



MEDIA STATEMENT

COMPETITION COMMISSION SEEKING INPUT ON EXEMPTION APPLICATION RELATING TO VOLUNTARY DAIRY LOCAL SOURCING SCHEME

1. Introduction

1.1 The Namibian Competition Commission (“the Commission”) herewith confirms that the Namibia Trade Forum (“NTF”) has in terms of section 27(1) of the Competition Act, 2003 (Act No. 2 of 2003) (“the Competition Act”) applied that the NTF as well as the producers, distributors and retailers listed in paragraph 2 below (hereinafter jointly referred to as “the Applicants”) be exempted from certain provisions of Part 1 of Chapter 3 of the Competition Act. The exemption is sought for a period of five (5) years.

2. The exemption application

2.1 NTF is an agency established by the Cabinet of the Republic of Namibia in order to facilitate consultation and cooperation between the government and the private sector on trade and investment matters.

2.2 The exemption application relates to a decision by an association of undertakings, being NTF) and agreement(s) between the following producers, distributors and retailers:

PRODUCERS	DISTRIBUTORS	RETAILERS
Namibia Dairies (Pty) Ltd	CIC (Pty) Ltd	Choppies Supermarkets Namibia (Pty) Ltd
FLM Fruits & Vegetables (Pty) Ltd		Pick 'n Pay Namibia (Pty) Ltd
		SPAR Namibia (Pty) Ltd

2.3 The Applicants are seeking to be exempted in respect of a decision and agreement(s) relating to a voluntary local sourcing scheme whereby:

- 2.3.1 producers, distributors and retailers will register with the NTF;
- 2.3.2 producers will share information on their available volumes;
- 2.3.3 distributors and retailers will commit to source a certain percentage of the producers volumes;
- 2.3.4 distributors and retailers will provide proof of the volumes bought to the NTF;
- 2.3.5 there will be bi-monthly meetings to monitor and evaluate the scheme; and
- 2.3.6 the above measures will be reviewed every three months at “Daily Forum” meetings.

2.4 The percentage volumes that need to be bought or sold by particular producers, distributors or retailers will be determined in accordance with the below diagram.

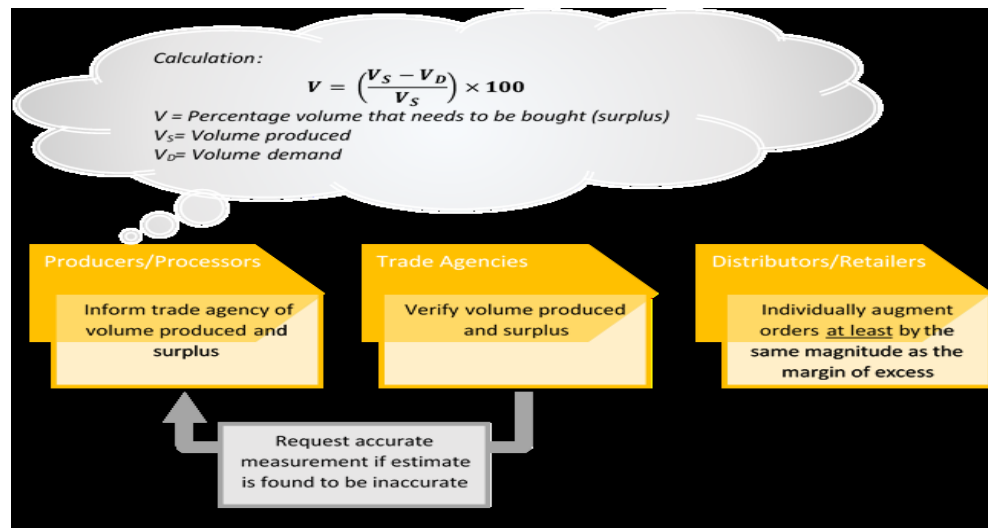


Figure 1: How the percentage volumes that need to be bought or sold will be determined.

2.5 The exemption application is in respect of the formal (commercial farming) market not the informal market. The exemption would furthermore exclude skimmed milk, flavoured milk, cultures¹ and butter.

3. What the exemption application would entail

3.1 As indicated in earlier media releases, an exemption is an avenue whereby undertakings and associations of undertakings can apply to the Commission to be exempted from the provisions of the Competition Act relating to anti-competitive agreements, decisions and concerted practices. Undertakings and associations of undertakings that have been

¹ “Cultures” refers to fermented dairy products e.g. yoghurt, kefir, omaere, and other yoghurt-like products.

exempted from the Competition Act will thus not be held liable for contraventions of the Competition Act in respect of the exempted conduct.

