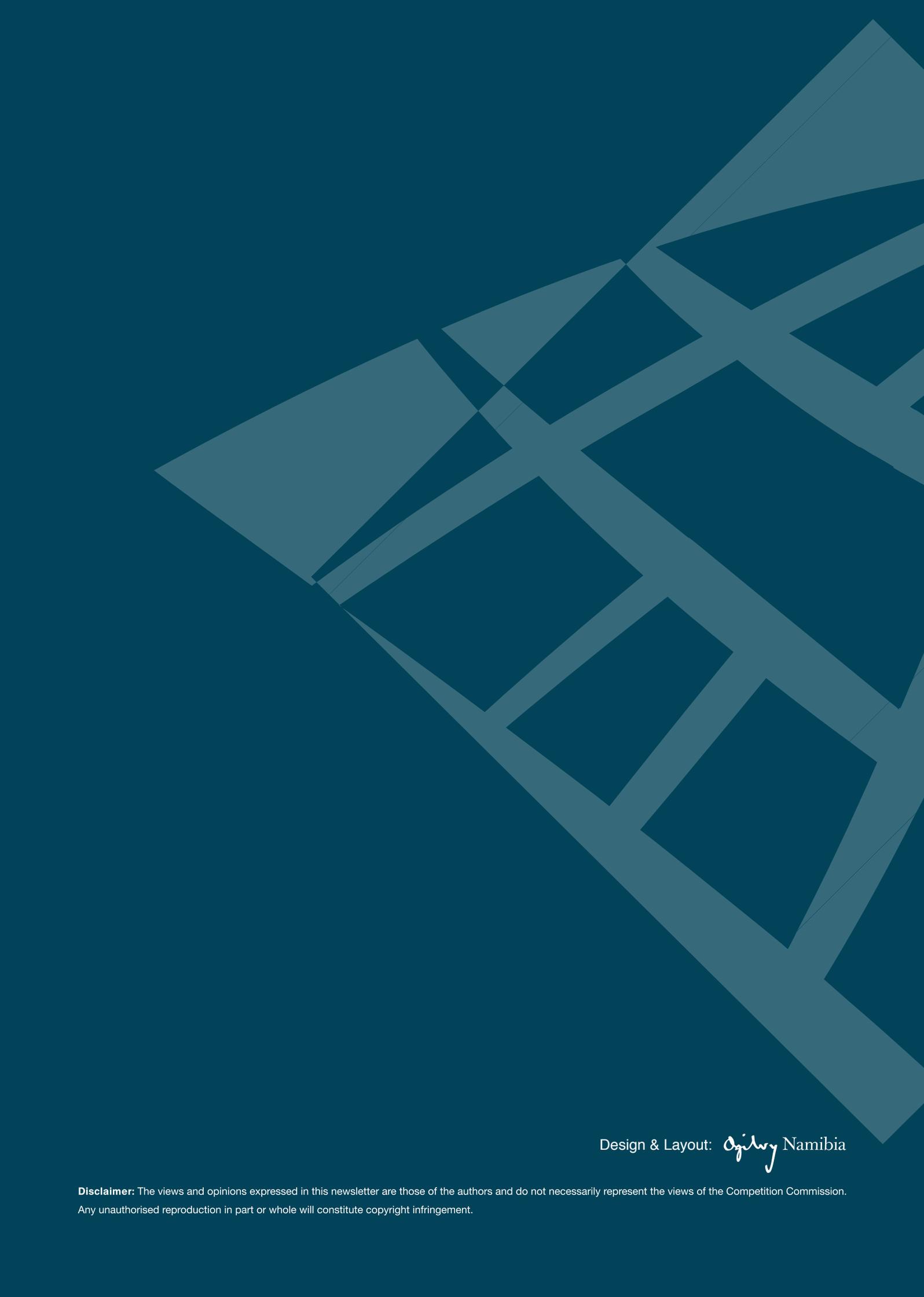
Case Number	Primary Acquiring Firm	Primary Target Firm	Initial Date Filed	Status
2013DEC0059MER	Namibia Breweries Limited	Hallie Investments 428 (Pty) Ltd	13/12/2013	Approved without conditions
2013NOV0054MER	Etosha Transport (Pty) Ltd	Tidle Wave Investments Ninety Four (Pty) Ltd	21/11/2013	Approved without conditions
2013NOV0055MER	CFR Inversiones Spa	Adcock Ingram Holdings Ltd	27/11/2013	Approved without conditions
2013NOV0053MER	Torre Industrial Holdings Ltd	In Power Parts CC	18/11/2013	Approved without conditions
2013DEC0058MER	Nictus Holding Ltd	Trentyre (Namibia) (Pty) Ltd	13/12/2013	Approved without conditions
2014FEB0003MER	Trustco Property	Elisenheim Property Development Company (Pty) Ltd	11/02/2014	Approved without conditions
2013DECOO57MER	Johannes Abel Coetzee	Tsumeb Hardware cc	05/12/2013	Approved without conditions
2013DEC0060MER	Bucket Full (Pty) Ltd	The Cartons and Labels Business of NAMPAK Products Limited	13/12/2013	Approved without conditions
2014FEB0004MER	Guinea Fowl Investments Twenty Five (Pty) Ltd to be renamed EFS Namibia (Pty) Ltd ("EFS")	Edgars Stores (Namibia) Limited ("Edcon")	11/02/2014	Approved without conditions



