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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 1378

21 DECEMBER 2020

NOTICE IN TERMS OF SECTION 10(6) OF THE COMPETITION ACT NO. 89 OF 1998 (AS AMENDED)**THE COMPETITION COMMISSION OF SOUTH AFRICA****NOTICE OF APPLICATION FOR AN EXEMPTION**

1. Notice is hereby given in terms of section 10(6)(a) of the Competition Act, No 89 of 1998, as amended (the "**Act**") that the South African Petroleum Industry ("**SAPIA**") has applied to the Competition Commission ("**Commission**"), in terms of section 10(1) of the Act, to be exempted from certain provisions of Chapter 2 of the Act.
2. SAPIA is an organisation representing the main petroleum and liquefied petroleum gas companies in South Africa. SAPIA plays a strategic role in addressing a range of common issues relating to the refining, distribution and marketing of petroleum and LPG products, as well as promoting the industry's environmental and socio-economic progress. SAPIA members participate in the petroleum industry by sourcing raw materials, importing, manufacturing, and supplying petroleum products.
3. The following entities are the integrated members of SAPIA, which hold both a refining or manufacturing licenses: (i) Astron Energy (Pty) Limited; (ii) bp Southern Africa (Pty) Limited; (iii) Engen Petroleum Limited; (iv) PetroSA Limited; (v) Sasol Oil (Pty) Limited; (vi) Shell Downstream South Africa (Pty) Limited; and (vii) Total South Africa (Pty) Limited.
4. Non-integrated members of SAPIA hold wholesaling licenses only and do not own oil refineries. This includes the following fuel wholesalers: (i) Afric Oil (Pty) Limited; (ii) Elegant Fuel (Pty) Ltd; (iii) Gulfstream Energy (Pty) Ltd; (iv) FFS Refiners (Pty) Ltd, (v) Makwande Energy Trading (Pty) Ltd; (vi) MBT Petroleum (Pty) Ltd; (vii) Puma Energy (Pty) Ltd; and (viii) Royale Energy (Pty) Ltd. It also includes the following LPG wholesalers: (i) Petregaz, (ii) Easigas (Pty) Ltd; (iii) Indigas (Pty) Ltd; (iv) Totalgaz Southern Africa (Pty) Ltd; and (v) Oryx Energies. More information about SAPIA and its members is available at www.sapia.org.za.
5. SAPIA is making this application under section 10(3)(b)(iv) of the Act. The conduct for which exemption is sought is, in SAPIA's view, required for the stability of the petroleum industry and to ensure security of supply of liquid fuels. Lastly, SAPIA seeks

exemption for a period of ten (10) years beginning 01 January 2021.

6. It is also worth mentioning that in terms of section 10(3)(b)(iv), the sole grounds on which this exemption is sought, the petroleum industry must first have been designated by the Minister of Trade, Industry and Competition.
7. The conduct to be exempted in terms of this application allows for SAPIA and its members to interact to the extent necessary to monitor, prevent and mitigate supply emergencies, as well as to engage in response measures in the event of an emergency and therefore covers –
 - (i) Joint planning relating to planned shutdowns of refineries;
 - (ii) Coordinated reactions to unplanned shutdowns of refineries;
 - (iii) The function of the Department of Mineral Resources and Energy's Heads of Supply Committee (including SAPIA Security of Supply Committee); and
 - (iv) The functioning of the DMRE's Logistics Planning Team.
8. In addition, this application also requests exemption for all necessary collective interactions between the petroleum industry and government, including –
 - (i) The development of government policy on retention or strategic stocks;
 - (ii) The Department of Mineral Resources and Energy ("DMRE")'s process of designing regulations for the implementation of government's biofuels policy;
 - (iii) The DMRE's process of designing regulations relating to implementation of government's cleaners fuels policy; and
 - (iv) All other necessary interactions between industry participants that are required to provide joint input to government on policy initiatives, which will be carried out at all times subject to a compliance guide (to be first assessed and approved the Commission to ensure that interactions in this regard will not adversely impact competition).
9. This exemption does not extend to the wholesale, commercial and retail trade of liquid fuels by SAPIA members, as well as not allow SAPIA and/or its members to discuss prices, markets, tenders or competitive strategies.
10. Notice is hereby given in terms of section 10(6)(b) of the Act to allow interested parties twenty (20) business days from the date of the publication of this notice to make written

representations to the Commission as to why the exemption should, or not, be granted.

11. Such representations must be directed to either Ruan Mare or Marlon Dasrath on the following electronic mailing addresses, RuanM@compcom.co.za and MarlonD@compcom.co.za respectively.
12. Kindly make use of the following case number when sending correspondences in relation to this notice: Case No: **2020OCT0044**