Vol. 667 29 January Januarie 2021 No. 44103

PART 1 OF 2

For purposes of reference, all Proclamations, Government Notices, General Notices and Board Notices published are included in the following table of contents which thus forms a weekly index. Let yourself be guided by the gazette numbers in the righthand column:

Weekly Index

No.		Page No.	Gazette No.
	GOVERNMENT NOTICE		
Agriculture, Land Reform and Rural Development, Department of			
12	Restitution of Land Rights Act (22/1994) as amended :Wolvengaten 255 JR.....	15	44068
Environment, Forestry and Fisheries, Department of			
20	National Environmental Management: Waste Act (59/2008) :Amendment of Regulations and notices regarding Extended Producer Responsibility, 2020	3	44078
Home Affairs, Department of			
13	Births and Deaths Registration Act (51/1992) :Alteration of surnames in terms of section 26	16	44068
14	Births and Deaths Registration Act (51/1992) :Alteration of forenames in terms of section 24	29	44068
Mineral Resources and Energy, Department of			
19	National Nuclear Regulator Act (47/1999) :Erratum to proposed NNR Authorisation fees for 2020/21.....	3	44076
Social Development, Department of			
R.17	Social Service Professions Act (110/1978) :Fees Payable by Social Workers, Child and Youth Care Workers, Social Auxilliary Workers, Auxiliary Child and Youth Care Workers, Student Social Workers, and Student Child and Youth Care Workers Amendment Regulations	3	44073
Trade and Industry and Competition, Department of			
18	Competition Act (89/1998) :Notice in terms of Section 10 (7) of the Act (as amended): South African Petroleum Industry Association Granted Conditional Exemption	3	44074
	GENERAL NOTICE		
Agriculture, Land Reform and Rural Development, Department of			
5	ABSA BANK LIMITED (Registration Number 1986/004794/06) :Notice of intention to apply for the cancellation of a lost/destroyed bond: Mortgage Bond SB 2356/2007.....	34	44068
13	Planning Profession Act (36/2002) :Withdrawal of Notice 1080 published on 5 October 2018.....	3	44089

Alle Proklamasies, Goewermentskennisgewings, Algemene Kennisgewings en Raadskennisgewings gepubliseer, word vir verwysingsdoeleindes in die volgende Inhoudopgawe ingesluit wat dus weeklikse indeks voorstel. Laat uself deur die Koerantnommers in die regterhandse kolom lei:

Weeklikse Indeks

No.		Bladsy No.	Koerant No.
	GOEWERMENTSKENNISGEWINGS		
Landbou, Grondhervorming en Landelike Ontwikkeling, Departement van			
12	Restitution of Land Rights Act (22/1994) as amended :Wolvengaten 255 JR.....	15	44068
Omgewingsake, Bosbou en Visserye, Departement van			
20	National Environmental Management: Waste Act (59/2008) :Amendment of Regulations and notices regarding Extended Producer Responsibility, 2020	3	44078
Binnelandse Sake, Departement van			
13	Births and Deaths Registration Act (51/1992) :Alteration of surnames in terms of section 26	16	44068
14	Births and Deaths Registration Act (51/1992) :Alteration of forenames in terms of section 24	29	44068
Mineraalbronne en Energie, Departement van			
19	National Nuclear Regulator Act (47/1999) :Erratum to proposed NNR Authorisation fees for 2020/21.....	3	44076
Maatskaplike Ontwikkeling, Departement van			
R.17	Social Service Professions Act (110/1978) :Fees Payable by Social Workers, Child and Youth Care Workers, Social Auxilliary Workers, Auxiliary Child and Youth Care Workers, Student Social Workers, and Student Child and Youth Care Workers Amendment Regulations	3	44073
Handel en Nywerheid en Kompetisie, Departement van			
18	Competition Act (89/1998) :Notice in terms of Section 10 (7) of the Act (as amended): South African Petroleum Industry Association Granted Conditional Exemption	3	44074
	ALGEMENE KENNISGEWINGS		
Landbou, Grondhervorming en Landelike Ontwikkeling, Departement van			
5	ABSA BANK LIMITED (Registration Number 1986/004794/06) :Notice of intention to apply for the cancellation of a lost/destroyed bond: Mortgage Bond SB 2356/2007.....	34	44068
13	Planning Profession Act (36/2002) :Withdrawal of Notice 1080 published on 5 October 2018.....	3	44089

No.		Page No.	Gazette No.
14	Planning Profession Act (36/2002) :Manual for Calculation of Guideline Professional Fees	5	44089
Legal Practice Council			
6	Legal Practice Act, 28 of 2014 :Notice in terms of Section 95 (4) of the Act	35	44068
South African Reserve Bank			
9	Currency and Exchanges Act (9/1933), as amended :Notice and Order of Forfeiture: Dr Sikhumbuzo Amstrong Shamase, Identity number 6708085259085	3	44077
Trade, Industry and Competition, Department of			
7	International Trade Administration Commission of South Africa :Rebate Item 460.11/00.00/01.00: Used Overcoats	37	44068
8	International Trade Administration Commission :Customs Tariff Applications: List 01/2021	3	44075
10	Companies and Intellectual Property Commission :Request for Information (RFI) for a capacity Building Program for see of Patent Applications and provision of a search tool for patent searches	3	44084

No.		Page No.	Gazette No.
14	Planning Profession Act (36/2002) :Manual for Calculation of Guideline Professional Fees	5	44089
Legal Practice Council			
6	Legal Practice Act, 28 of 2014 :Notice in terms of Section 95 (4) of the Act	35	44068
Suid-Afrikaanse Reserwebank			
9	Currency and Exchanges Act (9/1933), as amended :Notice and Order of Forfeiture: Dr Sikhumbuzo Amstrong Shamase, Identity number 6708085259085	3	44077
Handel, Nywerheid en Kompetisie, Departement van			
7	International Trade Administration Commission of South Africa :Rebate Item 460.11/00.00/01.00: Used Overcoats	37	44068
8	International Trade Administration Commission :Customs Tariff Applications: List 01/2021	3	44075
10	Companies and Intellectual Property Commission :Request for Information (RFI) for a capacity Building Program for see of Patent Applications and provision of a search tool for patent searches	3	44084

Contents

No.		Gazette No.	Page No.
GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS			
Agriculture, Land Reform and Rural Development, Department of/ Landbou, Grondhervorming en Landelike Ontwikkeling, Departement van			
42	Restitution of Land Rights Act (22/1994) as amended: Erf 125, Lydenburg JT	44103	16
43	Restitution of Land Rights Act (22/1994) as amended: Weltevreden 174 IS	44103	17
44	Restitution of Land Rights Act (22/1994) as amended: Various applications	44103	19
Health, Department of/ Gesondheid, Departement van			
45	Medical Schemes Act (131/1998): Medical Schemes Act Regulations: Amendment	44103	22
Trade, Industry and Competition, Department of/ Handel, Nywerheid en Kompetisie, Departement van			
46	Competition Act (89/1998), as amended: Guidelines for Competition in the South African Automotive Aftermarket: 10 December 2020: Final	44103	24
47	Competition Act 89 of 1998: Notification of approve with conditions the Transaction Involving: Hensoldt Optronics (Pty) Ltd and The Air Traffic Management Business and the Defence and Security Business of Tellumat (Pty) Ltd, Case Number 2020Jul0011	44103	63
48	Competition Act 89 of 1998 (As Amended): Notification of Closed Conditional Merger Approvals involving Roos Foods Proprietary Limited	44103	71
49	Competition Act 89 of 1998 (As Amended): Notification to approve with conditions the Transaction involving: Nimble Credit Fund 1 Proprietary Limited	44103	80
50	Competition Act (89/1998)(as amended): Competition Commission: Notification of closed conditional merger approvals 1 April 2020–30 September 2020	44103	89
Women, Youth and Persons with Disabilities, Department of/ Vroue, Jeugdiges en Persone met Gestremdhede, Departement van			
51	National Youth Development Agency Act, 2008: National Youth Development Agency Amendment Bill, 2020	44103	94
GENERAL NOTICES • ALGEMENE KENNISGEWINGS			
Agriculture, Land Reform and Rural Development, Department of/ Landbou, Grondhervorming en Landelike Ontwikkeling, Departement van			
22	Marketing of Agricultural Products Act (47/1996) (MAP Act), as amended: Invitation to register as a directly affected group in terms of the Act	44103	109
Non-Governmental Organization/ Nie-Regeringsorganisasie			
23	Private Security Industry Regulations Act (56/2001): Invitation to the industry for their comments on the draft assessment policy	44103	110
Trade, Industry and Competition, Department of/ Handel, Nywerheid en Kompetisie, Departement van			
24	International Trade Administration Commission of South Africa: Call for public interest submissions in the investigation for remedial action in the form of a safeguard against the increased imports of bolts with hexagon heads of iron or steel	44103	125
25	International Trade Administration Commission: Customs tariff applications: List 02/2021	44103	131
26	Competition Act (89/1998): Competition Tribunal: Notification of decision to approve merger	44103	133
BOARD NOTICES • RAADSKENNISGEWINGS			
1	Road Accident Fund Act (56/1996): Adjustment of Statutory Limit in respect of Claims for loss in income and loss of support	44103	133
1	Padongelukfondswet, No. 56 van 1996: Aanpassing van Statutêre Limiet ten opsigte van eise vir verlies aan inkomste en onderhoud	44103	133
2	Engineering Profession Act (46/2000): Appointment of Members to Serve on the 6th Term Council of the Engineering Council of South Africa	44103	134

GENERAL NOTICE IN TERMS OF RESTITUTION OF LAND RIGHTS ACT, 1994 [ACT 22 OF 1994] AS AMENDED

Notice is hereby given in terms of **Section 11[1] of the Restitution of the Land Rights Act 1994 [Act 22 of 1994] as amended,** that a land claim for **Restitution of Land Rights** has been lodged by Ebrahim Essa Arbee **[I.D No:** 331127 5056 081] on behalf of the Arbee family on the property mentioned here situated in the City of Thaba Chweu **Local Municipality under Ehlanzeni District Municipality in the Mpumalanga Province: [KRP: 7901]**

CURRENT PARTICULARS OF THE PROPERTIES

ERF 125 LYDENBURG JT

Description of property	Owner of Property	Title Deed Number	Extent of Property	Bonds	Bond Holder	Other Endorsements
Remaining Extent (Portion 1) of Erf 125 Lydenburg JT	Thaba Chweu Municipality	T144659/2004	2974 SQM (0.2974 ha)	None	None	None

The Restitution of Land Rights, Mpumalanga Province will investigate all the claims in terms of the provisions of the Act, any party interested in the above mentioned property is hereby invited to submit within **30 [thirty days]** from the date of publication of this notice to submit any comments, or further information to:

Commissioner for Restitution of Land Rights

TEL NO: 013 756 6000
FAX NO: 013 752 3859

MR. L. H MAPHUTHA
REGIONAL LAND CLAIMS COMMISSIONER
DATE: 2020/09/30

AMENDING GOVERNMENT NOTICE NO: 1144 OF 2009 IN THE GOVERNMENT GAZETTE NO: 32499 DATED 21 AUGUST 2009

Notice is hereby given in terms of **Section 11A [4] of the Restitution of the Land Rights Act 1994 [Act 22 of 1994] as amended,** that the **Commissioner for Restitution of Land Rights** is amending the said Gazette Notice it was discovered that the claimant name was indicated as Ms. Veronica Priscilla Sibosa, ID No. 810708 0715 08 4 instead of Mr. Maphikankani Piet Lukkele, ID No. 460115 5352 08 6. Therefore, this amendment seeks to rectify that.

WELTEVREDEN 174 IS

Description of property	Owner of Property	Title Deed Number	Extent of Property	Bonds	Bond Holder	Other Endorsements
Portion 1	H J Pietese Vlakfontein Tweehonderd Pty Ltd [197300833707]	T21788/1999	556.8315 ha	B33957/2001	Smalberger Annie Antoinette	K1346/1976PC K2558/1982S K2877/1991RM in favour of Icodev Pty Ltd K2878/1991RM K4128/2003 in favour of Exxaro Coal Mpumalanga Pty Ltd VA1139/1993 VA935/1999 in favour of HJ Pieterse Vlakfontein Tweehonderd Pty Ltd

AMENDING GOVERNMENT NOTICE NO: 1144 OF 2009 IN THE GOVERNMENT GAZETTE NO: 32499 DATED 21 AUGUST 2009

Notice is hereby given in terms of **Section 11A [4] of the Restitution of the Land Rights Act 1994 [Act 22 of 1994] as amended**, that the **Commissioner for Restitution of Land Rights** is amending the said Gazette Notice it was discovered that the claimant name was indicated as Ms. Veronica Priscilla Sibosa, ID No. 810708 0715 08 4 instead of Mr. Maphikankani Piet Lukkele, ID No. 460115 5352 08 6. Therefore, this amendment seeks to rectify that.

The Regional Land Claims Commissioner, Mpumalanga Province will investigate all the claims in terms of the provisions of the Act, any party interested in the above mentioned property is hereby invited to submit within **30 [Thirty days]** from the date of publication of this notice to submit any comments, or further information to:

Commissioner for Restitution of Land Rights
Private Bag X11330
Nelspruit
1200

CHECKED BY: MRS RENALL SINGH
RESTITUTION ADVISOR
DATE: 20/11/2020

MR L H MAPHUTHA
THE REGIONAL LAND CLAIMS COMMISSIONER
MPUMALANGA PROVINCE
DATE: 2020/11/30

AMENDING GOVERNMENT NOTICE NO: 690 OF 2004 IN THE GOVERNMENT GAZETTE NO: 26245 DATED 16 APRIL 2004

Notice is hereby given in terms of **Section 11A [4] of the Restitution of the Land Rights Act 1994 [Act 22 of 1994] as amended**, that the **Commissioner for Restitution of Land Rights** is amending the said Gazette Notice to only reflect correct affected extents. The commissioner is hereby amending the said gazette as reflected in the under mentioned property as follows:

1. **Champagne 230 KU**

Description of property	Owner of Property	Title Deed Number	Extent of Property	Bonds	Bond Holder	Other Endorsements
Remaining Extent of the Farm 230 KU	Republic of South Africa	T27243/1950	**Extent of claimed land is 373.1804 ha ha)** Extent of the farm 3341.2257 ha	None	None	I1961/2016C K4110/1999RM In favour Lebowa Mineral Trust K7693/1996S

2. **Rooiboklaagte 215 KU**

Description of property	Owner of Property	Title Deed Number	Extent of Property	Bonds	Bond Holder	Other Endorsements
Remaining Extent of the Farm 215 KU	Sethlare Tribe	T26819/1994	**Extent of claimed land is 135.7569 ha ha)** Extent of the farm 3763.9057 ha	None	None	I-1931/2016LG K1624/1977RM In favour Bourke Bernard John Administrators K22/2017S K282/1944RM

					K293/2019S K6350/1999S K916/2003S VA1267/2003 in favour of Sethlare Tribe VA70/2017 in favour of Sethlare Tribe VA7188/1999 in favour of Sethlare Tribe VA937/2019 in favour of Sethlare Tribe

AMENDING GOVERNMENT NOTICE NO: 734 OF 2019 IN THE GOVERNMENT GAZETTE NO: 42474 DATED 24 MAY 2019

Notice is hereby given in terms of **Section 11A [4] of the Restitution of the Land Rights Act 1994 [Act 22 of 1994] as amended**, that the **Commissioner for Restitution of Land Rights** is amending the said Gazette Notice to only reflect correct affected extent. The commissioner is hereby amending the said gazette as reflected in the under mentioned property as follows:

The Regional Land Claims Commissioner, Mpumalanga Province will investigate all the claims in terms of the provisions of the Act, any party interested in the above mentioned property is hereby invited to submit within **30 [Thirty days]** from the date of publication of this notice to submit any comments, or further information to:

Commissioner for Restitution of Land Rights
Private Bag X11330
Nelspruit
1200
Or 30 Samora Machel Drive
Nelspruit
1200
Tel No: 013 756 6000
Fax No: 013 752 3859

CHECKED BY: MRS CAROLINE FIPAZA
CHIEF RESTITUTION ADVISOR
DATE: 10/12/2020

MR L H MAPHUTHA
THE REGIONAL LAND CLAIMS COMMISSIONER
MPUMALANGA PROVINCE
DATE: 2020/12/10

DEPARTMENT OF HEALTH

NO. 45 **29 JANUARY 2021**

MEDICAL SCHEMES ACT, 1998 (ACT No.131 OF 1998)

MEDICAL SCHEMES ACT REGULATIONS: AMENDMENT

The Minister of Health has, in terms of section 67 of the Medical Schemes Act, 1998 (Act No. 131 of 1998), and after consultation with the Council for Medical Schemes, made the Regulations in the Schedule.

.....

DR ZWELINI LAWRENCE MKHIZE, MP

MINISTER OF HEALTH

DATE: 24/12/2020

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the regulations shall bear such meaning, unless the context indicates otherwise-

"COVID-19" means an acute medical illness caused by a novel coronavirus;

and "the regulations" means Regulations made under the Medical Schemes Act published under Government Notice No. R. 1262 of 20 October 1999, as amended by Government Notices Nos. R. 05 June 2000, R. 650 of 30 June 2000,

Amendment of the Annexure of the Regulations:

1. "Annexure A of the Regulation is hereby amended by insertion of the Diagnosis and Treatment Pair in the list of Prescribed Minimum Benefits in under the heading "Respiratory System".

Prevention and Treatment: clinically appropriate; vaccination; screening; diagnostic tests; medication; medical management including hospitalisation and treatment of complications; and Rehabilitation of COVID -19."

Short Title and commencement

2. (1) These Regulations are called Medical Schemes Act Regulations: Amendment, 2020.

(2) These Regulations are effective on the day of publication in the government gazette and valid for the period of COVID -19 pandemic as declared by the World Health Organisation (WHO).

