



MEDIA STATEMENT

INVESTIGATION FINDINGS INTO PRICE FIXING CARTEL CONDUCT BY SHORT-TERM INSURERS

i. Introduction

The Namibian Competition Commission (“the Commission”) confirms that it has made a preliminary investigation finding in terms of section 36 of the Act that various short-term insurance companies in particular Santam Namibia Ltd, Alexander Forbes Insurance Company Ltd, Hollard Insurance Company Ltd, Old Mutual Short-Term Insurance Company Ltd, Outsurance Insurance Company of Namibia Ltd, Phoenix Assurance Namibia Ltd and Momentum Short-Term Insurance Ltd (previously Quanta Insurance Ltd) have engaged in collusive conduct, specifically price fixing, in contravention of the Competition Act by setting maximum mark-up rates that panel beaters should charge for repairs to insured vehicles. Mark-up rates refer to the margins that panel beaters add on top of the costs of vehicle parts.

The Commission’s investigation has further found that on top of setting maximum mark-ups on parts, these insurance companies further impose maximum labour rates to be charged by panel beaters for the rendering of their services. Labour rates refer to the costs per hour charged by panel beaters for the repair of vehicles.

ii. Harmful nature of the conduct

The Competition Act, 2003 classifies price fixing conduct as *per se* prohibited, rendering the conduct as inherently illegal without extrinsic evidence of the effect of the conduct. The conduct by the insurance companies (otherwise competitors) is designed to subvert competition and is characterized globally as cartel conduct being amongst the most egregious forms of collusion between competitors.

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The Commission's preliminary investigative findings show that insurance companies have set the maximum rates and mark-up in order to reduce their cost without having regard to panel beaters input cost. In doing so, insurance companies unjustly influence the price rather than allowing competition to determine the prevailing market conditions. These insurance companies further benefit from the costs imposed to the detriment of reduced panel beater competition and limited consumer choice and potentially, prevent consumers from having access to better pricing.

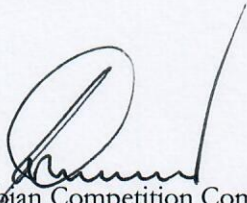
By setting similar mark-ups and rates the insurance companies have further reduced competition amongst themselves as these rates and mark-ups influence the premiums they charge their consumers (the policyholders). Ultimately, insurance companies benefit from potentially unfair excess profits that would ordinarily not prevail in the absence of their anti-competitive prohibited conduct.

The conduct of these insurance companies has further adverse effects on the competitiveness of the downstream market, being the panel beater market. Under normal competitive conditions, insurance companies would consider the lowest substantial quotation from a group of panel beaters, panel beaters would as a result seek to compete against each other to ensure that they secure the work through employing innovative strategies that would reduce cost and improve efficiency. This innovation has however been curtailed as a consequence of the behaviour by the concerned insurance companies.

iii. Concluding remarks

The setting of mark ups and labour rates, which are in material respects identical between the various insurance companies, gives rise to a finding that there exists a concerted practice between the insurance companies mentioned above. The Commission however wishes to stress that its findings are preliminary and that no final decision has been made. Therefore, all affected undertakings, including the insurance companies, have been duly notified of the Commission's findings and an oral conference is scheduled for 29th August 2018. At this conference these undertakings are expected to make representations 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

20 August 2018