Case Number	Primary Acquiring Firm	Primary Target Firm	Initial Date Filed	Status
2014FEB0009MER	NMS Properties (Pty) Ltd	Rojo Edgar van Wyk	24/02/2014 (Complete filing fee received 19/04/2014)	Approved without conditions
2014FEB0009MER	Stuart Michael Brown	Otjiwarongo Hardware cc t/a Build It Otjiwarongo	18/03/2014	Approved without conditions
2014FEB0008MER	Safcoll Property Holdings (Pty) Ltd ("Safcoll")	Sebastian Property Holdings (Pty) Ltd ("Sebastian Prop")	20/02/2014	Approved without conditions
2014JAN0002MER	Safcoll Property Holdings (Pty) Ltd	Old Mutual Life Assurance Company (Namibia) Limited	29/01/2014	Approved without conditions
2014FEB0010MER				Approved without conditions
2014JAN0001MER	Sefalana Cash & Carry	Metcash Trading Namibia	24/01/2014	Approved without conditions
2014FEB0011MER	Kim Toni Dreyer – Tre	Langerhans Pharmacy cc	17/04/2014	Approved without conditions
2014FEB0007MER	SAFCOLL Property Holdings ("SAFCOLL")	Rundu Property (Pty) Ltd	20/04/2014	Approved without conditions
2014FEB0005MER	Impact Namibia (Block 2913B) Limited	Grisham Assets Corp	14/02/2014	Approved without conditions
2014MAR0014MER	Guinea Fowl Investments Twenty Six (Pty) Ltd ("Guinea Fowl")	AngloGold Ashanti Namibia (Pty) Ltd ("AngloGold Namibia")	11/03/2014	Conditional Approval
2014APR0021MER	Congelados Cela Sociedad Anonima	Talanam Fish Processors (Pty) Ltd owned by Pajarinos Sociedad Limitada	16/04/2014	Approved without conditions
2014MAY0025MER				
2014APR0024MER	Marc Gerhard Schumacher	Herma Brothers Cape (Pty) Ltd	25/04/2014	Approved without conditions
2014FEB0012MER	Aloe Investments Number Fifteen (Pty) Ltd	LLD Diamonds	28/02/2014	Approved without conditions
2014MAR0018MER	Vivo Energy Namibia Limited	Jeanette Ann Goussard t/a Groot Gariep Motors	20/03/2014	Approved without conditions
2014APR0023MER	Etienne Johan Weakley	Erf Three Six Zero Zero Walvis Bay cc	22/04/2014	Approved without conditions
2014APR0020MER	Friedshelf 1508 (Pty) Ltd	RTT Holdings (Pty) Ltd	02/04/2014	Approved without conditions
2014FEB0013MER	Samuel Jacobus van Wyngaarden and Charl van Wyngaarden	TLP Properties One One Five CC ("TLP")	28/02/2014	Approved without conditions
2014APR0029MER	Gazania Investment Two Hundred and Fifty (Pty) Ltd	One Africa Television (Pty) Ltd and Downlink (Pty) Ltd	15/04/2014	Approved without conditions
2014MAR0016MER	Atro Trading CC	Oshikango Initiative (Pty) Ltd	02/06/2014	Approved without conditions
2014MAR0019MER	CA Sales Holdings (Pty) Ltd	A. Wutow Trading Company (Pty) Ltd	26/03/2014	Conditional Approval

NOTES

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