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 46 29 JANUARY 2021

competitioncommission
south africa

Guidelines for Competition in the South African Automotive

Aftermarket

10 December 2020

Final

Table of Contents

1. PREFACE 3
2. DEFINITIONS 5
3. INTRODUCTION 10
4. OBJECTIVES AND LEGISLATIVE FRAMEWORK 18
5. IN-WARRANTY SERVICE, MAINTENANCE AND REPAIRS BY ISPS 19
6. APPOINTMENT OF MOTOR-BODY REPAIRERS BY OEMS 20
7. APPOINTMENT OF SERVICE PROVIDERS AND ALLOCATION OF WORK BY INSURERS 22
8. APPOINTMENT OF DEALERS BY OEMS 24
9. PREVENTING ANTI-COMPETITIVE INFORMATION SHARING BY MULTI-BRAND DEALERSHIPS 27
10. FITMENT AND ACCESS TO SPARE PARTS 29
11. THE BUNDLED SALE OF MOTOR VEHICLES WITH VALUE ADDED PRODUCTS 32
12. ACCESS TO TECHNICAL INFORMATION AND OEM-TRAINING FOR ISPS 35
13. IMPLEMENTATION 37
14. MONITORING OF ADHERENCE TO THE GUIDELINES 37
15. DISPUTE RESOLUTION 38
16. REVIEW OF THE GUIDELINE 38
17. CONCLUSION 39

1. PREFACE

1.1. These Guidelines have been prepared in terms of section 79(1) of the Competition Act No. 89 of 1998, as amended ("Act") which provides that the Competition Commission ("Commission") may prepare Guidelines to indicate its approach on any matter falling within its jurisdiction in terms of the Act. These Guidelines are not binding on the Commission, the Competition Tribunal, or the Competition Appeal Court in the exercise of their respective discretion, or their interpretation of the Act.

1.2. Over the past decade, the Commission has received complaints regarding allegations of anti-competitive conduct in the aftermarket value chain. The allegations include exclusionary agreements and/or arrangements between OEMs and Approved Motor-body Repairers; the exclusion or foreclosure of Independent Service Providers in the markets for the service and maintenance and Mechanical Repairs for In-Warranty Motor Vehicles; unfair allocation of work by Insurers; restrictions on the sale of Original Spare Parts to ISPs; high barriers to entry that exclude small and medium enterprises (SMEs) and historically disadvantaged individuals (HDIs) from becoming Approved Motor-body Repairers and Approved Dealers; and a lack of competition and consumer choice in the sale and fitment of Spare Parts.

1.3. The Commission has been working with the industry since early 2017 to resolve these market issues. The Commission initially facilitated an advocacy program towards an industry voluntary Code of Conduct. After two years of engagements and consultation, the stakeholders failed to reach consensus and/or to commit to meaningful pro-competitive reforms in response to the challenges posed.

1.4. These Guidelines therefore provide practical guidance for the automotive aftermarkets industry, intended to promote inclusion and to encourage competition through greater participation of small businesses as well as historically disadvantaged groups.

2. DEFINITIONS

2.1. **"Act"** means the Competition Act no. 89 of 1998, as amended.

2.2. **"Agreement"** means any consensus, contract, arrangement, understanding between two or more parties that purports to establish a relationship between them, whether or not legally enforceable, that the parties consider binding upon them.

2.3. **"Automotive Aftermarket"** means for these Guidelines, the after-sale market which includes maintenance and repair services and related value added products, Mechanical Repairs, Structural Repairs and Non-Structural Repairs to Motor Vehicles, the sale of motor vehicle Spare Parts, tools and components and the sale and administration of Motor Vehicle Insurance.

2.4. **"Commercially Sensitive Information"** means trade, business, industrial information and data stored electronically or in the cloud that has economic value to a firm and its business strategy and that is generally not available to or known by others.

2.5. **"Commission"** means the Competition Commission of South Africa.

2.6. **"Consequential Damage"** means injury or harm that does not ensue directly and immediately from the act of a party, but only as a result of a consequence or from some of the results of such act, and that may be compensated by a monetary award.

2.7. **"Dealer"** means a business enterprise whose business is in the retail of new and/or used motor vehicles, the sale and resale of Spare Parts and the service, maintenance, and Mechanical Repairs of motor vehicles but excludes Motor-body Repairers, as defined herein. For purposes of these Guidelines, an Approved Dealer means a Dealer that is appointed by an OEM.

2.8. **"Designated Geographic Area"** means a local (municipal), district, regional or provincial area.

2.9. **"Extended Warranty**" is an optional and additional Warranty that a consumer can purchase to extend the application of a Warranty.

2.10. **"Historically Disadvantaged Individual" or "HDI"** means one of a category of individuals who, before the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993), came into operation, were disadvantaged by unfair discrimination on the basis of race;

2.10.1. an association, a majority of whose members are individuals referred to in paragraph 2.10.

2.10.2. a legal person, other than an association, and individuals referred to in paragraph 2.10.1 own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes: or

2.10.3. a legal person or association, and persons referred to in the above paragraphs that own and control a majority of its issued share capital or members' interest and are able to control a majority of its votes.

2.11. **"Independent Service Providers"** or **"ISP"** means all Dealers and Motor-body Repairers, who are not appointed as an Approved Dealer or Approved Motor-body Repairer as defined herein.

2.12. **"Information Barriers**" means measures within an organization that are created to prevent exchanges of Commercially Sensitive Information or communication that could lead to conflicts of interest and/or constitute a prohibited practice in terms of the Act.

2.13. **"Insurer"** means a legal person licensed as an insurer in terms of the Insurance Act, No. 18 of 2017, that provides and sells motor insurance cover for loss or damage to a Motor Vehicle, and any person acting on their behalf including brokers, intermediaries, underwriters and assessors.

2.14. **"Liability"** means responsibility for the consequences of one's acts or omissions, enforceable by a civil (damages) or criminal remedy.

2.15. **"Maintenance Plan"** refers to a non-insurance product, covering the regular maintenance and repairs of a Motor Vehicle on components and parts that include wear and tear. A Maintenance Plan is used at specified pre-determined times or stipulated mileage.

2.16. **"Mechanical Repair"** means the restoration or replacement of the working parts of a Motor Vehicle, such as the engine and operational software, including diagnosing and detecting faults in Motor Vehicles, and the replacement and programming of a Motor Vehicle's electric and electronic components.

2.17. **"Motor Vehicle"** means any vehicle designed or adapted for propulsion or haulage on a road by means of fuel, gas or electricity or any other means.

2.18. **"Motor-body Repairer"** means a business enterprise that performs Structural Repairs and Non-Structural Repairs to Motor Vehicles but excludes Dealers, as defined herein. For purposes of these Guidelines, an Approved Motor-body Repairer means a Motor-body Repairer that is appointed by an OEM (OEM Approved Motor-body Repairs) or an Insurer (Insurer Approved Motor-body Repairs).

2.19. **"Non-Structural Repair"** means work undertaken to restore the damaged interior and exterior parts of a Motor Vehicle, that do not have an intrinsic bearing on the mechanical functioning of the Motor Vehicle, including plastic, aluminium, and steel parts.

2.20. **"OEM"** means an original equipment manufacturer as well as any legal person over which it has direct or indirect control and includes an importer of Motor Vehicles.

2.21. **"Safety Systems"** refers to parts, components or systems, the failure of which may directly or indirectly endanger the life or limb of passengers in the vehicle.

2.22. **"Security Systems"** refers to anti-theft devices which prevent the

operation of a Motor Vehicle without the fob (an electronic device used typically in place of a key) programmed for that Motor Vehicle including the transponder chip, sensors and other devices that disable or protect the Motor Vehicle. Security Systems include but are not limited to the coding of keys, engine control unit, body control unit, audio or infotainment unit, instrument cluster, injector pump, which share a rolling code program to prevent theft or start-up and driving of the Motor Vehicle.

2.23. **"Service Plan"** refers to a non-insurance product covering the service of a Motor Vehicle and components and parts of a Motor Vehicle that may need replacing when it is due for a service, exclusive of normal wear and tear. A Service Plan is used at specified pre-determined times or a stipulated mileage.

2.24. **"Small and Medium Enterprise" or** "**SME**" means a small business as defined in the National Small Enterprise Act No. 102 of 1996.

2.25. **"Spare Parts"** means replacement products for worn, defective or damaged components or parts of a Motor Vehicle.

2.25.1. **"Original Spare Parts"**, for purposes of these Guidelines, are replacement Spare Parts produced by, on behalf of or under the instructions/order of an OEM and in accordance with specifications and production standards provided by the OEM, as well as those Spare Parts distributed by the OEM or any other authorised distributors of the OEM or marked with the trademark of the OEM.

2.25.2. **"Non-Original Spare Parts"**, for purposes of these Guidelines, are Spare Parts that carry a Warranty from its manufacturer and are legitimate and traceable for sale in the aftermarket, but that are not Original Spare Parts. Non-Original Spare Parts exclude counterfeit Spare Parts.

2.26. **"Structural Repair"** means the work undertaken to mend, restore, refinish, and replace, *inter alia*, the bodywork, frames, painting and treating the surface and fixing the glass (if undertaken as part of the foregoing activities) of Motor Vehicles.

2.27. **"Value-added Products"** means add-on cover for maintenance, service, and Motor Vehicle repairs, such as Maintenance Plans, Service Plans, Extended Warranty and scratch and dent cover.

2.28. **"Vehicle Service Book"** refers to a physical book or the electronic equivalent including data stored electronically or in the cloud which is used to keep a record of any work performed on the Motor Vehicle, when it was done, and by whom.

2.29. **"Warranty"** is an obligation by the OEM to replace or repair certain components or parts of a Motor Vehicle that need replacement or repair due to a manufacturing or factory defect:

2.29.1. **"In-Warranty"** means the period in which an OEM has an obligation to repair or replace any component or part of the Motor Vehicle which proves defective in materials or workmanship.

2.29.2. **"Out-of-Warranty"** means the period in which a Warranty (or Extended Warranty) has expired and in which the OEM has no obligation to repair or replace defective components or parts.

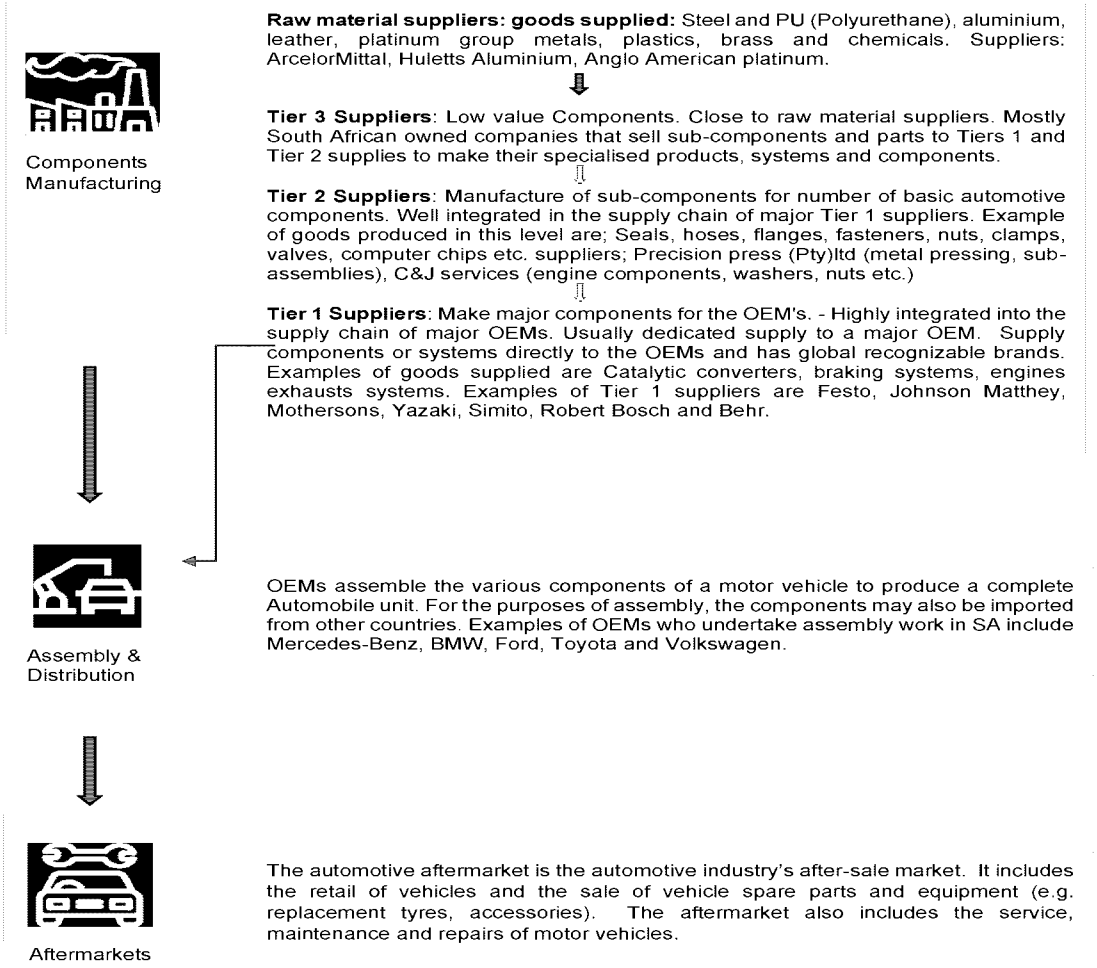
3. INTRODUCTION

The Automotive Value Chain

3.1. Generally, the automotive sector is divided into two related markets, the market for the manufacturing of new Motor Vehicles (usually referred to as "the primary market") and the after-sales or aftermarket (referred to as "the secondary market").

3.2. The automotive value chain is depicted in **Figure 1** below:

Figure 1: The Automotive Value Chain



Source: Commission's own compilation from publicly available data

Manufacturing

3.3. The manufacturing process includes the following elements: foundry operations, which, whether integrated with Motor Vehicle assembly facilities or independent shops, cast metal products for the production of Motor Vehicles and Motor Vehicle equipment metal shaping and machining, where vehicle parts, including bumper bars, hubcaps and body parts are manufactured in metal galvanizing and electroplating shops which also provide metal coating to inhibit oxidation, prevent corrosion and extend the life of the product Motor Vehicle assembly and Motor Vehicle painting and finishing.[1]

Aftermarket: Motor Vehicle Retail, Service, Maintenance and Repairs

3.4. The key players in the aftermarket include Repairers (e.g. mechanical, motor-body, structural, non-structural), Dealers and spare- parts suppliers. These parties may either be appointed by an OEM to provide services to their customers or operate independently of such arrangements.

3.5. The retail market comprises OEMs, Dealers, importers and distributors. Dealers are often contracted or owned by OEMs and act as agents of the OEMs to sell their Motor Vehicles and provide services to customers. The Approved Dealers form part of listed retail groups which have several divisions, including automotive, fleet management, warehousing, transportation, financial services, and car rental.

3.6. Dealerships are dedicated points of sale for each OEM; they represent the OEM to the customer and act as their agents. Examples of Dealerships in South Africa include CMH Group, Lazarus Group, BB group Lindsay Saker and McCarthy Group.

[1] Who owns Whom: The Motor Vehicle Industry, October 2018.

Aftermarket: Financing and Insurance

3.7. Financial institutions (banks) typically provide consumers with finance for the purchase of Motor Vehicles. As a value-added service, Dealerships can sometimes act as intermediaries for accessing finance, when requested by a consumer. At the point of sale, new motor vehicles are covered by a warranty of the OEM, which can be applicable to the entire vehicle and to particular parts and components of the vehicle; OEMs also offer (or sell) value-added products, such as service and maintenance plans, to consumers. There are also 3rd party providers of service and maintenance plans and extended warranties for vehicles out of the warranty period. Finally, Insurance companies cover the costs of repairs to a Motor Vehicle and loss of a Motor Vehicle.

Overview of the South African Industry

3.8. In South Africa, the automotive industry contributes 6.4% to the country's gross domestic product (GDP) (4.0% manufacturing and 2.4% retail) and accounts for 30.1% of the country's manufacturing output. It is the country's fifth-largest exporting sector out of all 104 sectors and accounts for 13.9% of total exports.[2]

3.9. The manufacturing segment of the industry currently employs more than 110,000 people across its various tiers of activity (from component manufacturing to vehicle assembly).[3]

3.10. The South African automotive industry consists of twenty-two (22) companies involved in the production of Motor Vehicles (OEMs). In addition, there are twenty-one (21) companies that import and distribute new Motor

[2] NAAMSA submission to the Competition Commission on the Draft Guidelines for Competition in the South African Automotive Aftermarket Industry dated 30 June 2020.
[3] https://naamsa.net/employment-and-skills/

Vehicles in the country. There are approximately five hundred (500) automotive component suppliers, including 180 first-tier suppliers.[4]

3.11. The South African industry value chain is primarily driven by seven (7) OEMs: BMW; Ford; Isuzu; Mercedes Benz; Nissan; Toyota; and Volkswagen.

3.12. These companies make a huge impact on the economies of Gauteng, the Eastern Cape and KwaZulu-Natal. Along with their suppliers, these OEMs are at the centre of the three regional clusters and their socio-economic contribution is vital in contributing to the social upliftment of the communities they serve.

3.13. The OEMs are clustered into four primary geographic areas, each home to one or more OEMs. For instance, Gauteng (Rosslyn, Silverton and Ekurhuleni), has the second-largest concentration of automotive manufacturing in South Africa, with three OEMs (BMW, Ford and Nissan), and approximately 40% of the South African automotive components industry.[5]

3.14. **Table 1** outlines the number of brands and model derivatives in respect of new Motor Vehicles, available to consumers in South Africa.

Table 1: The number of brands and model derivatives of new Motor Vehicles in South Africa (2017)

Segment	Brands	Model derivatives
New cars	55	3458
Light commercials	26	739
Medium commercials	17	185
Heavy commercials	12	132
Extra-heavy commercials	11	540
Buses	9	55

[4] NAAMSA, SA Automotive industry structure. Available at: https://www.naamsa.co.za/papers/Manufacturer_and_Importers_Location.pdf
[5] NAAMSA Website at https://naamsa.net/industry-overview/ .

Source: NAAMSA[6]

3.15. There were an estimated 2078 dealerships in South Africa at the beginning of 2017.[7]

3.16. The largest portion of the aftermarket is the vehicle servicing, repairs and parts supply channels, which form approximately 80% of the entire automotive aftermarket industry, both in employment and rand value contributions to the economy.[8] Motor-body repair encompasses spend in the region of R10 Billion per annum.[9]

3.17. Motor insurance is said to account for approximately 45% of the non-life insurance business in the country.[10]

3.18. Further to this, it is important to note that there are various industry bodies and associations which represent the interests of the various players in the sector, at all levels of the value chain. It is also notable that there are various regulators that are relevant in the different aspects of the automotive sector as well as government departments in the three spheres of government (national, provincial and local).

3.19. An important stakeholder in the sector is the consumer, who purchases the Motor Vehicle for use and makes use of the service offered in the aftermarket. It is estimated that approximately a third of households in the country own a Motor Vehicle.