3.2 This exemption application is therefore aimed at enabling the Commission to assess whether or not there are exceptional and compelling public policy justifications that would warrant the voluntary dairy local sourcing scheme to be exempted from the prohibitions contained in the Competition Act.

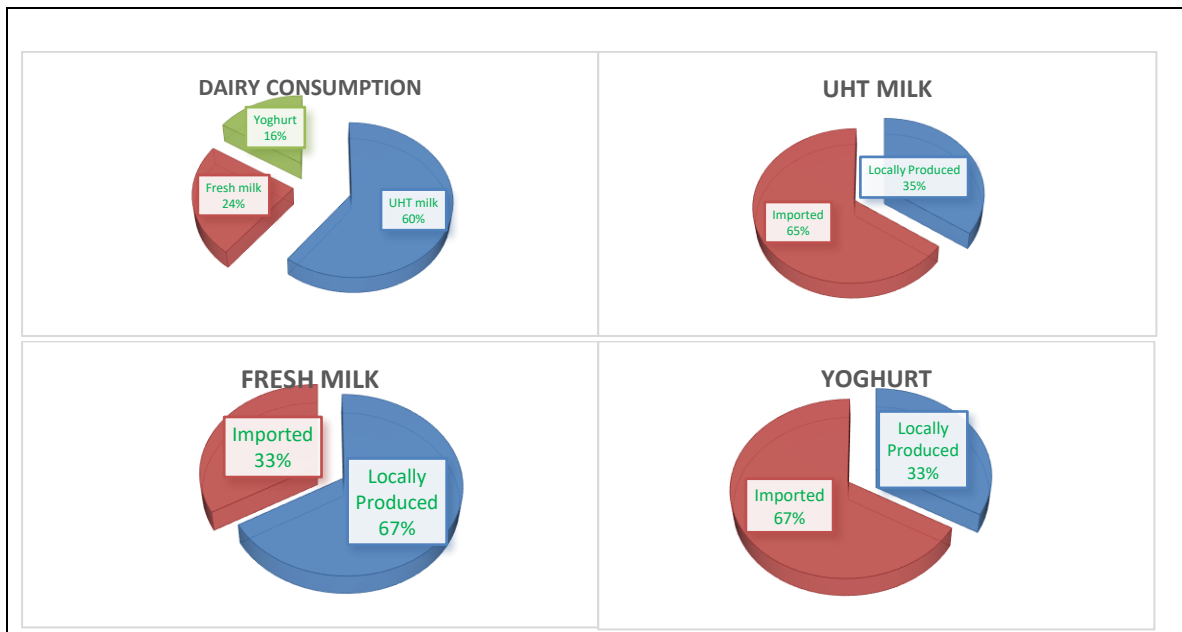
3.3 In making a decision in respect of whether or not to grant or refuse the exemption, the Commission is in terms of the Competition Act required to take into account the extent to which the voluntary dairy local sourcing scheme will contribute or result in:

- 3.3.1 maintaining or promoting exports;
- 3.3.2 enabling small undertakings owned or controlled by historically disadvantaged persons, to become competitive;
- 3.3.3 improving, or preventing decline in, the production or distribution of goods or the provision of services;
- 3.3.4 promoting technical or economic progress or stability in any industry designated by the Minister, after consultation with the Minister responsible for that industry;
- 3.3.5 obtaining a benefit for the public which outweighs or would outweigh the lessening in competition that would result, or would be likely to result, from the agreement, decision or concerted practice or the category of agreements, decisions or concerted practices.

