



**MEDIA STATEMENT
FOR IMMEDIATE RELEASE**

THE COMMISSION IS INSTITUTING COURT PROCEEDINGS AGAINST MAXES OFFICE MACHINES (PTY) LTD AND RISO AFRICA (PTY) LTD FOR EXCLUSIVE DEALINGS IN THE OFFICE AUTOMATION EQUIPMENT INDUSTRY

The Namibian Competition Commission (NaCC) has made a final decision to institute Court proceedings against office automation equipment suppliers, Maxes Office Machines (Pty) Ltd (Maxes) and South African based Riso Africa (Pty) Ltd (Riso Africa) (jointly referred to as the Respondents), for alleged exclusive dealings after its investigation revealed that the Respondents have contravened the Namibian Competition Act No.2 of 2003 (the Competition Act).

1. The nature of the conduct

As part of its business activities, Maxes purchases office automation equipment from its suppliers, distributes and sells them to end-users, and thereafter renders after-sale services and support to its clients. The office automation equipment supplied by Maxes includes high-volume digital printing machines and duplicating machines. Riso Africa on the other hand is Africa's representative of Riso Kagaku Japan that manufactures and supplies two types of office printing equipment namely, the Riso Digital Duplicators and Riso ComColour Inkjet Printers. The investigation was concerned with the distribution of digital duplicators which are used for mass printing, used in schools, government offices such as the Directorate of Education and, other public and private institutions that require mass printing.

Commissioners: Mr Peter Carlson (Chairperson), Mr Linus //Garoeb, Ms Petronella Masabane
and Ms Isabella Tjatjara

EX Officio: Mr Vitalis Ndalikokule (CEO & Secretary to the Commission)

In terms of the conduct, the Respondents have entered into an exclusive distributorship agreement which has been in existence since 1996. The exclusive distributorship agreement designated Maxes as the sole distributor, service provider and retailer of Riso Africa's office printing equipment, associated products and services. This type of conduct creates barriers to entry into the market. The exclusive agreement prevents interested distributors from trading in the supplying of Riso Africa's office printing equipment and associated products, as well as providing after-sale services to those products. The Commission is of the view that this exclusive distributorship agreement is harmful to fair competition. The Commission found the agreement to be in contravention of Section 23(1) read with Section 23(2)(b), 23(3)(e) of the Act (limiting or restricting market outlets or access).

There are however, other products available in Namibia such as Duplo, Ricoh and Nashua which compete with the Riso digital duplicators. However, the Commission's investigation found that the Riso digital duplicators make up a substantial part of the market. The Commission's investigation further found that, as a result of the exclusive agreement, there is no intra-brand competition as far as the distribution of the Riso related products, is concerned. On the other hand, however, intra-brand competition was found to exist between other brands of digital duplicators. Other brands are also not distributed through exclusive distributorship agreements and any interested party can distribute such brands.

2. The Way Forward

Following the investigation and consideration of all representations, including the written representations made in terms of Section 36 of the Competition Act, the Commission has resolved to institute proceedings in Court against the Respondents for an order:

- 2.1 Declaring that the Respondents have contravened Section 23(1) read with Section 23(2)(b) and Section 23(3)(e) of the Competition Act;
- 2.2 Ordering the Respondents to cease with the conduct;
- 2.3 Restraining the Respondents from engaging in the conduct in future;
- 2.4 Seeking an appropriate pecuniary penalty against the Respondents in terms of Section 53(1)(a) and 53(2) of the Competition Act, taking into account the factors stated in Section 53(3) of the Competition Act;
- 2.5 Ordering that the Respondents to pay the costs of the proceedings; and
- 2.6 Such further and/or alternative relief as the Court may consider appropriate.

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3. Conclusion

Notwithstanding the above, the Commission records that it is willing to engage with the Respondents with the objective of settling the matter in terms of Section 40 of the Competition Act and to avoid proceedings in terms of Section 38 of the Competition Act.

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Date: 18 November 2022

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