[6] NAAMSA submission to the Competition Commission on the Draft Guidelines for Competition in the South African Automotive Aftermarket Industry dated 2 November 2017, page 2.
[7] NAAMSA submission to the Competition Commission on the Draft Guidelines for Competition in the South African Automotive Aftermarket Industry dated 2 November 2017, page 3.
[8] Tyre, Equipment, Parts Association (TEPA) submission to the Competition Commission on the Draft Guidelines for Competition in the South African Automotive Aftermarket Industry dated 13 March 2020, page 1.
[9] Collision Repairers Association (CRA) submission to the Competition Commission on the Draft Guidelines for Competition in the South African Automotive Aftermarket Industry dated 2 November 2017, page 1
[10] South African Insurance Association. Annual Review 2020

Policy Developments in the Sector

3.20. The South African automotive industry has been guided by policy objectives as articulated initially in the Motor Industry Development Programme (MIDP) which was subsequently replaced by the Automotive Production and Development Programme (APDP) in 2013. Now, the South African Automotive Masterplan ("Masterplan"), which is expected to come into effect in January 2021 and run until 2035 provides the policy objectives for the next coming period. The Masterplan aims to create a framework to secure greater levels of investments and production.

3.21. The vision of the Masterplan is stated as '*A globally competitive and transformed industry that actively contributes to the sustainable development of South Africa's productive economy, creating prosperity for industry stakeholders and broader society*'. To achieve the vision of the Masterplan, the Department of Trade Industry and Competition (DTIC) set development objectives that will need to be met. These include objectives to:

a) Grow domestic vehicle production to 1% of global output (projected to reach 140 million units annually by 2035).

b) Increase local content in South African assembled vehicles to 60% (from 39% in 2015).

c) Double total employment in the automotive value chain (from 112,000 to 224,000).

d) Improve automotive industry competitiveness levels to that of leading international competitors.

e) Achieve industry transformation across the value chain.

f) Deepen value addition across selected commodities or technologies.[11]

[11] Minister Rob Davies: South African Automotive master plan and Extended Automotive Production and Development Programme. Available at: https://www.gov.za/speeches/minister-rob-davies-media-statement-south-african-automotive-masterplan-2035-and-extension. Accessed on [08/02/2019].

3.22. The objectives articulated in the Masterplan align with the objectives of this Guideline, particularly to transformation (inclusion) and growth in the sector. Stakeholders are encouraged to read these Guidelines with the view of the broader policy objectives of the country.

Competition Issues in the Sector

3.23. The Commission notes that similar constraints to competition in the Automotive Aftermarket Industry have been identified in other jurisdictions.

3.24. In developing these Guidelines, the Commission conducted a review and comparison of the work being undertaken by competition authorities in other jurisdictions, including by the National Development and Reform Commission of China, Federal Anti-monopoly Service of Russia, the European Commission, the Federal Trade Commission in the United States and the Australian Competition and Consumer Commission. In these jurisdictions, such complaints have been approached in several ways, including enforcement and interventions which have led to the promulgation of regulations or voluntary codes of conduct or Guidelines. These initiatives have emphasised the importance of ensuring effective competition and facilitating transparency and consumer choice.

3.25. To address these concerns the various Competition Authorities adopted various regulations which include, among others, the following:

a) The authorized repairers/service providers are obliged by regulation to not only use original parts from approved manufacturers but to also use matching quality parts procured from any other supplier.

b) Vehicle manufacturers may not hinder their original parts or component suppliers from also supplying their products as spare parts to independent distributors or authorized distributors.

c) Authorized repairers are free to procure original parts or parts of matching quality from authorised parts suppliers or independent parts suppliers.

d) Independent repairers should have access to the vehicle manufacturers' original parts to allow independent repairers to properly maintain and repair vehicles and to compete with the authorized repairers.

e) Vehicle owners have the right to use any repair shop for non-warranty work, during the warranty period.

f) Vehicle manufacturers may not make the warranties conditional on the repair and servicing of a motor vehicle within their network or the use of their own branded spare parts.

g) Vehicle manufacturers are required to make available to authorized and independent repairers' technical information and training required to service/repair motor vehicles.

3.26. The principles outlined in these Guidelines are based on the Commission's experience through its advocacy and investigative work relating to various anti-competitive concerns identified in the Automotive Aftermarket Industry, broader policy objectives of the country as well as guidance from other jurisdictions concerning competition between OEMs, Insurers, Approved Dealers, Approved Motor-body Repairers and ISPs.

4. OBJECTIVES AND LEGISLATIVE FRAMEWORK

4.1. These Guidelines pertain to all Motor Vehicles within the Republic of South Africa.

4.2. In line with the spirit, intent and purpose of the Competition Act, these Guidelines are directed at promoting competition in the Automotive Aftermarket, specifically to promote economic access, inclusion and greater spread of ownership for Historically Disadvantaged Individuals (HDIs).

4.3. The objectives of the Guidelines are to:

4.3.1. Lower barriers to entry and ensure that a greater number of firms, especially firms owned and operated by HDIs and SMEs have an opportunity to undertake service, maintenance and repair work of Motor Vehicles within the period covered by a Motor Vehicle's Warranty;

4.3.2. Increase transparency and facilitate consumer choice on the service, maintenance and repairs of Motor Vehicles;

4.3.3. Increase consumer choice and facilitate competition in the markets for Spare parts and Value-Added Products.

4.4. These Guidelines seek to achieve these objectives by encouraging stakeholders to adopt measures that:

4.4.1. Widen the pool of Approved Dealers and Approved Motor-body Repairers;

4.4.2. Promote the entry (ownership) of HDIs as Approved Dealers;

4.4.3. Ensure that ISP's can undertake In-Warranty service, maintenance and repair work;

4.4.4. Allow for greater consumer choice and product competition in the retail of Service Plans and Maintenance Plans; and

4.4.5. Ensure the fair allocation of work by Insurers to service providers on insurance panels.

5. IN-WARRANTY SERVICE, MAINTENANCE AND REPAIRS BY ISPs

5.1. The Guidelines in this section introduce measures for the service, maintenance and repairs of Motor Vehicles during the In-Warranty period.

5.2. Independent Service Providers in South Africa have been over the years excluded from undertaking the service, maintenance and mechanical repairs on Motor Vehicles that are In-Warranty. One of the reasons for this is that when a Motor Vehicle which is In-Warranty is serviced, maintained or repaired by a party other than an Approved Dealer, there is the potential risk that certain provisions of the Warranty on the Motor Vehicle may become invalid or void.

5.3. The Commission has found that there are information asymmetries and knowledge gaps concerning the rights of consumers and the legal framework regarding warranties.

5.4. The following principles will be applicable concerning the service, maintenance and repairs of Motor Vehicles during the warranty period:

5.4.1. OEMs shall recognise and not obstruct a consumer's choice to seek service, maintenance and mechanical repair work for their Motor Vehicles at a service provider of their choice, regardless of whether that service provider is an Approved Dealer or an ISP.

5.4.2. In instances where a consumer chooses to use an ISP during the In-Warranty period, there shall be no obligation on the OEM to pay for any service and maintenance work undertaken by the ISP.

5.4.3. The Motor-body repairs of consumers who have insurance cover shall be undertaken by an Approved Motor-body Repairer during the In-Warranty period, as allocated by an Insurer to the consumer.

5.4.4. Consumers who do not have insurance cover may repair their Motor Vehicles at a service provider of their choice at any point during the Motor Vehicle's lifespan.

5.4.5. To ensure that all the work done on a Motor Vehicle is traceable ISPs are obliged to record such In-Warranty work undertaken by them in their customers' Vehicle Service Books or equivalent

record-keeper.

5.4.6. Accordingly, ISPs shall disclose to consumers, in clear and explicit terms, the risk of damage that could arise from the ISP's work, including Consequential Damage to the Motor Vehicle, which may potentially void certain obligations of the OEM in terms of the Warranty.

5.4.7. ISPs must disclose to consumers, whether they have adequate commercial insurance cover to perform the work that they will be undertaking on the Motor Vehicle.

5.4.8. If any damage is caused to a Motor Vehicle from work done by an ISP, there is a risk that certain provisions of the OEM Warranty will be voided. However, other provisions of the Warranty may remain severable and enforceable. The OEM concerned may conduct an assessment, at its own cost, to ascertain such damage and liability.

5.4.9. If there is a dispute, a consumer can approach the relevant authority to investigate the matter. A consumer who suffers harm from a defective product can bring a claim against any party in the supply chain in terms of section 61 of the Consumer Protection Act No. 68 of 2008.

6. APPOINTMENT OF MOTOR-BODY REPAIRERS BY OEMS

6.1. OEMs typically appoint a select number of Motor-body Repairers to undertake repair work on their brand's Motor Vehicles during the In-Warranty period (i.e. Approved Motor-body Repairers). Approved Motor-body Repairers are accredited to repair Motor Vehicles of that particular OEM, should they meet the standards and specifications set by the OEM. To attain accreditation and to meet the standards and specifications set by OEMs, prospective Motor-body Repairers are typically required to make large financial, infrastructure and operational investments.

6.2. The allocation of repair work to these Approved Motor-body Repairers is administered by Insurers if the Motor Vehicle is insured, upon a claim made

by their client. The allocation of repair work by Insurers to Approved Motor-body Repairers is only applicable during the In-Warranty period of the Motor Vehicle.[12]

6.3. In practice, there are instances where a Motor-body Repairer can attain the accreditation of more than one OEM to repair their Motor Vehicles. There are also instances where Approved Motor-body Repairers enter into a exclusive contracts with a particular OEM, often as a condition of the accreditation. There are also many instances where the contracts between OEMs and Approved Motor-body Repairers are for an indefinite period ("evergreen"). Some of these contracts have been in place for multiple decades.

6.4. It is also common that OEMs can place limits on the number of Motor-body Repairers that it approves in a particular Designated Geographic Area. The rationale advanced by OEMs for limiting the number of repairers is typically related to cost/investment justification viz-a-viz market saturation or insufficient volume of work available in the area concerned.

6.5. The outcome of these arrangements is such that, in a large geographic area, there may be only one Approved Motor-body Repairer who can service the vehicle of the OEM's brands; further the same Repairer may also be undertaking repair work of other OEM brands if they are appointed by multiple OEMs.

6.6. With few options available for insured consumers, the arrangements can be inefficient, often leading to delays for appointments to repair their Motor Vehicles (long lead times). Further, many consumers are compelled to travel outside of their geographic locations to have their Motor Vehicles repaired at often far-located Approved Motor-body Repairers.

6.7. Importantly, the arrangements between the OEMs and Approved Motor-body Repairers, as described above, can lead to foreclosure of prospective new

[12] Insurers appoint separate panels of service providers for the repairs of vehicles out of the warranty period, using Insurer-standards and specifications, rather than the OEM-standards and specifications for the appointment criteria.

entrants. Given South Africa's history of economic exclusion for the majority of the population, the long-term, exclusive contracts, serve to perpetuate exclusion.

6.8. The Commission believes that such constraints to effective entry and participation by ISPs must be avoided by OEMs. The OEMs should also not engage in conduct which is exclusionary.

6.9. The following principles are applicable:

6.9.1. OEMs must adopt measures to promote and/or support the entry of new Motor-body Repairers, with a preference for firms owned by HDIs. Such measures can include, amongst others, expanding the number of Approved Motor-body Repairers per geographic area.

6.9.2. OEMs shall approve any Motor-body Repairer applicant that meets their standards and specifications.

6.9.3. OEMs may not enter into exclusive arrangements, either with one or more Approved Motor-body Repairers, for effecting repairs on an OEM's Motor Vehicles within a Designated Geographic Area.

6.9.4. To promote entry and eradicate long-term legacy arrangements between OEMs and Approved Motor-body Repairers, OEMs shall not appoint and/or authorise any Approved Motor-body Repairers for a period exceeding five (5) years, and must not continuously renew the appointment of the same Approved Motor-body Repairers, if such appointment or renewals are to the unreasonable exclusion of the appointment of ISPs capable of effecting repairs on an OEM's Motor Vehicle within a Designated Geographic Area.

7. APPOINTMENT OF SERVICE PROVIDERS AND ALLOCATION OF WORK BY INSURERS

7.1. The Guidelines in this section introduce measures for the appointment of service providers by Insurers to undertake repairs and the allocation of work thereto.

7.2. When a claim is made by an insured consumer, Insurers typically use an electronic system to allocate repair work to a service provider. The system takes into consideration the closest supplier to the client and whether they are approved by the OEM/Insurer to make the repairs on the insured Motor Vehicle.

7.3. Insurers allocate repair work to an OEM-approved service provider if the Motor Vehicle is In-Warranty and to an Insurer-approved service provider if the Motor Vehicle is out-of-warranty. The standards and specifications required for Insurer-accreditation are different and less stringent to those required by OEMs.

7.4. Insurers can accredit a large volume of service providers to undertake out-of-warranty repairs onto their panels. Some of the large Insurers can have up to 300 service providers, who meet the Insurer standard, appointed onto their panels.

7.5. From complaints received, the Commission found that some Insurers:

7.5.1. appoint large numbers of service providers onto their panels, but allocate work to a few, repeatedly;

7.5.2. limit the number of Motor-body Repairers whom they appoint within a Designated Geographic Area. Insurers' rationale for the appointment of limited service providers and the allocation patterns is that there is saturation or insufficient volume of work available in the area concerned.

7.6. Further, the Commission has found that the application and selection process for the appointment onto insurance panels is deemed unfair and not transparent. There have been allegations that this process is particularly biased against HDI applicants.

7.7. The guidelines that follow are designed to encourage a fair allocation of work and promote inclusivity in the selection of Motor-body Repairers onto panels of Insurers.

7.8. The following principles will be applicable concerning Insurers:

7.8.1. Insurers must adopt measures to promote the fair allocation of work to Repairers on their panels, with a preference for firms owned by HDIs. Such measures can include, amongst others, panel rotation or preferential allocation to HDI firms.

7.8.2. Insurers must approve any Repairer that meet their standards and specifications, to undertake repairs on out-of-warranty Motor Vehicles.

7.8.3. To ensure that the panel appointment process is fair, Insurers shall publish the standards used to accredit Repairers on their websites and/or other suitable media. Also, Insurers shall formally disclose reasons to applicants fully setting out why their applications for panel appointment were rejected.

7.8.4. Insurers shall offer consumers more choice of Repairers within their geographic area, for out-of-warranty repairs.

7.8.5. Insured Motor Vehicles that are In-Warranty will only be allocated for repair to (OEM) Approved Motor-body Repairers.

7.8.6. Insurers shall publish a list of all their Repairers on their websites and/or other suitable media.

7.8.7. Insurers shall not appoint any Repairer to its panel for a period exceeding five (5) years and should not continuously renew the appointment of the same Repairer if such appointment or renewals are to the unreasonable exclusion of the appointment of other Repairers capable of effecting repair and/or maintenance work on Motor Vehicles within a Designated Geographic Area.

8. APPOINTMENT OF DEALERS BY OEMS

8.1. The Guidelines in this section introduce measures for the appointment of Approved Dealers by OEMs.

8.2. OEMs typically appoint Dealers for the sale of their Motor Vehicles and related spare parts (i.e. Approved Dealers). In addition to retail activities, Approved Dealers operate workshops where they undertake service, maintenance and mechanical work on their brand's Motor Vehicles. Most OEMs appoint Dealers through a franchise agreement, although some OEMs, such as Volvo, have OEM-owned Dealerships.

8.3. Dealerships tend to be located in prime locations in large urban centres (cities and metros). There are few to none Approved Dealers located in rural, peri-urban or township centres of the country.

8.4. South Africa's Dealership culture is characterised by grand-scale, impressive showrooms. It has been submitted to the Commission that the costs of establishing a Dealership can be exorbitant, with start-up costs for most brands averaging R60 million (ZAR) and upwards. Some of the costly requirements imposed by some OEMs include the procurement of furniture, fittings and finishes internationally. OEM requirements regarding the size and location of premises and land are also cited as a contributor to the high start-up costs. In this market, finance is thus a high barrier to entry.

8.5. Further, the Commission has found that application and selection process for the appointment of Approved Dealers is deemed unfair and not transparent. There have been allegations that this process is particularly biased against HDI applicants.

8.6. The guidelines that follow are designed to address some of the above concerns. The section includes measures targeted to reduce financial barriers created by the requirements imposed by OEM; measures to promote pro-competitive procurement processes by OEMs and measures to promote the entry of HDIs into the Dealership market.

8.7. The following principles will be applicable concerning applications made by prospective Dealers:

8.7.1. OEMs shall establish fair and transparent processes for the selection of Approved Dealers who meet the specific OEM's requirements.

8.7.2. Approved Dealers shall be selected based on a realistic evaluation conducted by the OEMs of the market potential for Approved Dealers in a Designated Geographic Area. In keeping with the transformation objectives for the industry, preference must be given to applicants who are owned or controlled by HDIs who objectively meet the specific OEM's requirements.

8.7.3. To ensure that the process is transparent, OEMs shall publish the standards used to assess and select Approved Dealers on their websites and/or other suitable media. Also, OEMs shall formally disclose reasons to applicants fully setting out why their applications for dealership were rejected.

8.7.4. OEMs are required to inform applicants that were rejected on quantitative grounds in a particular geographic area should an opportunity for the establishment of a new dealership arising the same geographic area within 12 months of the date of rejection.

8.8. The following principles will be applicable concerning facilities of Dealerships:

8.8.1. OEMs must adopt measures to lower financial barriers to entry and promote the participation of HDIs in the Dealership market. These measures can include, amongst others, offering varying iterations of Dealership options to prospective applicants or locating Dealerships in under-serviced geographic areas.

8.8.2. OEMs shall not impose onerous obligations on prospective Dealers. The requirements for Approved Dealers must be reasonable and have an economic rationale, particularly concerning the size of land, showrooms, furniture, fittings, and finishes.

8.8.3. OEMs shall not require Approved Dealers to make further investments within established facilities if such investments are not objectively required as a fulfilment of the OEM standard, such as, for example, due to changes in corporate identity, models of Motor Vehicles to be sold and/or technologies to be used by Approved Dealers (which list is not exhaustive).

8.8.4. OEMs shall approve multiple suppliers for required branding and corporate identity elements of dealerships, from which Approved Dealers can procure.

8.8.5. OEMs must not forbid or penalise Approved Dealers from purchasing the said goods from such approved alternative suppliers if they are of like kind and quality. In line with the Commission's transformation objectives, preference must be given to alternative suppliers who are owned or controlled by HDIs.

9. PREVENTING ANTI-COMPETITIVE INFORMATION SHARING BY MULTI-BRAND DEALERSHIPS

9.1. The Commission is concerned about the exchange of Commercially Sensitive Information between Approved Dealers that sell new Motor Vehicles and products of competing OEMs (i.e. multi-brand dealerships).

