



## **MEDIA STATEMENT**

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### **EXCLUSIVE AGREEMENTS BETWEEN INSURANCE COMPANIES & WINDSCREEN RETAILERS**

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#### **1. Introduction**

1.1 The Namibian Competition Commission (“the Commission”) confirms that it has made a preliminary investigation finding in terms of section 36 of the Competition Act that various short-term insurance companies, in particular Santam Namibia Ltd, Hollard Insurance Company Ltd, Old Mutual Short-Term Insurance Company Ltd, and Momentum Short-Term Insurance Ltd (previously known as Quanta Insurance Ltd) entered into exclusive agreements with various windscreen retailers such as PG Glass (Pty) Ltd, Perfect Glass CC and Greg’s Motor Spares. Exclusive agreements are agreements in which parties promise to deal exclusively with only certain parties and not with their competitors.

#### **2. Nature of conduct**

2.1 As part of their business activities, windscreen retailers provide glass repairing services for vehicles including those insured by insurance companies. Insurance companies are responsible for defraying of the funds for repairs of windscreens on behalf of insured clients. The Commission’s investigation has found that the insurance companies and windscreen retailers are engaged in a practice of exclusive dealing. These parties have done so by concluding agreements in terms of which the above-named windscreen retailers receive preference in supplying and fitting windscreens to vehicles insured by the above-mentioned insurance companies. These agreements therefore favour the above-named windscreen retailers over other windscreen retailers even in instances whereby the other windscreen retailers supply windscreens that are of similar quality as those provided by the preferred windscreen retailers.

2.2 The Commission’s investigation therefore, concluded that the above-named insurance companies and the windscreen retailers have contravened the Competition Act by limiting market access and applying dissimilar conditions to equivalent transactions as envisaged in terms of section 23(1) read with section 23(2)(b) and 23(3)(e) and section 23(3)(f) of the Competition Act.

## **2.3 The basis of the Commission's investigation findings are as follows:**

2.3.1 Some of the agreements concerned designate the above -named windscreen retailers as preferred suppliers while others give the above-named windscreen retailers first option to supply windscreens to insured vehicles. Some of these agreements furthermore contain rebate provisions which require insurance companies to be paid rebates for referring clients to the windscreen retailers. In addition, some of the agreements also provide for the waiving of excess payments for insured clients in the event that they select to have their vehicle windscreen repaired by the above-named windscreen retailers. The no-excess requirement creates an incentive for insured clients to only have their vehicles' windscreen repaired by the above-named windscreen retailers.

## **3. Problematic nature of the conduct**

3.1 The exclusive agreements result in a situation whereby the windscreen retailers contracted by the insurance companies are given an unfair market position and potentially excludes other windscreen retailers from the marketplace or materially handicap the ability of the excluded windscreen retailers to compete.

3.2 The exclusive agreements are of concern since they deter consumer choice by hampering the ability of consumers to choose windscreens that are offered by excluded windscreen retailers. Consumers as a result of reduced competition are prejudiced due to limited price competition and product choice.

## **4. Concluding remarks & Way forward**

4.1 The Commission however wishes to stress that its findings are preliminary and that no final decision has been made. All affected parties including the above-named insurance companies and windscreen retailers have been duly notified of the Commission's findings and an oral conference is scheduled for 31<sup>st</sup> October 2018 at which affected are expected to make submissions to the Commission on its preliminary investigative findings before a final determination is made regarding whether or not the Commission will refer the matter to the High Court for remedial action as prescribed in the Competition Act.

**Issued by:**

**The Namibian Competition Commission  
Enforcement, Exemptions & Cartels Division  
8<sup>th</sup> October 2018**