



## MEDIA STATEMENT

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### COMMISSION IMPOSES FINES OF N\$ 20.5 MILLION FOR COMPETITION LAW CONTRAVENTIONS IN THE INSURANCE INDUSTRY

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#### **i. Background**

The Namibian Competition Commission (“the Commission”) confirms that it has concluded settlement agreements with Santam Namibia Ltd (“Santam”) and Hollard Insurance Company of Namibia Ltd (“Hollard”) in respect of an investigation relating to alleged price fixing in contravention of the Competition Act, Act 2 of 2003 (“Competition Act”). The settlement agreements are the culmination of an investigation against various insurance companies including Santam, Hollard as well as Old Mutual Short-Term Insurance Company (Namibia) Ltd (“OMSIC”), Outsurance Insurance Company of Namibia Ltd (“Outsurance”), Phoenix Namibia Assurance Company Ltd (“Phoenix”), Alexander Forbes Insurance (“Alexander Forbes”) and Momentum Short-Term Insurance Ltd (“Momentum”). The Commission’s preliminary investigation findings were that the aforementioned insurance companies engaged in price fixing in contravention of the Competition Act by coming together and setting maximum mark-ups<sup>1</sup> and rates that panel beaters should charge for repairs to insured vehicles. The aforementioned conduct is a contravention of section 23(1)<sup>2</sup> read with section 23(2)(a)<sup>3</sup> and 23(3)(a)<sup>4</sup> of the Competition Act.

#### **ii. Settlement agreements concluded**

Section 40 of the Competition Act allows the Commission at any time during or after an investigation to conclude settlement agreements with parties under investigation with a view towards resolving matters in

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<sup>1</sup> Mark-ups are an amount added to a cost price in calculating a selling price, especially an amount that takes into account overhead and profit.

<sup>2</sup> Section 23(1) of the Act prohibits agreements or concerted practices which prevent or lessen competition

<sup>3</sup> Section 23(2)(a) prohibits anti-competitive agreements or concerted practices between undertakings who are in a horizontal relationship, *i.e.* undertakings which trade in competition with each other

<sup>4</sup> Section 23(3)(a) of the Act prohibits agreements or concerted practices which entail the fixing of unfair purchase or selling price, *i.e.* price fixing

an amicable manner. Accordingly, the Commission was approached by Santam and Hollard for settlement in terms of section 40 of the Competition Act. As part of the settlement, both Santam and Hollard have admitted to an unintended contravention of section 23 of the Competition Act. The negotiations further confirmed that Santam pay a fine of N\$ 15 million, while Hollard pays a fine of N\$ 5.5 million for the contravention. The two insurance companies have further committed to implement measures to mitigate the risk of future competition law violations within their respective workplaces. The Commission will continue to monitor the behaviour of these companies through regular compliance reports to be submitted to the Commission.

In terms of section 40(3) of the Competition Act, settlement agreements have to be confirmed by Court. The Commission will accordingly and in due course submit both the Santam and Hollard settlement agreements to Court for confirmation, whereafter the fines imposed will be paid over to the Commission.

**iii. The Commission commends Santam and Hollard's proactive and cooperative stance to the investigation**

The Commission wishes to commend the proactive and cooperative stance adopted by Santam and Hollard in seeking to remedy their contravention of the Competition Act and for having provided the Commission with useful information regarding its investigation. The Commission is furthermore pleased that Santam and Hollard have taken steps to cease with the conduct that is the subject-matter of the Commission's investigation.

**iv. Way forward and finalization of the Commission's investigation**

The Commission is at the cusp of finalizing its investigation against the remaining insurance companies that have not settled and will in due course make a final determination in terms of section 38 of the Competition Act in respect of whether or not it will refer the other insurance companies to Court for having contravened the Competition Act.

The Commission wishes to emphasize that the window remains open for other insurance companies to approach the Commission for settlement on this matter.

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The Namibian Competition Commission

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