9.2. The guidelines that follow introduce measures which OEMs and Approved Dealers should heed regarding the management of Commercially Sensitive Information which may affect competition.

9.3. The following principles will be applicable in relation to the exchange of Commercially Sensitive Information:

9.3.1. Approved Dealers that sell new Motor Vehicles and products of competing OEMs shall ensure that they do not engage in price co-ordination. Specifically, the prices of competing Motor Vehicles and products should be determined by different individuals within the

dealership. Persons setting prices for new Motor Vehicles and products of competing OEMs must do so independently of each other.

9.3.2. Approved Dealers that sell new Motor Vehicles and products of competing OEMs shall ensure that no Commercially Sensitive Information is provided or shared with competing OEMs.

9.3.3. Approved Dealers that sell new Motor Vehicles and products of competing OEMs shall implement Information Barriers and measures to ensure that there is no exchange of Commercially Sensitive Information between them and competing OEMs. These Information Barriers include but are not limited to the following:

a) OEMs and Approved Dealers shall keep separate, internal accounts for downstream retail offerings in a way that permits the profitability of these retail products to be monitored.

b) To the extent that an employee of an Approved Dealer has access to Commercially Sensitive Information about a specific OEM, that employee shall ensure that he/she does not communicate such information to any competing OEM or facilitate or permit the use of such information by a competing OEM, other than in aggregated, historical or summary form.

c) Employees of OEMs and Approved Dealers involved in the automotive value chain must sign undertakings not to share Commercially Sensitive Information with employees of competing OEM's Approved Dealers. The undertakings must be stored by the OEMs and Approved Dealers and be made available to the Commission on request.

d) OEMs and Approved Dealers shall implement internal training to ensure that its employees are aware of and

understand the provisions of the Act that are relevant to the exchange of Commercially Sensitive Information between competitors, including the *Guidelines on the Exchange of Information between Competitors* and section 4 of the Act (restricted horizontal practices) in particular.

10. FITMENT AND ACCESS TO SPARE PARTS

10.1. There are approximately between 30,000 and 60,000 parts and components in a Motor Vehicle. Spare parts in South Africa are regulated by different regulators such as the South African Revenue Service (SARS) which deals with customs, excise and tax of imported components and the National Regulation for Compulsory Specification (NRCS), which regulates the safety of the following parts: lights, brakes, brake fluids and seals. As it currently stands the industry standards are aligned with the international standards such as European Union regulations.

10.2. The Commission recognises that within the aftermarket automotive industry, Spare Parts are disaggregated based on their origin or source.

10.3. OEMs appoint manufacturers to manufacture replacement parts ("Original Spare Parts") for use in the repair of the OEMs brand. The OEM is the holder of the intellectual property rights over the parts' specifications. Approved Dealers and Approved Motor-Body Repairers are obliged to fit Original Spare Parts in the repairs of motor vehicles.

10.4. The same manufacturer who produces spare parts for OEMs can also produce the same, but without the branding of the OEM- these are regarded as "identical" spare parts in the market. Other manufacturers may also produce similar spare parts, sometimes referred to as "equivalent" or "equal-matching" spare parts. In the market for spare parts, there are are also spare parts which are mined from damaged motor-vehicles, while functionally safe- regarded as "green" spare parts.

10.5. In this Guideline, the Commission has decided to use a more simplified approach and refers to Original and Non-Original Spare Parts. This Guideline's reference to Non-Original parts excludes "counterfeit", "grey" and all illegally-sourced spare parts.

10.6. The Commission has received complaints from ISPs and consumers regarding OEMs who refuse to sell them Original Spare Parts for use in the repair of motor vehicles. Such behaviour limits the ability of an ISP to undertake the required repairs, and further limits a consumer's choice to use Original or Non-original Spare Parts for their vehicle.

10.7. Further, consumers are also prevented from fitting Non-Original Spare Parts on their motor vehicles during the In-Warranty; should a Non-Original Spare Part be fitted in an In-Warranty Motor Vehicle, this may void the vehicle's Warranty. However, Original Spare Parts tend to be more expensive than Non-Original Spare parts and thus not affordable for some consumers. The guidelines that follow address issues related to access to spare parts and the fitment of spare parts during the In-Warranty period.

Fitment of Non-Original Spare Parts for In-Warranty Motor Vehicles

10.8. The principles that follow introduce the concept of the use of Non-Original Spare Parts for In-Warranty Motor Vehicles. The rationale is to increase consumer choice in the fitment of Spare Parts for In-Warranty Motor Vehicles by allowing the Motor Vehicle owners to choose between Original and Non-Original Spare Parts.

10.8.1. Consumers can fit Original or Non-Original Spare Parts, at a service provider of their choice, whether an Approved Dealer, Approved Motor-body Repairer, or an ISP, during the In-Warranty period.

10.8.2. If there is any damage to the Motor Vehicle from the fitment of Spare Parts by an ISP, there is a risk that certain provision in the Warranty will be voided. However, other provisions of the Warranty may remain severable and enforceable. The OEM or Approved Dealer may conduct an assessment at its own cost to determine the cause

of the damage and if the Warranty is voided. If there is a dispute a consumer can approach the relevant authority to investigate the matter. A consumer that suffers harm from a defective product can bring a claim against any party in the supply chain in terms of section 61 of the Consumer Protection Act No. 68 of 2008. Approved Dealers and ISPs must make consumers aware, in clear and explicit terms, the risk of damage, including Consequential Damage, from the fitment of Spare Parts by an ISP, potentially voiding certain obligations of the OEM in terms of the Warranty.

10.8.3. To ensure that all the work done on a Motor Vehicle is traceable ISPs are obliged to record such In-Warranty work undertaken by them in their customers' Vehicle Service Books.

Sale and distribution of Original Spare Parts

10.9. The guidelines that follow are to ensure that OEMs and/or Approved Dealers make Original Spare Parts available to ISPs, where appropriate:

10.9.1. OEMs and/or Approved Dealers shall make Original Spare Parts available through sales and distribution, to ISPs where required to perform service, maintenance or repair work.

10.9.2. Conditional sale and distribution of Original Spare Parts shall only be reserved for those items that are linked to the Motor Vehicle's Security System.

10.9.3. OEMs may not restrict an ISP's ability to procure Original Spare Parts, when required for the purposes of effecting service, maintenance and repair work. OEMs may however impose restrictions or prohibitions on ISPs from on-selling Original Spare Parts to 3rd parties.

10.9.4. An OEM shall allow an ISP access to security-critical components subject to the ISP meeting the OEM's accreditation requirements and standards, as per the OEM's global practice.

10.9.5. OEMs may not enter into any agreements with manufacturers or suppliers of Spare Parts, tools or equipment to restrict the manufacturer or supplier's ability to sell those goods to ISPs or end users, except for those Spare Parts, tools or equipment that are protected by intellectual property rights or are linked to a Motor Vehicle's Security Systems.

10.9.6. OEMs may not enter into any agreements with manufacturers of Spare Parts, tools or equipment, that will restrain the manufacturer or supplier's ability to place its trademark or logo effectively and in an easily visible manner on the said item.

10.9.7. OEMs may not set minimum retail prices for Spare Parts.

10.9.8. There is no obligation on Approved Dealers to supply Non-Original Spare Parts.

11. THE BUNDLED SALE OF MOTOR VEHICLES WITH VALUE ADDED PRODUCTS

11.1. In South Africa, when consumers buy a new Motor Vehicle, they are typically sold a Maintenance Plan and/or Service Plan, included in the purchase price of the Motor Vehicle. Most consumers are unaware that the purchase price of the Motor Vehicle is bundled with these value-added products.

11.2. OEMs and their Approved Dealers sell these Service and/or Maintenance Plans through a variety of packages, typically as a combination of mileage and time such as 3 years / 60 000km; 4 years / 120 000km; 5 years /150 000km. The package will allow a customer to take their Motor Vehicle in for service or maintenance when required at regular intervals until they reach either the mileage or time limit.

11.3. The Commission acknowledges that this bundling may make the

purchasing of these plans easier for some customers who would otherwise have to seek these out separately. However, the Commission notes that some customers can and do purchase these Value-Added Products outside of the standard OEM provided plan from other third-party suppliers.

11.4. The Guidelines that follow provide for the unbundling of Maintenance Plans and Service Plans at the point of sale from the purchase price of the Motor Vehicle. Therefore, it is imperative that at the point of sale, OEMs, Approved Dealers, and financiers disclose to customers the price of the Motor Vehicle and the price of the Value-Added Products separately.

11.5. This will allow consumers to exercise choice regarding whether to purchase the Maintenance Plan or Service Plan and make servicing a more affordable option for South Africans, whilst allowing for more players to provide such Value-Added Products for consumers whose Motor Vehicles are In-Warranty.

11.6. The following principles will be applicable concerning Service and/or Maintenance Plans:

11.6.1. OEMs shall recognise and not hinder a consumer's choice to the following:

11.6.1.1. purchase Value-Added Products (such as Maintenance Plans, Service Plans and Extended Warranties) concurrently and together with a new Motor Vehicle from Approved Dealers;

11.6.1.2. purchase Value-Added Products (such as Maintenance Plans, Service Plans and Extended Warranties) separately from a new Motor Vehicle from Approved Dealers;

11.6.1.3. purchase Value-Added Products from any licensed provider of their choice, including independent/ third-party providers;

11.6.1.4. *not* to purchase Value-Added Products (such as Maintenance Plans, Service Plans and Extended Warranties) when purchasing a Motor Vehicle.

11.6.1.5. purchase Value-Added Products from a licensed provider at any time after the purchase of the Motor Vehicle.

11.6.2. OEMs and independent/ 3rd party providers of Value-Added Products must adopt measures to promote competition and consumer choice in their offerings. Such measures can include, amongst others, offering Service and Maintenance Plans of varying durations of Service and Maintenance Plans;

11.6.3. OEMs and independent/ 3rd party providers must transfer a Maintenance Plan and/or a Service Plan to a replacement Motor Vehicle in the instance where the Motor Vehicle is written off by the Insurer. In instances where there is no replacement Motor Vehicle after a write-off or it is not feasible to transfer a Maintenance Plan and/or a Service Plan to a replacement Motor Vehicle, the consumer shall be afforded the right to cancel the Value-Added contract and/or receive a refund of the value of the balance of the product.

11.6.4. To promote transparency and allow for product comparisons by consumers at the point of sale of a Motor Vehicle, Approved Dealers are required to:

11.6.4.1. provide the consumer with complete disclosure of:

a) the purchase price of the Motor Vehicle;

b) the purchase prices of Service and Maintenance Plans and other Value-Added Products.

11.6.4.2. disclose to consumers all information regarding the maintenance and repair of their Motor Vehicle, as well as the terms and conditions under which they are required and/or permitted to maintain and repair their Motor

Vehicle.

11.6.4.3. where appropriate, finance providers must provide the consumer with details of all inclusions and exclusions included in the Maintenance Plans and Service Plans including the following information:

a) the average price for each service interval (at the time of sale of the Motor Vehicle).

b) the average price of the parts covered by the Maintenance Plan and Service Plan that commonly require replacement at specific kilometre intervals or upon the Motor Vehicle attaining a specific age.

11.6.4.4. provide the consumer with complete disclosure of:

a) Dealer commissions and other commissions that may arise from commercial arrangements between the OEM, the Approved Dealer and other third parties, to the extent that it does not comprise Commercially Sensitive Information; and

b) any other information, as required by any other applicable legislation.

12. ACCESS TO TECHNICAL INFORMATION AND OEM-TRAINING FOR ISPs

12.1. Access to technical information remains a prerequisite for effective competition in the Automotive Aftermarket. Independent service providers require technical information on Motor Vehicles to undertake effective repairs. The same is applicable for technical training on the repairs of Motor Vehicles. Lack of access to technical information and training by ISPs can result in the loss of competitive strength of ISPs, to the advantage of competitors within the approved network. Further, barriers

related to information and training access can lead to consumer harm and unsafe repairs of their Motor Vehicles.

Access to Technical Information

12.2. The principles that follow encourage OEMs to make available technical maintenance and repair information including information stored electronically or in the cloud.

12.2.1. OEMs must make available to ISPs the OEM-technical information relating to its Motor Vehicles, on reasonable terms and conditions, including terms related to usage, confidentiality and fees that are no less favourable to the terms offered to its Approved Dealers and Approved Motor-body Repairers, where applicable.

12.2.2. Access by ISPs to OEM-technical information includes security-related information that permits access to Motor Vehicle Security Systems, including coding and programming, software, and Safety Systems. Such access must be subject to OEMs' intellectual property and data privacy rights and ISPs meeting their accreditation requirements.

12.2.3. Technical information, to which access shall be permitted to ISPs includes, but is not limited to the following:

a) unequivocal Motor Vehicle identification;

b) Vehicle Service Books or its electronic equivalent including data stored electronically or in a cloud;

c) technical manuals;

d) component and diagnosis information;

e) wiring diagrams;

f) diagnostic trouble codes (including manufacturer specific codes);

g) software calibration identification number applicable to a Motor

Vehicle type;

h) information provided concerning, and delivered by means of, proprietary tools and equipment;

i) data record information and two-directional monitoring and test data; and

j) operational software.

12.2.4. In instances where an OEM discloses proprietary information or other intellectual property belonging to the OEM, it may impose reasonable conditions, including the requirement that the ISP must sign a confidentiality undertaking.

Access to Training

12.3. ISPs require support to access OEM brand- specific training in order to effectively compete with Approved Dealers and Approved Motor-body Repairers. The principles that follow require OEMs to take measures to provide technical training to ISPs.

12.3.1. OEMs and/or Approved Dealers are required to provide training (or provide access thereto) to employees of ISPs who request training, at a reasonable cost that may not exceed that imposed on employees of Approved Dealers. Such training shall encompass the methods used to effect Structural and Mechanical Repair, service and maintenance and fitment works on the Motor Vehicle.

13. IMPLEMENTATION

13.1. These Guidelines are effective from 01 July 2021.

14. MONITORING OF ADHERENCE TO THE GUIDELINES

14.1. Affected parties to this Guideline shall be responsible to take steps to give

effect to its provisions.

14.2. The Commission shall conduct periodic impact assessments to monitor compliance of adherence to these Guidelines. Affected parties to this guideline shall be required to submit information and data in response to information requests issued by the Commission in the course and scope of conducting the periodic assessments on the implementation and adherence to the principles set out herein.

15. DISPUTE RESOLUTION

15.1. MIOSA was established to assist in resolving disputes that arise in terms of the Consumer Protection Act 68 of 2008 regarding any goods or services provided by the Automotive Industry to consumers, including suppliers who are in turn also consumers within the industry supply chain. The Guidelines should be read in conjunction with these relevant provisions.

15.2. Affected parties can also refer disputes directly to the Motor Industry Ombudsman of South Africa (MIOSA) and the National Consumer Commission (NCC) for resolution.

15.3. Should market participants be uncertain as to whether conduct may potentially contravene the Competition Act, such market participants should approach the Competition Commission for further guidance.

16. REVIEW OF THE GUIDELINE

16.1. The guideline shall remain valid until amended, replaced or withdrawn by the Commission, in consultation with relevant stakeholders.

17. CONCLUSION

17.1. These Guidelines present the approach that the Commission considers in maintaining and promoting competition in the Automotive Aftermarket Industry.

17.2. These Guidelines are not exhaustive and will not affect the discretion of the Commission and/or the Tribunal and courts to pursue anti-competitive conduct through enforcement.

[End]

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 47 **29 JANUARY 2021**

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

HENSOLDT OPTRONICS (PTY) LTD

AND

THE AIR TRAFFIC MANAGEMENT BUSINESS AND THE DEFENCE AND SECURITY BUSINESS OF TELLUMAT (PTY) LTD

CASE NUMBER: 2020JUL0011

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

1. On 03 July 2020, the Competition Commission ("the Commission") received notice of an intermediate merger whereby Hensoldt Optronics (Pty) Ltd ("HOSA") intends to acquire the Air Traffic Management ("ATM") and the Defence and Security ("Defence") divisions of Tellumat (Pty) Ltd ("Tellumat"). Upon implementation of the proposed transaction, HOSA will exercise sole control over the ATM and Defence division of Tellumat as envisaged by section 12(2) of the Competition Act 89 of 1998, as amended ("Act").

The parties and their activities

2. The primary acquiring firm is HOSA, a company incorporated in accordance with the laws of the Republic of South Africa. HOSA does not directly or indirectly control any firms. HOSA and the firms directly and indirectly controlling it will hereinafter collectively be referred to as the Hensoldt Group.

3. The Hensoldt Group manufactures and sells sensor systems, including military radar, military communications, electronic warfare and optronics. Radar, identification and data products include high performance active electronically scanned array ("AESA") radars, identification friend or foe ("IFF") systems and airborne data links. In addition, it develops new products for data management, robotics and cyber security. Its workforce conducts business activities in the following areas: Space; Air; Land; Sea; Security; Cyber and Information Space. The Hensoldt Group also designs and manufactures surveillance systems/airborne gimbals, periscopes, helmet trackers for fighter aircraft, laser designators and rangefinders and has its own optics manufacturing and coating facility in Irene. Furthermore, they specialise in the design, development and support of electronic warfare, spectrum management and monitoring and integrated security solutions for land, sea and air applications.

4. The primary target firm is Tellumat in respect of its ATM and Defence divisions.

5. Tellumat operates its ATM division in the aerospace market. ATM provides a full-service offering ranging from project management, systems engineering, product upgrades, software development and installation to integration, commissioning and logistic and maintenance support. Tellumat's Defence division provides development, supply and support of systems and solutions for systems integrators and end users across the international aerospace and defence markets. It provides integrated secure IFF system products for land, sea or air defence radar and weapon systems; and perimeter security and management solutions which provide early warning systems of threats and intrusions in respect of linear assets such as railways, pipelines, utilities and communications infrastructure, critical infrastructure security perimeters (power stations, airports, military bases, mines and national borders), and power lines.

Competition assessment

6. The Commission considered the activities of the merging parties and found that both the merging parties are involved in the provision of high technology military and commercial

products and information technology and technical services. However, there is no overlap between the business operations of the merging parties in South Africa and accordingly they are not regarded as competitors in the South African market. Furthermore, the Commission found that in the international market, the business activities of the merging parties overlap, as the Hensoldt Group and the Defence business of Tellumat both manufacture and supply IFF and data-links products. HOSA does not provide IFF and data-links products in South Africa.