4. The need for an exemption

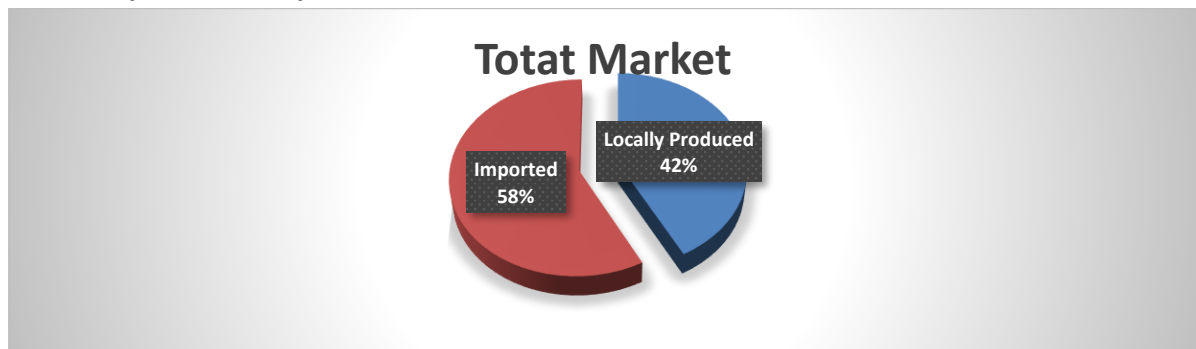
4.1 According to the NTF, the Namibian economy currently consumes about 38 million combined litres of Ultra-high-temperature (“UHT”) milk, fresh milk and yoghurt per annum. As per the pie chart below, the consumption consists of 60% UHT milk, 24% fresh milk and 16% yoghurt. In terms of local production versus import, the majority of Namibia’s UHT milk consumption comprises of imports, representing 65% of all UHT milk consumed. In terms of fresh milk, in contrast to the consumption figures for UHT milk, the majority of fresh milk consumed is locally produced. With regards to yoghurt, more than 60% of yoghurt consumption is attributable to imports.

Graph 1: Dairy Consumption & Production (Percentages)



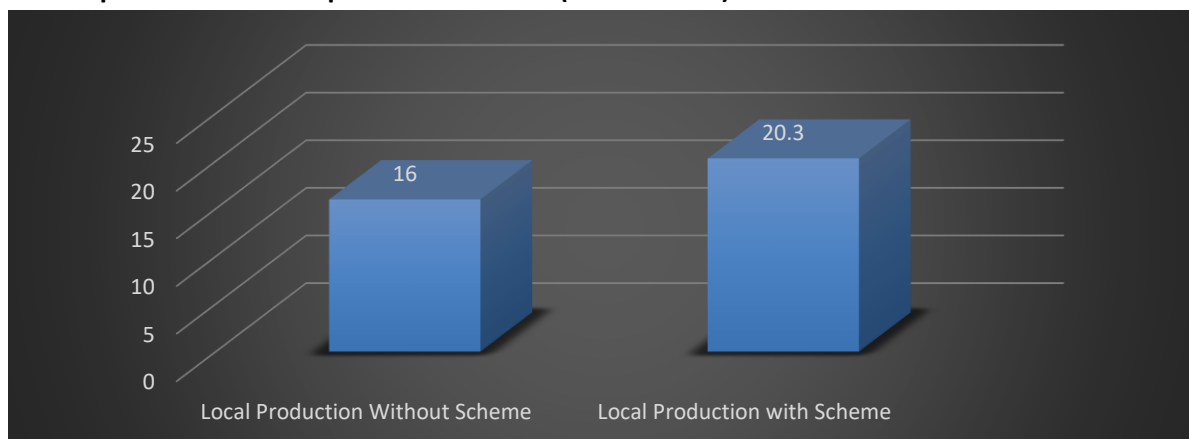
4.2 When looking at the combined consumption figures for UHT milk, fresh milk and yoghurt, 58% of the 38 million litres consumed, only 42% is produced locally.

Graph 2: Total Import vs Local Production



4.3 The NTF estimates that based on the current population growth of 1.8%, the UHT milk consumption could grow by 4.3 million litres by 2027. Without the voluntary local sourcing scheme, local production will remain stagnant with the possibility that it could end. However, with the scheme, local production will fill this growth which is estimated to contribute about N\$800 million in revenue.

Graph 3: Current vs Expected Production (Million litres)



5. Request for public input & Way forward

- 5.1 As part of the Commission's consideration of the exemption application, the Commission is currently seeking input from the public in respect of the implications that may arise as a result of the voluntary dairy local sourcing scheme.
- 5.2 The Commission has furthermore in line with section 27(3) of the Competition Act in March 2020 published a notice in the Government *Gazette* inviting the public to within 30 days submit to the Commission any queries or written representations that they may wish to make concerning the application. ***All written representations must reach the Commission on or before 30 April 2020.***
- 5.3 A non-confidential version of the exemption application is available and may be provided to concerned stakeholders upon request.
- 5.4 The Commission will after consideration of the application and any representations that have been submitted make a determination on whether or not to grant or refuse the exemption.

Issued by:

The Namibian Competition Commission
Enforcement, Exemptions & Cartels Division

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30 March 2020