



**THE AIRCRAFT OWNERS & PILOTS ASSOCIATION OF NAMIBIA vs. PUMA ENERGY
NAMIBIA (PTY) LTD
CASE NUMBER: 2016MAR0005COMP**

MEDIA STATEMENT

SECTION 34 DAWN RAID

The Namibian Competition Commission (“Commission”) confirms that on Thursday, 15 September 2016 and Friday, 16 September 2016 it conducted its first ever entry, search and seizure (“dawn raid”) operation. The dawn raid was conducted on the premises of Puma Energy Namibia (Pty) Ltd (“Puma”) as part of an investigation which the Commission is conducting against Puma for alleged abuse of a dominant position regarding the supply of aviation fuel (Jet A-1 and Avgas) at the Eros and Ondangwa airports.

A dawn raid is a preliminary investigative step undertaken into suspected anticompetitive practices. The Commission can in terms of section 34 of the Competition Act, Act 2 of 2003 (“Competition Act”) conduct a dawn raid to ascertain or establish whether a party has engaged in or is engaging or about to engage in conduct that constitutes or may constitute an infringement of Competition Act.

The dawn raid that was conducted by the Commission was aimed at obtaining documentary and electronic evidence in respect of Puma’s pricing in order to enable the Commission to determine whether Puma’s pricing for the supply of aviation fuel at the Eros and Ondangwa airports amounts to excessive pricing in contravention of the Competition Act. The charging of excessive price is prohibited in terms of section 26(1) read with section 26(2)(a) of the Competition Act.

Excessive pricing is a concern especially in this case due to the fact that when charged to aircraft operators and owners at airports it will ultimately be passed on to consumers in the form of higher ticket prices. Excessive pricing could also undermine the ability of aircraft owners and operators to have free capital which could otherwise be invested in helping create and explore opportunities which could help derive benefits for the economy, such as the creation of additional employment opportunities and the procuring of better quality products, etc.

The Commission affirms that the investigation and the conducting of the dawn raid does not mean that Puma is guilty of anticompetitive behaviour, nor does it prejudice the outcome of the investigation itself. The Commission respects the right of defence, in particular Puma's right to be heard in terms of the procedure set out in the Competition Act.

The Commission's investigation remains ongoing and the Commission will assess the evidence obtained through the dawn raid, any future evidence that may be obtained and make a final determination thereto. The Commission has furthermore in terms of the Competition Act granted Puma an opportunity to make written representations regarding the subject-matter of the Commission's investigation as stipulated in its notice of the proposed investigation.

There are no prescribed statutory deadlines in terms of which to finalise the investigation, the duration of the investigation will therefore depend on factors such as the complexity of the case, the extent to which the undertakings concerned cooperate with the Commission and the procedure prescribed by sections 36, 37 and 38 of the Competition Act.

Issued by:

The Restrictive Business Practices Unit
Namibian Competition Commission

20 September 2016