7. Taken as a whole, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in any market in South Africa.

Public Interest

Effect of the merger on employment

8. The proposed transaction is likely to have a negative impact on employment.

Conclusion

9. The Commission therefore approves the proposed transaction with the conditions attached in **Annexure "A"**.

Annexure A

Hensoldt Optronics (Pty) Ltd

and

The Air Traffic Management business and the Defence and Security business of Tellumat (Pty) Ltd

CC Case Number: 2020Jul0011

Conditions

1. **Definitions**

1.1. The following expressions shall bear the meanings assigned to them below and cognate expressions bear corresponding meanings:-

1.1.1. "**Acquiring Firm**" means Hensoldt Optronics (Pty) Ltd;

1.1.2. "**Affected Employees**" means employees employed at the Tellumat head office that are likely to be retrenched post-merger;

1.1.3. "**Approval Date**" means the date on which the Merger is approved by the Commission, as set out in the Commission's clearance certificate (Notice CC 15);

1.1.4. "**Commission**" means the Competition Commission of South Africa;

1.1.5. "**Conditions**" means the conditions set out herein;

1.1.6. "**Days**" means any calendar day which is not a Saturday, Sunday or an official holiday in South Africa;

1.1.7. **"DTIC"** means Department of Trade, Industry and Competition (South Africa);

1.1.8. **"Hensoldt Group"** means HOSA and the firms that are directly and indirectly controlling it;

1.1.9. **"HOSA"** means Hensoldt Optronics (Pty) Ltd;

1.1.10. "**Implementation Date**" means the date, occurring after the Approval Date, on which the Merger is implemented by the Merging Parties;

1.1.11. "**Labour Relations Act**" means the Labour Relations Act, 66 of 1995 (as amended);

1.1.12. "**Merger**" means the acquisition of control by the Acquiring Firm over the Target Firm;

1.1.13. "**Merging Parties**" means HOSA and the ATM and Defence divisions operated by Tellumat;

1.1.14. "**Target Firm**" means, collectively, the ATM and Defence divisions operated by Tellumat (Pty) Ltd;

1.1.15. **"Tellumat"** means Tellumat (Pty) Ltd; and

1.1.16. "**Tribunal**" means the Competition Tribunal of South Africa.

2. **RECORDAL**

2.1. On 03 July 2020, the Merging Parties notified an intermediate Merger to the Commission wherein HOSA intends to acquire control over the Target Firm. Following its investigation of the Merger, the Commission concluded that the Merger is unlikely to substantially prevent or lessen competition in any relevant market.

2.2. HOSA intends to acquire the Target Firm, being divisions of Tellumat, an entity which has been performing poorly for a few years. The Merging Parties submit that, following

implementation of the proposed transaction, Tellumat, may have to retrench all of the remaining employees at its Head Office.

2.3. In order to address the employment concerns identified by the Commission, the Merger is approved subject to these Conditions, which Tellumat and HOSA have agreed to.

3. CONDITIONS

3.1. Tellumat shall use its best endeavours to avoid retrenchments of the Affected Employees and in the event that retrenchments are effected, these should not exceed Affected Employees within a period of 12 months from the Implementation Date.

3.2. The condition in clause 3.1. above is also applicable in the interim period between Approval Date and Implementation Date.

3.3. The Hensoldt Group will give first preference to the Affected Employees should suitable positions become available within HOSA or any of the subsidiaries within the Hensoldt Group in South Africa over the course of the 12 months following the Implementation Date.

3.4. For the sake of clarity, retrenched employees do not include (i) voluntary retrenchment and/or voluntary separation arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the Merger; (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance; and (vii) any decision not to renew or extend a contract of a contract worker.

4. MONITORING OF COMPLIANCE WITH THE CONDITIONS

4.1. The Acquiring Firm shall inform the Commission of the Implementation Date within 5 (five) Days of it becoming effective.

4.2. Tellumat shall circulate a copy of the Conditions within 5 (five) Days of the Approval Date to the Affected Employees and their employee representatives in South Africa. Tellumat shall provide HOSA with a copy of such notification, as well as all relevant details of the Affected Employees, including their names, contact details, qualifications and positions held at Tellumat.

4.3. As proof of compliance thereof, a director of Tellumat shall within 10 (ten) Days of circulating the Conditions, submit an affidavit attesting to the circulation of the Conditions and provide a copy of the notice that was sent to the Affected Employees and employee representatives of Tellumat.

4.4. The Acquiring Firm shall submit an affidavit within 20 Days after the anniversary of the Implementation Date to the Commission and the DTIC, confirming compliance with clause 3.3 of the Conditions. This affidavit must be deposed to by a director of the Acquiring Firm.

4.5. Tellumat shall submit an affidavit within 20 Days after the anniversary of the Implementation Date to the Commission and the DTIC, confirming compliance with clause 3.1 of the Conditions. This affidavit must be deposed to by a director of Tellumat.

5. **GENERAL**

5.1. In the event that the Commission discovers that there has been an apparent breach of these Conditions, this shall be dealt with in terms of Rule 37 of the Rules for the Conduct of Proceedings in the Competition Tribunal read together with Rule 39 of the Rules for the Conduct of Proceedings in the Competition Commission.

5.2. The Merging Parties or Tellumat may at any time, on good cause shown, apply to the Commission for the Condition to be lifted, revised or amended. Should a dispute arise in relation to the variation of the Condition, the Merging Parties and/or Tellumat shall apply to the Tribunal, on good cause shown, for the Condition to be lifted, revised or amended.

All correspondence in relation to these conditions must be submitted to the following email address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 48 **29 JANUARY 2021**

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

ROOS FOODS PROPRIETARY LIMITED

AND

THE BUSINESS OF 10 KFC FRANCHISED RESTAURANTS OWNED AND CARRIED ON BY VAN EEDEN KITSKOS PROPRIETARY LIMITED

CASE NUMBER: 2020JUL0038

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above mentioned firms subject to conditions as set out below:

1. On 17 July 2020, the Competition Commission ("Commission") received notice of an intermediate merger in terms of which Roos Foods Proprietary Limited ("Roos Foods") intends to acquire the business of the 10 KFC franchised restaurants ("10 Kitskos KFCs") owned and carried on by van Eeden Kitskos Proprietary Limited ("van Eeden Kitskos"), as a going concern. Following the implementation of the proposed transaction, Roos Foods will control the Kitskos KFCs

The parties and their activities

2. The primary acquiring firm is Roos Foods, a subsidiary of Roos Holdings Limited ("Roos Holdings"). Roos Holdings is controlled by Corvest 12 Proprietary Limited; Iron Bridge Capital Proprietary Limited; ("IBC") and Members of Management. Roos Foods and its controlling firms will collectively be referred to as the "Acquiring Group". Roos Foods operates KFC

franchises located in the Mpumalanga, Gauteng, North West and Limpopo. The KFC outlets primarily sell fried chicken pieces, chicken burgers, wraps, salads, sides, desserts, and beverages.

3. The primary target firm is the 10 Kitskos KFCs owned and carried on by van Eeden Kitskos Proprietary Limited ("van Eeden Kitskos"), trading as KFC Brits in various locations.

Market definition

4. The Commission found that the proposed transaction results in a horizontal overlap as both the merging parties own and operate KFC franchise stores. Furthermore, although the merging parties both have KFC franchise stores located in North West and Gauteng, their stores are located at the very least over 100km apart and at the furthest, over 250km apart.

5. In respect to vertical relationships, the Commission found that in the past, Universal, and Fidelity ADT, which are both investees of the RMB Corvest Group, have both provided products and services to the Kitskos KFCs. As such, the proposed transaction raises some vertical aspects which are considered below.

6. The Commission did not conclude on a relevant market but considered the proposed transaction in the Quick Service Restaurants ("QSR") market given that the merging parties are active therein.

Competition assessment

7. The Commission found that KFC, with approximately 877 stores, has an estimated national market share not exceeding 25% in the QSR market in South Africa. Roos Foods operates KFC franchised stores which amounts to an estimated market share of less than 5% while the Kitskos KFCs have an estimated market share not exceeding 5% nationally. Post-merger, Roos Foods will therefore have an estimated national market share of less than 10% with a market share accretion of less than 5%. The Commission found that the QSR market is highly competitive and that KFC faces competition from numerous market participants.

8. On a narrower scale, the Commission found that given the lack of geographic overlap, the proposed transaction will not change the structure of the market. Although Roos Foods is

increasing the number of KFCs it owns in Gauteng and North West, the KFC franchises it currently owns and those it intends to acquire through the proposed transaction are located far from each other. The Commission also found that KFC franchise stores operate in accordance with a franchise model which entails uniform pricing of products countrywide. It is thus the Commission's view that Roos Foods would not be able to exercise any market power in both the North West and Gauteng regions post-merger.

9. In terms of the vertical relationship, the Commission found that although Universal (an RMB Corvest Group investee) through its wholly owned subsidiary, Foodserv Solutions Proprietary Limited ("Foodserv"), is a supplier of oven and cooking equipment to the 10 Kitskos KFCs, the value of purchases made by the Kitskos KFCs is minimal.

10. For the reasons above, the Commission found that the proposed transaction is unlikely to result in a substantial prevention or lessening of competition in any market.

Public Interest Considerations

Effect on employment

11. The Commission found that the proposed transaction would result in duplications in certain roles between the Roos Foods and van Eeden Kitskos. As such, the proposed transaction necessitated the consolidation of certain functions by eliminating duplicate functions. The elimination of the duplicate functions would inevitably result in the retrenchment of 9 head office employees of van Eeden Kitskos.

12. On 29 July 2020, the Commission received notice from the office of the Minister of Trade, Industry and Competition (DTIC) of intention to participate in the merger proceedings in terms of Rule 29 of the Act. The DTIC was concerned that the merging parties submitted that the proposed transaction would result in the loss of 9 jobs. Accordingly, the proposed transaction could not be justified on public interest grounds as required by section 12A(3)(b) of the Competition Act. According to the DTIC, this is particularly concerning because the Acquiring Group owns a substantial number of KFC franchise stores, and has shareholding in a few other firms which produces food ingredients. As such, the Acquiring Group could easily absorb the 9 affected employees.

13. The Commission too was concerned about the effect the proposed transaction would have on employment, in particular the loss of employment of 9 employees, due to the alleged duplication of roles at van Eeden Kitskos. In an effort to address these concerns, the Commission contacted the 9 affected employees individually and found that out of the 9 employees, 1 was of retirement age and 4 indicated that they were not interested in the offers made by Roos Foods for various reasons which include having found alternative employment, personal commitments and the unwillingness to move to the Roos Foods head office which is located in Woodmead, Johannesburg. The remaining 4 employees expressed an interest in joining Roos Foods.

14. Having communicated these concerns to the merging parties, the merging parties made a submission indicating that Roos Foods was amenable to offering the employees employment on a permanent basis.

15. The Commission found that although undertaking to offer the potentially affected employees employment would ordinarily be sufficient, the merging parties had only made verbal communications with the affected employees and no written offers have been made, the Commission considered it necessary to approve the proposed transaction subject to conditions in order to safeguard against any potential retrenchments. In addition, the Commission noted the merging parties' written submissions to the Commission that none of the employees located at the 10 KFC Kitskos stores will be retrenched as a result of the proposed transaction. Therefore, no conditions are necessary in relation to this category of employees. The Commission communicated its approach to the merging parties in relation to the potentially affected employees based at the target firm head office. The merging parties agreed to the Conditions. Further, the DTIC confirmed in writing that they are satisfied with the undertakings.

Conclusion

16. For the above reasons, the Commission approves the proposed transaction subject to the attached conditions

CC Case Number: 2020Jul0038

In the Intermediate Merger between:

Roos Foods Proprietary Limited

and

10 KFC Franchise Restaurants Owned by Van Eeden Kitskos Proprietary Limited

CONDITIONS

1 DEFINITIONS

In this document, the following expressions bear the meanings assigned to them below and related expressions bear corresponding meanings –

1.1 "**Acquiring Firm**" means Roos Foods Proprietary Limited, a company incorporated in South Africa (Registration Number 2019/439837/07);

1.2 **"Agreement of Sale of Going Concern"** means the agreement concluded between Roos Foods and Van Eeden Kitskos on 6 July 2020;

1.3 **"Approval Date"** means the date on which the Merger is approved by the Commission as referred to in the Commission's merger clearance certificate (Notice CC15);

1.4 **"Competition Act"** means the Competition Act, No. 89 of 1998 (as amended);

1.5 **"Commission"** means the Competition Commission of South Africa, a statutory body established in terms of section 19 of the Competition Act;

1.6 **"Conditions"** means these conditions;

1.7 **"Implementation Date"** means the date on which all the conditions precedent must be fulfilled as per the Agreement of Sale of Going Concern the Merger is subject to;

1.8 "**Merged Entity**" means the Acquiring Firm and Target Business together as operated pursuant to the successful implementation of the Merger;

1.9 **"Merger"** means the acquisition by the Acquiring Firm of control over the Target Business;

1.10 **"Merging Parties"** means, collectively, the Acquiring Firm and the Target Business;

1.11 **"Target Business"** means the 10 KFC franchise restaurants owned and operated by Van Eeden Kitskos as a going concern;

1.12 **"Van Eeden Kitskos"** means Van Eeden Kitskos Proprietary Limited a company incorporated in South Africa (Registration Number 2012/007512/07)

2 RECORDAL

2.1 On 17 July 2020, the Commission received a notice of an intermediate merger in terms of which the Acquiring Firm intends to acquire the Target Business. From a competition perspective, it is noted that the Merger is unlikely to substantially prevent or lessen competition.

2.2 The Commission appreciates the Merging Parties' written undertakings to the Commission that there will be no retrenchments of any employees of the Target Business as a result of the Merger. However, the Commission is concerned about the impact of the transaction on the following head office employees of Van Eeden Kitskos ("**Potentially Affected Employees**"):

2.2.1 Cleaner;

2.2.2 Junior Accountant;

2.2.3 People Capability Manager;

2.2.4 Area Coach;

2.2.5 Area Coach;

2.2.6 Accountant;

2.2.7 Operations and Store Marketing

2.2.8 Training Coach; and

2.2.9 Payroll administrator.

2.3 It is specifically recorded that in respect of the employee identified in 2.2.1 above, it is not feasible to offer re-employment because of the constraints on her ability to travel to the Acquiring Firm. This employee is of retirement age, (69), and will be offered a retrenchment package by the Target Business and Van Eeden Kitskos.

2.4 It is further specifically recorded that the employees listed at paragraphs 2.2.2 – 2.2.5 have either received alternative employment elsewhere or have elected not to pursue employment with the Acquiring Firm despite invitations to do so.

2.5 In order to address the aforementioned public interest concerns, the Merging Parties have agreed to the following Conditions.

3 CONDITIONS TO THE APPROVAL OF THE MERGER

3.1 The impact of the transaction on the Potentially Affected Employees will be addressed as follows:

3.1.1 The Target Business and Van Eeden Kitskos shall, upon the Implementation Date, offer the employee identified in 2.2.1 above a retrenchment package in accordance

with the provisions of the Labour Relations Act 66 of 1995, the Basic Conditions of Employment Act 75 of 1997 and any other applicable legislation.

3.1.2 The employee identified in paragraph 2.2.6 has already been offered, and has accepted, a permanent full time position by the Acquiring Firm.

3.1.3 The Acquiring Firm shall, on the Implementation Date or as soon as practicably possible thereafter, offer full time, permanent employment to the employees identified in 2.2.6 – 2.2.9. The offers of full time, permanent employment will be on terms and conditions which, when taken as a whole, are not materially less favourable than these employees' current terms and conditions of employment with Van Eeden Kitskos.

4 MONITORING OF COMPLIANCE WITH THE CONDITIONS

4.1 The Merging Parties shall inform the Commission of the Implementation Date of the Merger within 5 (five) business days of its occurrence.

4.2 The Merging Parties shall circulate a copy of the Conditions to the Potentially Affected Employees and/or their respective trade unions within (5) business days of the Approval Date.

4.3 As proof of compliance thereof, the Merging Parties shall, within 10 (ten) business days of circulating the Conditions, provide the Commission with an affidavit by a senior representative attesting to the circulation of the Conditions and attach a copy of the notice sent.

4.4 As proof of compliance with paragraph 2.2.6, the Merged Entity shall, within 10 (ten) business days of the Implementation Date, provide the Commission with an affidavit by a senior representative attesting to the compliance thereof and attach a copy of the employment offers agreed to between the Merged Entity and the employees identified in paragraphs 2.2.6 – 2.2.9.

4.5 Any Potentially Affected Employee who believes that the Merging Parties have not complied with the Conditions may approach the Commission with his or her complaint.

5 APPARENT BREACH

An apparent breach by the Merging Parties of any of the Conditions shall be dealt with in terms of Rule 39 of the Rules of the Conduct of Proceedings in the Commission.

6 VARIATION OF THE CONDITION

The Merging Parties shall be entitled to, on good cause shown, apply to the Commission for a waiver, relaxation, modification and/or substitution of any of these Conditions. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties may apply to the Tribunal, on good cause shown, for the Condition to be lifted, revised or amended.

7 GENERAL

All correspondence in relation to these conditions must be submitted to the following email address: **mergerconditions@compcom.co.za** and **ministry@thedtic.gov.za**.

Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 49 **29 JANUARY 2021**

NOTIFICATION TO APPROVE WITH CONDITIONS THE TRANSACTION INVOLVING:

NIMBLE CREDIT FUND 1 PROPRIETARY LIMITED

AND

PARTS OF EDCON LTD'S (IN BUSINESS RESCUE) LOAN BOOK AND ASSOCIATED INHOUSE ADMINISTRATION SERVICES, INCLUDING DEBT COLLECTION SERVICES, WHICH CONSIST OF CERTAIN ASSETS AND CERTAIN YET TO BE IDENTIFIED EMPLOYEES

CASE NUMBER: 2020AUG0070

The Competition Commission hereby gives notice, in terms of Rule 38 (3)(c) of the 'Rules for the Conduct of Proceedings in the Competition Commission, that it has approved the transaction involving the above-mentioned firms subject to conditions as set out below:

1. On 19 August 2020, the Competition Commission (Commission) was notified of an intermediate merger whereby Nimble Credit Fund 1 Pty Limited (Nimble Credit) intends to acquire parts of Edcon Ltd's loan book and associated inhouse administration services, including debt collection services, which consist of certain assets and certain yet to be identified employees (Target Business). On completion of the proposed transaction, Nimble Credit will own and control the Target Business.

2. The primary acquiring firm is Nimble Credit. Nimble Credit is owned and controlled by Nimble Group (Pty) Ltd (the Nimble Group). The primary target firm is the Target Business. The Target Business is owned by Edcon Ltd.

3. The Nimble Group provides solutions to the credit industry in both the consumer and corporate markets. It focusses on four functional areas, namely: contingent debt collections (i.e. debt collection services); outsourcing in respect of the receivables function; debt purchasing, and fund management.

4. The Target Business comprise of the Non-Performing Book, Written-Off Book, and the Current Foreign Portfolio.

5. The Commission considered the activities of the merging parties and found that the proposed transaction presents a horizontal overlap in the market for debt collection services. Although there is a horizontal overlap, the Commission notes that the Target Business comprises of an internal debt collection service administered by Edcon (through Edcon Financial Services) which does not offer these services to third parties and therefore does not compete with the Nimble Group. Nevertheless, the Commission notes that the Target Business accounts for less than 1% of the market.

6. In light of the above, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition in the above-mentioned market.

7. In addition, the Commission notes that, pre-merger, there was a vertical relationship between the Nimble Group and Edcon. The Nimble Group provided debt collection services to Edcon. The Commission considered whether other debt collectors in the market that provided debt collection services to Edcon would be foreclosed. The Commission found that other debt collectors will still have a substantial part of the market to compete for.

8. Taken as a whole, the Commission is of the view that the proposed transaction is unlikely to substantially prevent or lessen competition.

9. With respect to employment, the Department of Trade, Industry and Competition (DTIC) raised employment concerns and required the acquiring group to make commitments in this regard. At a minimum, the DTIC required the acquiring firm to commit that they will be no job losses as a consequence of the merger for a period of at least two year from the date of approval of the transaction by the Competition Authorities. The merging parties agreed to this commitment.

Further, the merging parties have committed to offer employment to employees of Edcon's financial division that were dedicated to the Target Business.

10. The proposed transaction does not raise any other public interest issues.

11. The Commission therefore approves the proposed transaction subject to conditions attached as **Annexure A**.

Annexure A

Nimble Credit Fund 1 Proprietary Limited

and

Parts of Edcon Ltd's (in business rescue) loan book and associated inhouse administration services, including debt collection services, which consist of certain assets and certain yet to be identified employees

CC Case Number: 2020Aug0070

Conditions

1. **Definitions**

In this document the following expressions bear the meanings assigned to them below and related expressions bear corresponding meanings:

1.1 "**Affected Persons**" means, collectively, Edgars Consolidated Stores Limited, Edcon creditors, Edcon employees represented by the Employment Committee and the South African Commercial Catering and Allied Workers Union, as contemplated in section 128(1)(a) of the Companies Act;

1.2 "**Approval Date**" means the date referred to on the Commission's Merger Clearance Certificate;

1.3 "**BRPs**" means the business rescue practitioners appointed by the Edcon board of directors;

1.4 "**Business Rescue Plan**" means the Business Rescue Plan in relation to Edcon dated 8 June 2020, prepared in terms of section 150 of the Companies Act, and approved by the Affected Persons;

1.5 "**Commission**" means the Competition Commission of South Africa;

1.6 "**Companies Act**" means the Companies Act, No. 71 of 2008 (as amended);

1.7 "**Conditions**" means these conditions;

1.8 "**Days**" means any calendar day which is not a Saturday, Sunday or official public holiday in South Africa;

1.9 "**DTIC**" means the Department of Trade, Industry and Competition;

1.10 "**Edcon Employees**" means employees of Edcon in relation to its financial services division who are currently engaged in services ancillary to the management of the Sale Book Debts and who received notices of termination in terms of section 189 of the Labour Relations Act as a result of the implementation of the Business Rescue Plan;

1.11 "**Edcon**" means Edcon Limited;

1.12 "**Employment Committee**" means the committee constituted in terms of section 148 of the Companies Act for the business rescue proceedings to represent non-unionised members;

1.13 "**Implementation Date**" means the date, occurring after the Approval Date, on which the last condition precedent to the Sale Agreement is fulfilled or waived, as the case may be;

1.14 "**Labour Relations Act**" means the Labour Relations Act, No. 66 of 1995 (as amended);

1.15 "**Merger**" means the acquisition by Nimble of the Target Firm.

1.16 "**Merging Parties**" mean Nimble and the Target Firm;

1.17 "**Nimble**" means Nimble Credit Fund 1 Proprietary Limited, and its controller, Nimble Group Proprietary Limited;

1.18 "**Sale Agreement**" means the Sale of Book Debts Agreement dated 4 August 2020;

1.19 "**Sale Book Debts**" means parts of Edcon's loan book consisting of certain assets as more fully identified in the Sale Agreement;

1.20 "**Target Firm**" means the parts of Edcon's loan book and associated in-house administration services, including debt collection services, which consist of certain assets and certain yet to be identified employees; and

1.21 "**Tribunal**" means the Competition Tribunal of South Africa.

2. **RECORDAL**

2.1 On 19 August 2020, the Commission received notice of an intermediate merger whereby Nimble intends to acquire the Target Firm.

2.2 From a competition perspective, the Commission found that the Merger is unlikely to substantially prevent or lessen competition.

2.3 From a public interest perspective, the Commission notes that the Merger will ensure that at least 150 (one hundred and fifty) Edcon Employees are offered employment by Nimble. The DTIC proposed that Merging Parties make certain commitments regarding employment. The Merging Parties have agreed to these Merger Conditions.

3. **EMPLOYMENT**

3.1 Nimble shall, within 5 (five) Days of the Implementation Date, offer employment to at least 150 (one hundred and fifty) of the Edcon Employees. The terms of such offers of employment will be in accordance with Nimble's ordinary business practices and its standard terms and conditions of employment.

3.2 Nimble shall not retrench any employees for a period of 2 (two) years from the Implementation Date as a result of the Merger. This condition shall also apply to the period between the Approval Date and Implementation Date.

3.3 Retrenchments do not include (i) voluntary retrenchment and/or voluntary separations arrangements; (ii) voluntary early retirement packages; (iii) unreasonable refusals to be redeployed in accordance with the provisions of the

Labour Relations Act; (iv) resignations or retirements in the ordinary course of business; (v) retrenchments lawfully effected for operational requirements unrelated to the transaction; and (vi) terminations in the ordinary course of business, including but not limited to, dismissals as a result of misconduct or poor performance.

4. **MONITORING OF COMPLIANCE WITH THE CONDITIONS**

4.1 The Merging Parties shall circulate a copy of the Conditions to all employees / and or their respective trade union representatives within five (5) Days of the Approval Date.

4.2 As proof of compliance thereof, the Merging Parties shall within five (5) Days of circulating the Conditions, provide the Commission with an affidavit by a senior official of the Merging Parties attesting to the circulation of the Conditions and attach a copy of the notice sent.

4.3 The Merging Parties shall inform the Commission of the Implementation Date within 5 (five) Days of its occurrence.

4.4 The Merging Parties shall inform the Commission of the final number of Edcon Employees to whom it has made offers of employment within 20 (twenty) Days of the Implementation Date.

4.5 The Merged Entity shall, for the duration of the conditions, submit an affidavit on each anniversary of the Implementation Date, confirming compliance with clause 3 of the Conditions. This affidavit must be deposed to by a senior official of the Nimble.

4.6 Any employee who believes that his/her employment with the Merging Parties has been terminated in contravention of these Conditions may approach the Commission with his or her complaint.

5. **APPARENT BREACH**

An apparent breach by the Merging Parties of any of the Conditions shall be dealt with in terms of Rule 39 of the Rules for the Conduct of Proceedings in the Commission.

6. **VARIATION OF THE CONDITION**

The Merging Parties shall be entitled, upon good cause shown, to apply to the Commission for the waiver, relaxation, modification and/or substitution of one or more of the Conditions. Should a dispute arise in relation to the variation of the Conditions, the Merging Parties may apply to the Tribunal, on good cause shown, for the Condition to be lifted, revised or amended.

7. **GENERAL**

All correspondence in relation to these Conditions shall be submitted to the following email address: mergerconditions@compcom.co.za and ministry@thedtic.gov.za.

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Enquiries in this regard may be addressed to Manager: Mergers and Acquisitions Division at Private Bag X23, Lynnwood Ridge, 0040. Telephone: (012) 394 3298, or Facsimile: (012) 394 4298

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 50 **29 JANUARY 2021**

COMPETITION COMMISSION

NOTIFICATION OF CLOSED CONDITIONAL MERGER APPROVALS

1 APRIL 2020 – 30 SEPTEMBER 2020

1. CASE NO. 2018MAR0001: HUDACO TRADING (PTY) LTD AND THE BOLTWORLD BUSINESS

In the matter between ***Hudaco Trading (Pty) Ltd and the Boltworld Business***, the conditions required the merging parties not to retrench any employees because of the merger for a period of 2 years from implementation date. The compliance affidavits submitted by the merged entity indicated that they have complied with the conditions, as they did not retrench any employees during the moratorium period. The Commission terminated these conditions on 30 June 2020.

2. CASE NO. 2016DEC0049: RHODES FOOD GROUP (PTY) AND MA BAKER COMPANIES

In the matter between ***Rhodes Food Group (Pty) Ltd and MA Baker Companies***, the conditions obliged the merged entity not to effect any merger specific retrenchments for a period of three years from the implementation date of the merger. On 03 April 2018, the Merged Entity submitted its first compliance affidavit detailing that they have not retrenched any employees. The second compliance affidavit was submitted on 02 April 2019. The third and final compliance affidavit was submitted on 27 March 2020, confirming that the Merged Entity has fully discharged its obligation in compliance with the Conditions. The Commission terminated these conditions on 14 April 2020.

3. CASE NO. 2017FEB0004: BAYER AKTIENGESELLSCHAFT AND MONSANTO CORPORATION

In the matter between ***Bayer Aktiengesellschaft and Monsanto Corporation***, the conditions required that, within a period of 6 months, Bayer divest of its South African cotton seed

business as a going concern to a third party purchaser who would be nominated by Bayer and who would meet the Broad Based Black Economic Empowerment (BBBEE) credentials and neutrality from the merging parties' criteria. The conditions also provided that a Trustee should be appointed to ensure that the merging parties' compliance with the conditions and that Bayer would inform the Commission of the proposed independent Trustee in writing.

On 29 May 2020, the Commission received notification of a small merger under case number 2020May0072 and in terms of which Cotton Seed Enterprise (Pty) Ltd intended to acquire The South African Cotton Business of Bayer (Pty) Ltd ("CSE transaction"). The Commission unconditionally approved the CSE transaction on 10 June 2020. The merging parties confirmed that pursuant to the Commission's approval of the CSE transaction, the sale has been completed and thus the transaction has indeed been implemented. Therefore, Bayer has now ceased controlling the South African Cotton Business of Bayer (Pty) Ltd. Considering the above, the Commission terminated this condition as it is no longer applicable and have lapsed.

4. CASE NO. 2017OCT0027/LM220NOV17: ROYAL BAFOKENG PLATINUM LIMITED AND MASEVE INVESTMENT 11 (PTY) LTD

In the matter involving ***Royal Bafokeng Platinum Limited (RBPlat) and Maseve Investment 11 (Pty) Ltd (Maseve)***, the condition entailed that RBPlat should employ 115 employees at its concentrator plant and give preference to the employees of Maseve who were retrenched. To the extent that these employees are no longer available RBPlat will endeavour to source employees from the local community in Rustenburg. RBPlat will take over 20 permanent employees of the target firm and RBPlat will give preference to retrenched employees for job opportunities likely to occur in the future and is required to circulate the conditions to the merger to all employees.

The merging parties have complied with all their obligations in the conditions and on 24 April 2020, they submitted their last and final compliance report. They submitted that from April 2018, being the Implementation Date, no new job opportunities have become available at the Maseve Mine.

The conditions were for a period of 2 (two) years from April 2018 to April 2020. As such, the conditions have lapsed by virtue of the passing of time and the merging parties have fully complied with their reporting obligations.

5. CASE NO. 2018JAN0023: BOARDRIDERS INC AND BILLABONG INTERNATIONAL LIMITED

In the matter between ***Boardriders Inc and Billabong International Limited***, the conditions obliged the merged entity not to effect any merger specific retrenchments for a period of two years from the implementation date of the merger and to inform the Commission of the merger implementation date within 5 days of the merger becoming effective. On 24 April 2019, the merging parties submitted an Affidavit confirming that Merger was implemented on the same date in compliance with the conditions.

In their compliance documents, the Merging Parties indicated that there was an intention to integrate the business of Boardriders and Billabong which will have an impact on employment. The Merging Parties also indicated that once the plan is formalized, it will indicate whether there is a need to contemplate any termination of employment and in which case, full and proper consultation as contemplated in Section 189 of the Labour Relations Act, will take place before any final decision in respect of retrenchment is made.

The Merging Parties further indicated that they have communicated this proposal with all employees and the Southern African Clothing and Textile Workers Union ("SACTWU") in compliance with the conditions. On or about January 2020 the Commission considered a variation application whereby the merged entity sought to effect merger related retrenchments within the moratorium period. The merged entity sought to restructure and move operations to Durban. They therefore approached employees and offered to continue paying their wages until the expiry of the moratorium period which was until 22 June 2020. The employees did not raise any objections to the process undertaken.

Considering the above and the fact that the moratorium period expired on 22 June 2020, the Commission therefore terminated the conditions as they are no longer applicable and have lapsed.

6. CASE NO. 2017APR0046: SOIHLA HONG KONG HOLDING LIMITED AND CHEVRON SOUTH AFRICA (PTY) LTD

In the matter between ***SOIHL Hong Kong Holding Limited and Chevron South Africa (Pty) Ltd***, the conditions required that Sinopec establish its head office in South Africa, moratorium

on retrenchments, and maintenance of the baseline number of independently owned service stations, amongst other condition to address competition and public interest issues identified during the investigation.

The merger was conditionally approved by the Tribunal on 08 March 2018. In terms of the *Shareholders Agreement* entered into between the shareholders of CSA (which includes Off the Shelf Investments RF (Pty) Ltd (OTS) and Chevron Global Energy Inc. (CGEI)), OTS had a pre-emptive right to acquire the issued share capital held by CGEI in CSA, in the event that CGEI intends to sell its shares in CGEI to a third party, on the same terms and conditions as CGEI intends to sell its shares to that third party (the pre-emptive right).

The merger also triggered the mechanisms of the pre-emptive right contained in the *Shareholders Agreement*, resulting in CGEI extending an offer to sell the CSA shares to OTS on the same terms and conditions as CGEI had agreed with Sinopec. OTS had accepted the CGEI offer subject to regulatory approvals. Hence, OTS filed a merger for the acquisition of a stake in CSA upon the exercise its pre-emptive right (the *OTS-CSA* merger).

In the *OTS-CSA* merger, the merging parties submitted that OTS had engaged Glencore Energy UK Limited (Glencore) as its technical and financial partner in respect of the *OTS-CSA* merger. Glencore, independently and separately from the *OTS-CSA* merger, had made its intention clear to purchase the majority shareholding in CSA from OTS in the future (the *Glencore-CSA* merger).

On 13 September 2018, the Tribunal conditionally approved the *OTS-CSA* merger. The *OTS-CSA* merger conditions were substantially similar to those imposed on the *Sinopec* merger. As it was expected, Glencore subsequently filed the *Glencore-CSA* merger following the approval of the *OTS-CSA* merger. The *Glencore-CSA* merger was approved with various public interest conditions by the Tribunal on 15 March 2019. The *Glencore-CSA* merger conditions are substantially similar to those imposed on the *Sinopec* merger and the *OTS-CSA* merger.

The subsequent approval of the *OTS-CSA* and the *Glencore-CSA* mergers rendered the conditions imposed in the *Sinopec* merger null. In addition, Glencore and/or Astron Energy

have commenced their reporting obligations in line with the *Glencore-CSA* merger conditions. Therefore, the *Sinopec* merger Conditions have lapsed.

DEPARTMENT OF WOMEN, YOUTH AND PERSONS WITH DISABILITIES

NO. 51 29 JANUARY 2021

REPUBLIC OF SOUTH AFRICA

NATIONAL YOUTH DEVELOPMENT AGENCY AMENDMENT BILL, 2020

(As introduced in the National Assembly; explanatory summary of Bill published in Government Gazette No. ..... of ..... 2020)
(The English text is the official text of the Bill)

MINISTER IN THE PRESIDENCY RESPONSIBLE FOR WOMEN, YOUTH AND PERSONS WITH DISABILITIES

[B —2020]

150720lt

GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the National Youth Development Agency Act, 2008, so as to insert new definitions; to amend certain sections that provide for the administration of the Act by the Executive Authority; to amend the provisions relating to the objects of the Agency; to amend provisions relating to reporting by Agency; to amend provisions relating to roles of organs of state in supporting the Agency; to provide for additional board members; to provide for extension of the term of office for board members; to provide for establishment of the Agency at provincial and local levels; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Amendment of section 1 of Act 54 of 2008

1. Section 1 of the National Youth Development Agency Act, 2008 (Act No. 54 of 2008) (hereinafter referred to as the "principal Act"), is hereby amended by—

(a) the insertion after the definition of "Board" of the following definitions:

'**chairperson**' means a member designated as such in terms of section 9(5)*(a)*;

'**chief executive officer**' means a person appointed in terms of section 13(1);

'**civil society organisation**' means a civil society organisation, as defined in section 1 of the National Development Agency Act, (Act No. 108 of 1998);

'**deputy chairperson**' means a member designated as such in terms of section 9(5)*(a)*;

'**Executive Authority**' means the Cabinet member responsible for "Youth";

'**Province**' means provincial government described in section 103 of the Constitution (Act 108 of 1996).

'**Local**' means local government as described in section 151 of the Constitution (Act 108 of 1996)

(b) the substitution for the definition of 'Integrated Youth Development Strategy' of the following definition:

"**Integrated Youth Development Strategy**' means the integrated Youth **[Development]** Strategy **[for South Africa]** referred to in section **[3(a)]** 3(*d*); and

(c) the insertion after the definition of "members" of the following definition:

"national youth policy' means the national youth policy referred to in section 3(*d*);".

Substitution of section 3 of Act 54 of 2008

2. Section 3 of the principal Act is hereby substituted for the following section:

"Objects of Agency

The objects of the Agency are to—

(a) initiate, design and pilot youth development programmes to be implemented by the Agency, organs of state, private sector organisations and civil society organisations;

(b) report to the Executive Authority on the implementation of annual youth development priorities;

(c) promote the interests of the youth, mainly designated youth groups, in particular;

(d) contribute to the development of the National Youth Policy and an Integrated Youth Development Strategy for South Africa.".

Amendment of Section 4 of the Principal Act

Section 4 of the Principal Act is hereby substituted with the following:

Offices of Agency

3. Establishment of National Youth Development Agency offices

(a) NYDA offices shall be established at provincial and local levels to offer products and services of the Agency.

(b) Provincial Offices of the Agency shall manage local offices.

Amendment of section 5 of Act 54 of 2008

4. Section 5 of the principal Act is hereby amended—

(a) by the substitution in subsection (1) for paragraph (*a*) of the following paragraph:

"(a) establish competencies and capabilities in its operations including the following functional areas -

(i) **[National Youth Service and Social Cohesion]** national youth service;

(ii) **[Economic Participation]** economic transformation, job creation and entrepreneurial support;

(iii) **[Policy, Research and Development]** research and development;

(iv) **[Governance, Training and Development]** governance, skills development and training;

(v) **[Youth Advisory and Information Services]** youth advisory and information services; and

(vi) **[National Youth Fund]** national youth fund."

[(b) establish offices of the Agency at provincial and local levels and appoint the necessary personnel to those offices.]

(b) by the substitution for subsection (2) of the following subsection:

"(2) The Agency may, in order to achieve its objects—

(a) carry out or cause to be carried out any **[investigation]** research that it deems necessary; or

(b) consider such recommendations, suggestions and requests concerning youth affairs as it may receive from any source.**[or]**

(c) **conduct or cause to be conducted such research as it may deem necessary.]**"; and

(c) by the substitution for subsection (4) of the following subsection:

"(4) The Agency must, for purposes of subsection (3) and within its available resources, amongst other things—

(a) provide youth advisory and information services including information on the products and services of the Agency;

(b) provide skills training to youth including personal development and life skills;

(c) support youth work, education and training;

(d) provide funding and capacity building to small, micro and medium enterprises and youth owned cooperatives;

(e) support and mentor young entrepreneurs;

(f) provide grants to the youth, youth serving and youth owned organisations that advance the Agency's mandate;

(g) assist in promoting healthy lifestyles amongst the youth;

(h) assist in designing and implementing programmes that reduce risky behaviour;

(i) assist in promoting mental health amongst the youth;

(j) coordinate and implement the national youth service;

(k) design and support youth employment programmes;

(l) assist in developing norms and standards, as well as implementation guidelines;

(m) assist in legislation, policy and strategy development; and

(n) conduct research that impacts on youth."

Amendment of section 6 of Act 54 of 2008

5. Section 6 of the principal Act is hereby substituted for the following section:

"Reporting by Agency

(1) The Agency must, at least once every three years, in the prescribed manner, prepare and submit to the Executive Authority a report on the status of youth in the Republic.

(2) The Agency must—

(a) in accordance with the Pubic Finance Management Act, submit to the Executive Authority a report on the financial status of the Agency; and

(b) supply the Executive Authority with such information and particulars in connection with the activities of the Agency as the Executive Authority may, in writing, request.

(3) The Executive Authority must table the reports contemplated in subsections (1) and (2) in Parliament within 90 days of receipt thereof.

(4) The Agency must, by notice in the *Gazette*, publish the reports contemplated in subsections (1) and (2) within a reasonable time after they have been tabled in Parliament."

Amendment of section 7 of Act 54 of 2008

6. Section 7 of the principal Act is hereby substituted for the following section:

"Role of organs of state in supporting Agency

Organs of state must assist the Agency as may be reasonably required for the effective exercise, performance and carrying out of its powers, functions and duties."

Amendment of section 8 of Act 54 of 2008

7. Section 8 of the principal Act is hereby substituted for the following section:

"**Control and management of affairs of Agency**

(1) The control and management of the affairs of the Agency is managed by the Board and the Board must –

(a) determine -

(i) a strategic plan;

(ii) an operational plan;

(iii) a succession plan; and

(iv) an Agency charter including a Governance checklist,

within 12 months of this section coming into operation;

(b) monitor and evaluate compliance by the Agency with this Act and any other functions that the Minister may determine;

(c) manage the financial and other resources in accordance with a system that is fair, efficient, cost-effective and transparent, including but not limited to-

(i) the efficient management of working capital;

(ii) safeguarding and disposal of assets;

(iii) prevention of irregular, fruitless and wasteful expenditure;

(iv) implement preventative measures to eradicate corruption and fraud.

(2) The Agency must perform any other function as determined by the Executive Authority."

Amendment of section 9 of Act 54 of 2008

8. Section 9 of the principal Act is hereby amended-

(a) by the substitution for subsection (1) of the following subsection:

(1) The Board consists of ten (10) non-executive directors -

(a) two (2) of whom are designated as Chairperson and Deputy Chairperson;

(b) two (2) of whom are designated by the Executive Authority as ex officio members, without voting rights;

(c) the Chief Executive Officer, who is an ex officio member, without voting rights; and

(2) To be eligible, appointed Board candidates should be aged 18 to 35.

(4) A quorum is constituted by **[four (4)]** five (5) members, which must include the Chairperson and or the Deputy Chairperson.

(b) by the substitution for subsection (6) of the following subsection:

"(6) Members hold office for a period of **[three (3)]** five (5) years";

(c) by the substitution for subsection (10) of the following subsection:

"(10) The conditions of service of members are determined by the Executive Authority **[President]**, in consultation with the Minister of Finance"; and

(d) by the substitution for subsection (11) of the following subsection:

"(11) Members who are employed by an organ of state are not entitled to remuneration, or any allowance, but must be reimbursed for out of pocket expenses by the Agency **[Board]**."

Amendment of section 10 of Act 54 of 2008

9. Section 10 of the principal Act is hereby amended -

(a) by the substitution for subsection (2) of the following subsection:

"(2) (2) The President may, on the recommendation of **[the Parliament]** the Executive Authority, remove a member from office if the member -

(a) is found guilty of misconduct;

(b) is unable to perform his or her duties efficiently;

(c) is **[absence]** absent from three (3) consecutive meetings of the Board without permission **[of the Board]** or good cause;

(d) **[becomes]** is disqualified as contemplated in subsection

(b) by the substitution for subsection (4) of the following subsection:

"(4) The President, on recommendation of the Executive Authority, may suspend a member from office any time after the start of the proceedings **[of Parliament]** for the removal of a member"; and

(c) by the insertion of the following subsection:

"(5) A vacancy in the Board occurs if a member-

(a) is subject to a disqualification referred to in section 10 (1);

(b) is removed from office in terms of section 10(2);

(c) resigns; or

(d) dies."

(6) where a vacancy arises as contemplated in subsection 5, the Executive Authority must make a recommendation to the President of a nominee to fill the vacancy, from the recent previous shortlist of the Board candidates.

(i) A member of the Board appointed to fill a vacancy must hold office for the unexpired portion of the period for which the vacating member was appointed.

(7) Where the Board no longer quorate due to vacancies, the Executive Authority shall –

(a) make recommendation to the President to dissolve the Board;

(b) manage appointment process of an Interim Board, and make recommendations of nominees to the President for appointment.

Amendment of section 12 of Act 54 of 2008

10. Section 12 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Board may, in the performance of its functions, establish Committees, including the **[:]**-

(a) Executive Management Committee;

(*b*) Human Resource and Remuneration Committee;

(*c*) Audit and Risk Committee **[in accordance with Treasury guidelines regarding the formation of Audit Committees as provided for in section 77 of the PFMA]**; **[and]**

(*d*) Development Committee;

(*e*) Social and Ethics Committee;

(*f*) Information Communication Technology Committee; and

(*g*) Investment Committee;

or any other Committee to assist in the performance of its functions."

Amendment of section 16 of Act 54 of 2008

11. Section 16 of the principal Act is hereby amended –

(a) by the substitution in subsection (1) for paragraph *(a)* of the following paragraph:

"*(a)* in consultation with the Board, appoint executive **[managers]** directors of the Agency, which may include **[a Chief Operations Officer and]** a Chief Financial Officer; and"; and

(b) by the substitution for subsection (2) of the following subsection:

"(2) The Board must, in consultation with the **[Minister of Finance]** Executive Authority, approve the remuneration, allowances, benefits and other terms and conditions of appointment of members of staff."

Amendment of section 17 of Act 54 of 2008

12. Section 17 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) The Board may delegate any of its powers or assign any of its duties to the Chief Executive Officer or a Committee referred to in section 12 **[any employee of the Agency]**."

Amendment of section 18 of Act 54 of 2008

13. Section 18 of the principal Act is hereby amended by the substitution in subsection (2) for paragraph *(b)* of the following paragraph:

"*(b)* in such manner as may be approved by the **[Minister of Finance]** Executive Authority.".

Amendment of section 19 of Act 54 of 2008

14. Section 19 of the principal Act is hereby amended by the substitution for the words preceding paragraph *(a)* of the following words:

"The **[President]** Executive Authority may, after consultation with the Board, make regulations regarding—".

Amendment of arrangement of sections in Act 54 of 2008

15. The arrangement of sections which occur immediately after the Preamble to the principal Act is hereby substituted by the following item —

"**ARRANGEMENT OF SECTIONS**

1 Definitions

2 Establishment of **[the]** Agency

3 Objects of **[the]** Agency

4 Offices of Agency

5 Functions of **[the]** Agency

6 Reporting by **[the]** Agency

7 Role of organs of state **[companies and civil society organisations in youth development]** in supporting Agency

8 Control and management of affairs of Agency

9 Composition, appointment and conditions of service of **[the]** Board

10 Disqualification, removal from office and resignation of director of Board

11 Meetings of Board

12 Committees of Board

13 Appointment of Chief Executive Officer

14 Employment contract and performance agreement of Chief Executive Officer

15 A Duties of Chief Executive Officer

16 Appointment of staff

17 Delegation and assignment

18 Funding and investments

19 Regulations

20 Judicial"

Short title and commencement

21.This Act is called the National Youth Development Agency Amendment Act, 2020, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.

GENERAL NOTICES • ALGEMENE KENNISGEWINGS

DEPARTMENT OF AGRICULTURE, LAND REFORM AND RURAL DEVELOPMENT

NOTICE 22 OF 2021

NAMC
Promoting market access for South African agriculture

Block A | 4th Floor | Meintjiesplein Building | 536 Francis Baard Street | Arcadia |0002
Private Bag X935 | Pretoria | 0001
Tel: 012 341 1115 | Fax: 012 341 1811/1911
http://www.namc.co.za

INVITATION TO REGISTER AS A DIRECTLY AFFECTED GROUP IN TERMS OF THE MARKETING OF AGRICULTURAL PRODUCTS ACT, ACT NO. 47 OF 1996, (MAP ACT) AS AMENDED

The National Agricultural Marketing Council (NAMC) keeps a 'Register of Directly Affected Groups' for each commodity listed as an agricultural product in the agricultural sector. A directly affected group means any group of persons, which is party to the production, sale, purchase, processing or consumption of an agricultural product and includes labour employed in the production or processing of such a product.

The register is *inter alia* being used to bring applications for statutory measures (interventions in the agricultural sector in terms of the MAP Act) to the attention of directly affected groups and to invite such directly affected groups to lodge any objections or support relating to such a request to the NAMC within a specified time. The viewpoints of directly affected groups are considered before the NAMC formulate its recommendations to the Minister of Agriculture, Land Reform and Rural Development.

In order for a group to register, please e-mail the following information to the NAMC (**lizettem@namc.co.za**):

- Name of the organisation/ company/ group
- Agricultural products registered for, eg. maize, red meat, citrus etc.
- Role in value chain, eg. producers, traders, importers, etc.
- Contact person
- Postal address, telephone and fax numbers
- E-mail address and website

All directly affected groups in the agricultural industry that are not yet included in our Register, are kindly requested to register with the NAMC at any time soon, with the above information.

NON-GOVERNMENTAL ORGANIZATION

NOTICE 23 OF 2021

PSiRA
Private Security Industry Regulatory Authority

INVITATION TO THE INDUSTRY FOR THEIR COMMENTS ON THE DRAFT ASSESSMENT POLICY. THE DRAFT POLICY IS ISSUED IN LINE WITH THE PROVISIONS OF SECTION 4 (K) OF THE PRIVATE SECURITY INDUSTRY REGULATIONS ACT 56 OF 2001

The Private Security Industry Regulatory Authority (PSiRA) was established in terms of section 2 of the Private Security Industry Regulatory Act, 56 of 2001 (the PSIR Act). The strategic mandate of the PSiRA originates from the Act and the regulations issued in terms of the Act. In a nutshell, the primary objectives of PSiRA are to regulate the private security industry and to exercise effective control over the practice of the occupation of security service providers in the public and national interest and in the interest of the private security industry itself.

The Private Security Industry Regulatory Authority (PSiRA) has acted in regard to promotion of high quality training and authentication of certification issued to security service providers.

Pursuant to the principles pronounced in the Promotion of Administrative Justice Act No 3 of 2000 the Authority hereby invites all persons and entities having interest in the regulation of the private security industry in South Africa and more particularly with issues relating to training of the security officers to comment on the attached draft policy.

The comments will be opened accepted from **17th February 2021** until **03rd March 2021** which will be the deadline for comments. The comments may be sent using the following addresses comments.assessments@psira.co.za

1. Overview

Private Security Industry Regulatory Authority (PSiRA) was established in 2002, in terms of Section 2 of the Private Security Industry Regulation Act 56 of 2001.The strategic mandate of PSiRA emanates from the Act and the regulations issued in terms of the Act. The primary objectives of PSiRA are to regulate the private security industry and to exercise effective control over the practice of the occupation of security service provider in the public and national interest and in the interest of the private security industry itself.

Glossary of Terms

	Term	Description
1.1	Accreditation	means the certification, usually for a particular period of time of a person, a body or an institution as having the capacity to fulfil a particular function in the quality assurance system set up by the Authority (PSiRA)
1.2	Assessment	means structured process in which evidence is gathered and evaluated in relation to outcomes, and making judgement on individual competency for developmental and or recognition purposes.
1.3	Assessment Centre	A centre accredited by PSiRA for conducting external assessment of security service providers registered in terms of the PSiRA legislation and any other relevant legislation.
1.4	Assessor	The practitioner or instructor responsible for the assessment of the achievement of learning outcomes.
1.5	Digital Assessment	means a computerised based online integrated assessment administered by the Authority to evaluate and to monitor the competency framework and level of trained and assessed existing security officers and potential security, for accreditation and certification as required.

1.6	External Assessment	digital assessment coordinated by the Authority for the assessment of prospective and existing and registered security officers for accreditation and certification as security service provider.
1.7	Formative Assessment	Assessment that takes place during the process of teaching and learning which has as its purpose the progressive development of learner's ability
1.8	Internal assessment	An assessment scheduled and coordinated by security training provider. The type of assessment includes both formative and summative.
1.9	Learning Outcomes	Refers to contextually demonstrated end product of specific learning process which includes knowledge, skills, values and behavioural attitude for a regulated industry.
1.1	Summative assessment	Assessment for making judgement about the achievement of a student at the end of the academic programme,

2. Policy Background and Objectives

Currently, security training and assessment is conducted by security training providers at PSiRA accredited training providers sites. However, due to the changing environment within the security sector and the move to a digitalized society and methods of learning, there is a need to create easier and more convenient ways of assessing prospective and current security officers in line with the changing trends in the training and development sphere.

PSiRA in line with its responsibility and function of regulating the private security industry, must exercise effective control over the practice of the occupation of security service providers and take steps as may be necessary in connection with the training of security service providers to ensure high quality of training and assessment.

Consequently and in line with the legislative mandate of PSiRA, this policy seeks to ensure high quality training, improve professionalisation of the industry through credible training and assessments processes, and to measure knowledge, skills and comptencies of trained security offiers.

Therefore, it is imperative to establish a management approach that will serve as a building block to authentic certification of security officers.

3. Legislative Framework and Related Documents

3.1 Constitution of the Republic of South Africa, Act 108 of 1996
3.2 Private Security Industry , Act 56 of 2001;
3.3 Code of Conduct for Security Service Providers,2003;
3.4 Policy SAQA on Criteria and Guidelines Document for Conducting Outcome Based Assessment;
3.5 Policy on Curriculum and Assessment Policy ,2016;
3.6 Industry Training policy, March 2019.

4. Purpose of the policy

4.1 The purpose of this policy is to –

4.1.1 set standards for the planning, management, coordination and conducting of internal and external assessments.

4.1.2 ensure and promote credibility in the assessments of security officers (SOs);

4.1.3 provide for systematic approach pertaining to conduct, administration and management of accreditation of security officers,

4.1.4 ensure that learner records kept by the training service provider reflect genuine learner progress during the learning phase; and

4.1.5 ensure the authenticity of internal and external assessments for accreditation and certification of prospective and existing security officers.

4.1.6 inform the security training providers, security trainers and instructors, assessors, PSiRA Staff of principles and procedures for the internal and external assessments.

5. Scope of Applicability

5.1 This policy applies to:

5.1.1 All accredited security service providers

5.1.2 Security Training Providers (instructors and assessors);

5.1.3 Assessment Centres;

5.1.4 PSiRA Training Unit; and

5.1.5 Inspectorate in Law Enforcement

6. Types of Assessment Methods

There are various assessment methods that will be utilised in different phases of learning and training:

6.1 **Formative Assessment**: takes place during the process of teaching and learning. This assessment evaluates the progressive development of a learner's ability to achieve the learning outcomes.

6.2 **Summative Assessment**: Assessment for making judgement about the achievement of a student at the end of the academic programme.

6.3 **External Assessment**: a digital assessment coordinated by the Authority for assessment of learners who have completed internal assessment and RPL candidates.

7. Principles for Credibility of Assessment

7.1 All Assessment centres, training providers and assessors must -

7.1.1 conduct assessments that are aligned to the accreditation granted and comply with every condition attached to such accreditation;

7.1.2 use officially approved methods and procedures when assessing the knowledge, insight or skills of any person undergoing security training;

7.1.3 act in an objective manner without showing prejudice or favour; and

7.1.4 employ methods or practices that will not distort the knowledge, insight or skills to be acquired.

8. Obligations of Security Training Providers

8.1 All accredited security training providers must when planning, preparing and conducting assessments ensure that –

8.1.1 there is a full training cycle;

8.1.2 assessments are aligned to the knowledge and practical component;

8.1.3 assessment standards are aligned to the modules outcomes and skills being assessed;

8.1.4 necessary evidence is kept as part of learners' portfolio of evidence;

8.1.5 assessments are conducted by security trainers who are registered and accredited as instructors for the same courses they are assessing; and

8.1.6 reporting of the learner's achievements to the Authority is informed by assessment outcomes;

8.1.7 assessment outcomes of internal assessments are submitted to the Authority within fourteen (14) days from the date of the assessments;

8.1.8 assessment outcomes of external assessments are submitted to the authority within 48 hours of completion of assessments.

9. Obligations of Learners

9.1 All registered learners must:

9.1.1 attend and complete the courses and undergo assessment for the specified duration;

9.1.2 prepare and submit required evidence for both formative and summative assessment;

9.1.3 complete and submit the feedback forms in review of the assessment Processes;

9.1.4 pay non-refundable booking fee for the external assessment in a manner prescribed by the Authority;

9.1.5 report in person for external assessment at the time, venue scheduled by the Authority;

9.1.6 obey and comply to all assessment rules.

10. Obligations of the Authority regarding Assessments

10.1 The following functions shall be performed by the Authority in the management and coordination of assessments:

10.1.1 develop a data bank of multiple assessment instruments (Questionnaire) moderated internal and externaly;

10.1.2 determine the scale of achievement in percentages for external assessment as form of standard setting;

10.1.3 determine the accreditation criteria for assesment of centres;

10.1.4 provide the digital platform for the online external assessment to provide for the following business solutions:

(a) application and registration of learners

(b) random selection of assessment questionnaires

(c) uploading of results for summativive assessment by seurity training providers

(d) final assessment(External Assessment)

(e) automated marking

(f) assessment recording and feedback

(g) reports

10.1.5 ensure the security and maintainance of the digital infrustructure;

10.1.6 establish a digital monitoring system for performance reporting on quality of training and internal assessments and external assessments;

10.1.7 develop and provide the annual calendar for the scheduled sessions to provide for dates, venues and time on assessents and or define multiple digital platforms enabling learner security officers to access external assessments;

10.1.8 provide guidelines for reporting learners results in case where external assessment will remain traditional;

10.1.9 determine the learner fee for external assesment, and turn around for booking the external assessment.

11. Obligations of Assessment Centres

11.1. All assessment centres recognised and accredited by Authority must:

11.1.1. comply with the Authority's policy and procedure on assessment and the guidelines;

11.1.2. conclude a formal Memorundum of Agreement with the Authority;

11.1.3. in the event where a training provider is a recognised and accredited Assessment Centre, the premises must provide infrastructure for assessment in addition to the training facilities;

11.1.4. ensure that access is granted only to registered learners.

12. Planning and Coordination of Internal Assessment

12.1 All assessments must be well coordinated in support of the expected performance by security training and the assessment instruments must be developed in line with the guiding principles and processes.

12.1.1 **Prepare Assessment:** this include range of organising and preparing resources, people, schedules venues, assessment

instrument. This must be prepared in line with the policies, guidelines etc.;

12.1.2 **Conduct Assessment:** persons entitled by law to conduct such assessment must ensure and demonstrate the ability conclude on assessment judgement using various sources of evidence.

12.1.3 **Provide feedback on assessment:** relevant parties to provide feedback includes candidate, assessors, instructors. Other form of feedback may re-direct the candidate to further application of training or re-assessment.

12.1.4 **Assessment Reviews:** the assessments referred to are centric to a learner and aims to gather the following aspects:

(a) Quality of the assessment instruments, against the set outcome;
(b) The assessment processes;
(c) Candidate readiness

13 External Assessments

13.1 Application for external assessments will be considered, where –

13.2 A leaner has susuccessfully completed the formative and summative assessments and has attained the required pass mark; and

13.3 a person who does not have formal qualifications in the private security industry but have experience, has successfully completed the Recognition of Prior Learning(RPL) question are and qualifies to apply for RPL.

13.4 The process for application for RPL will be outlined in a form of a Standard Operating Procedure document.

13.5 External assessment sessions will be scheduled by the Authority at recognised and accredited assessment centres.

13.6 External Assessments outcomes that are recorded for all learners will be provided by the Authority, in a prescribed manner.

14 Pass mark

14.1 The **pass mark** for all assessments is 50%.

14.2 Learners who do not attain the required pass mark will be afforded two (2) chances to retake the assessment and must make application for re-assessment to the Authority;

14.3 Only learners who attain marks between 45% - 49% will qualify to apply for re-assessment.

14.4 Where candidates for RPL attain 45%-49%, the candidates shall undergo gap training in order to qualify for re-assessment.

15 Re-Assessment

15.1 A learner who fails to attain the required pass mark and who wishes to take the re-assessment must –

15.1.1 Submit an application to the training centre where he/she will take the re-assessment;

15.1.2 Make payment of the prescribed re-assessment fee as determined from time to time by the Authority;

15.1.3 Upon completion of the gap training an RPL candidate must make application for re-assessment to the Authority against payment of the re-assessment fee prescribed by the Authority.

16 Feedback on Assessments

16.1 Security training providers must furnish the Authority with assessment results of learners within three (3) business days from the date of the assessments;

16.2 The Authority must furnish learners and candidates of RPL with assessment results within seven (7) business days of administration of the external assessment.

16.3 All existing, registered and accredited instructors, assessors will conduct assessment in line with paragraph 7 above of this policy and report the achievement of learner's outcomes to the Authority within three (3) working days.

16.4 Various methods on reporting assessment for the summative assessment will be used, for access purpose to the external assessments.

16.5 12.2.1 The various assessment reporting methods may include, methods and

16.6 uploading of actual learners' achievements by security training providers via a digital platform

16.7 manual submission of course reports, as it may be informed by any case.

17 Accreditation of Assessment Centres

17.1 A training centre that wishes to obtain accreditation by the Authority as an assessment establishment for the assessment of security service providers must be registered as a training centre in terms of the PSiR Act and pay the prescribed accreditation fee.

18 Withdrawal and Termination of Accreditation of Assessment Centres

18.1 The withdrawal and/or termination of accreditation of an assessment centre shall be done on three (3) month's written notice under the following circumstances:

18.1.1 by agreement between the Authority and the assessments centre;

18.1.2 in case the assessment centre relinquishes the status of accreditation agreement, this will be due to due to:

(a) incapacity to host due to high demand of scheduled request

(b) growth in the institution student enrolment roll

(c) lack of interest

(d) low return in partnership for collaboration

(e) voluntary withdrawal by the Authority

19 Irregularities

19.1.1 Any event that will act as a compromise to the credibility of assessment

process will be classified as an irregularity including:

19.1.2 an act of dishonesty by a learner;

19.1.3 negligence by instructors and assessors during, before and after preparation and administration of the assessments;

19.1.4 negligence by instructors and assessors in reporting assessment outcomes;

20 Reporting Irregularities

20.1 All irregularities identified during the internal assessment must be reported

to the invigilator/instructor observing the assessment session;

20.2 Reported incidents may disqualify a leaner for the assessment;

20.3 All irregularities identified during the external assessment must be reported to the Authority and will be referred to the Training sub-committee for investigation.

20.4 All cases reported with shall be dealt with in line with guidelines for the

management of assessments.

21 Monitoring and Review of the Policy

This policy will be monitored by the Training Sub-Committee.

22 Approval of the Policy

This policy will become effective upon approval by the Council of the Private Security Industry Regulatory Authority (PSiRA)

PART B

Consultation Schedule

CATEGORY OF CONSULTATIONS	METHODS / AREAS	LOCATION/DATES	CONTACT DETAILS	DATES/TIME	Facilitator
Written Representations	Email, Letters and Facsimile (All 9 Provinces)	420 Witch-Hazel Avenue, Block B – Eco Glades 2 Office Park, Highveld Ext 70	Email: comments.assessment (for all written presentations)	3 March 2021 16h00	Anna Tsele
Consultative Workshops	Mpumalanga Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	17 February 2021 09h30 - 12h00	Anna Tsele Sharon Shingage
Consultative Workshops	Free State Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	18 February 2021 09h00 - 11h30	Anna Tsele
Consultative Workshops	Northern Cape Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	18 February 2021 12h30 - 15h00	Anna Tsele
Consultative Workshops	Limpopo Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	22 February 2021 9h00- 11h30	Anna Tsele Peter Mafologela
Consultative Workshops	Limpopo Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	22 February 2021 12h30 - 15h00	Anna Tsele Mafologela
Consultative Workshops	Eastern Cape Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	23 February 2021 9h30- 12h00	Anna Tsele Sidney Stander

Consultative Workshops	Western Cape Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	24 February 2021 09h30- 12h00	Anna Tsele Marius Bruwer
Consultative Workshops	Kwa-Zulu Natal Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	25 February 2021 09h00- 11h30	Anna Tsele Ntokozo Ncogo
Consultative Workshops	Kwa-Zulu Natal Province	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	25 February 2021 12h30- 15h00	Anna Tsele Ntokozo Ncogo
Consultative Workshops	Gauteng Province JHB	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	26 February 2021 09h00- 11h30	Anna Tsele Greshem Singh
Consultative Workshops	Gauteng Province PTA	**Virtual (Microsoft Teams)**	Mr Siphamandla Zimema Sharon.Matiopoto@psira.co.za (RSVP for workshops) Tel: 012 003 0662	26 February 2021 12h30- 15h00	Anna Tsele Greshem Singh

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 24 OF 2021

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

CALL FOR PUBLIC INTEREST SUBMISSIONS INTO THE INVESTIGATION FOR REMEDIAL ACTION IN THE FORM OF A SAFEGUARD MEASURE AGAINST THE INCREASED IMPORTS OF BOLTS WITH HEXAGON HEADS OF IRON OR STEEL

On 15 May 2020, the International Trade Administration Commission of South Africa (the Commission) initiated an investigation for a remedial action in the form of a safeguard against increased imports of bolts with hexagon heads of iron or steel through Notice Number 272 which was published in the Government Gazette Number 43316.

Upon initiation of the investigation, interested parties were invited to submit comments on the initiation of the investigation.

On the basis of the information at the Commission's disposal, it made a preliminary determination that events cited by the applicant can be regarded as unforeseen developments that led to increased volumes of imports; the SACU industry is suffering serious injury; there is a causal link between the serious injury suffered by the SACU industry and the surge of imports; and there are critical circumstances were a delay would cause damage that would be difficult to repair. The Commission further determined to impose provisional payments of 31.8% *ad valorem* on imports of bolts with hexagon heads of iron or steel for a maximum of 200 days, pending the finalisation of the investigation.

The basis and reasons for the Commission's findings are set out in its Preliminary Report Number 636.

PROCEDURAL FRAMEWORK

This investigation is conducted in accordance with the International Trade Administration Act, 2002 (ITA Act) and the International Trade Administration Commission Amended Safeguard Regulations (SGR), read with the World Trade Organization Agreement on Safeguards (the Safeguard Agreement).

Interested parties were invited to comment in writing to the Commission's preliminary determination, and the 14 day deadline for comments was on 27 November 2020.

Interested parties are invited to submit comments on whether it will be in the public interest to impose definitive safeguard measures on the subject product, in accordance with Section 20.2 of the SGR, which stipulates that "In determining whether a safeguard measure would be in the public interest the need to take note of the trade distorting effect of the surge in imports and the need to restore effective competition shall be given special consideration".

Interested parties should make their submissions on public interest in writing and indicate interest to attend and make oral presentations to Commission on public interest to the Senior Manager: Trade Remedies II not later than 14 days from the date of this publication. Interested parties wishing to make oral presentations should submit a detailed version, including a non-confidential version of the information to be discussed at the public hearing. A party that did not timeously submit a non-confidential version of the information to be discussed at the public hearing will not be allowed to make an oral presentation.

An online public hearing is scheduled for 16 February 2021 at 10h00, with further details to be communicated. Parties requesting to attend the public hearing should note that this will be an open hearing with all parties present and only non-confidential information should be presented during the public hearing.

CONFIDENTIAL INFORMATION

Please note that if any information is considered to be confidential then a non-confidential version of the information must be submitted for the public file, simultaneously with the confidential version. In submitting a non-confidential version the following rules are strictly applicable and parties must indicate:

- where confidential information has been omitted and the nature of such information;
- reasons for such confidentiality;
- a summary of the confidential information which permits a reasonable understanding of the substance of the confidential information; and
- exceptional cases, where information is not susceptible to summary, a sworn statement setting out the reasons why it is impossible to comply, should be provided.

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless indicated to be confidential and filed together with a non-confidential version, will be placed on the public file and be made available to other interested parties.

Subsection 33(1) of the ITA Act provides that any person claiming confidentiality of information should identify whether such information is confidential by nature or is otherwise confidential and, any such claims must be supported by a written statement, in each case, setting out how the information satisfies the requirements of the claim to confidentiality. In the alternative, a sworn statement should be made setting out reasons why it is impossible to comply with these requirements.

CONTINUES ON PAGE 130 - PART 2

Vol. 667 29 January Januarie 2021 No. 44103

PART 2 OF 2

ADDRESS

Any information regarding this matter must be submitted in writing to the following address:

Physical address

Senior Manager: Trade Remedies II
International Trade Administration Commission
Block E – The DTI Campus
77 Meintjies Street
SUNNYSIDE
PRETORIA
SOUTH AFRICA

Postal address

Senior Manager: Trade Remedies II
Private Bag X753
PRETORIA
0001
SOUTH AFRICA

Should you have any queries, please do not hesitate to contact the investigating officers, Mr Edwin Mkwanazi at +27 12 394 3742, email:emkwanazi@itac.org.za and Ms Portia Mathebula at +27 12 394 1456, email:pmathebula@itac.org.za or at fax number 012 394 0518.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 25 OF 2021

INTERNATIONAL TRADE ADMINISTRATION COMMISSION

CUSTOMS TARIFF APPLICATIONS

LIST 02/2021

The International Trade Administration Commission (herein after referred to as ITAC or the Commission) has received the following application concerning the Customs Tariff. Any objection to or comment on this representation should be submitted to the Chief Commissioner, ITAC, Private Bag X753, Pretoria, 0001. Attention is drawn to the fact that the rate of duty mentioned in this application is that requested by the applicant and that the Commission may, depending on its findings, recommend a lower or higher rate of duty.

CONFIDENTIAL INFORMATION

The submission of confidential information to the Commission in connection with customs tariff applications is governed by section 3 of the Tariff Investigations Regulations, which regulations can be found on ITAC's website at http://www.itac.org.za/documents/R.397.pdf.
These regulations require that if any information is considered to be confidential, then a non-confidential version of the information must be submitted, simultaneously with the confidential version. In submitting a non-confidential version the regulations are strictly applicable and require parties to indicate:

- *Each instance where confidential information has been omitted and the reasons for confidentiality;*
- *A summary of the confidential information which permits other interested parties a reasonable understanding of the substance of the confidential information; and*
- *In exceptional cases, where information is not susceptible to summary, reasons must be submitted to this effect.*

This rule applies to all parties and to all correspondence with and submissions to the Commission, which unless clearly indicated to be confidential, will be made available to other interested parties.

The Commission will disregard any information indicated to be confidential that is not accompanied by a proper non-confidential summary or the aforementioned reasons.
If a party considers that any document of another party, on which that party is submitting representations, does not comply with the above rules and that such deficiency affects that party's ability to make meaningful representations, the details of the deficiency and the reasons why that party's rights are so affected must be submitted to the commission in writing forthwith (and at the latest 14 days prior to the date on which that party's submission is due).
Failure to do so timeously will seriously hamper the proper administration of the investigation, and such party will not be able to subsequently claim an inability to make meaningful representations on the basis of the failure of such other party to meet the requirements.

INCREASE IN THE RATE OF CUSTOMS DUTY ON:

"Dumpers designed for off-highway use: Other", classifiable under tariff subheading 8704.10.90 from free of duty to 10% *ad valorem*, as follows:

APPLICANT:
BelL Equipment Company SA (Pty) Limited
13-19 Carbonode Cell Road
ALTON
RICHARDS BAY
3900

Enquiries: ITAC Ref: 19/2020, Enquires: Mr. Pfarelo Phaswana / Mr. Pardon Hadzhi, Tel: 012 394 3628/3634 or email pphaswana@itac.org.za/phadzhi@itac.org.za.

REASONS FOR THE APPLICATION:

The applicant submitted, *inter alia*, the following reasons for the application:

- The general economic decline and uncertainties that exist in South Africa and Sub-Saharan Africa make it difficult to maintain production volumes at a level where current facilities and work force is justified;

- The domestic industry has, over the years, lost its domestic market share to foreign OEMs are not subject to territorial and distribution restrictions and often have access to cheap export credit finance facilities from the importing countries;

- The loss of sales to importers has a negative impact on the employment levels across the value chain; and

- The imposition of a 10% import tariff will assist domestic manufacturers to be more price competitive, retain current jobs and provide an opportunities to capture additional market share and boast employment across the value chain.

PUBLICATION PERIOD:
Representation should be made within **four (4)** weeks of the date of this notice.

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NOTICE 26 OF 2021

COMPETITION TRIBUNAL
NOTIFICATION OF DECISION TO APPROVE MERGER

The Competition Tribunal gives notice in terms of rules 34(b)(ii) and 35(5)(b)(ii) of the "Rules for the conduct of proceedings in the Competition Tribunal" as published in Government Gazette No. 22025 of 01 February 2001 that it approved the following mergers:

Case No.	Acquiring Firm	Target Firm	Date of Order	Decision
LM146Oct20	SPE MID-Market Fund I Partnership	Cavalier Group of Companies (Pty) Ltd	25/11/2020	Approved
LM160Nov20	Bachique 813 (Pty) Ltd	Tupperware Holdinngs SA (Pty) Ltd	21/12/2020	Approved
LM166Dec20	Orviscene (Pty) Ltd	Makrogate Ltd	21/12/2020	Approved
LM144Jan20	Thabong Coal (Pty) Ltd	South32 SA Coal Holdings (Pty) Ltd	23/12/2020	Approved Subject to Conditions

The Chairperson
Competition Tribunal

BOARD NOTICES • RAADSKENNISGEWINGS

BOARD NOTICE 1 OF 2021

ROAD ACCIDENT FUND

ADJUSTMENT OF STATUTORY LIMIT IN RESPECT OF CLAIMS FOR LOSS OF INCOME AND LOSS OF SUPPORT

The Road Accident Fund hereby, in accordance with section 17(4A)(a) of the Road Accident Fund Act, No. 56 of 1996, as amended, adjusts and makes known that the amounts referred to in subsection 17(4)(c) are hereby adjusted to **R299 154**, with effect from **31 January 2021**, to counter the effects of CPI inflation.

Note: The CPI index based on the new "basket and weights" was used to calculate this adjustment, **effective from 31 January 2021** (with base year December 2016 = 100). The rebased CPI index for May 2008 was 62.63. The CPI index for November 2020 was 117.1. This adjustment was calculated by multiplying the R 160 000 limit by 117.1/62.63.

RAADSKENNISGEWING 1 VAN 2021

PADONGELUKFONDS

AANPASSING VAN STATUTÊRE LIMIET TEN OPSIGTE VAN EISE VIR VERLIES AAN INKOMSTE EN ONDERHOUD

Die Padongelukfonds maak ooreenkomstig artikel 17(4A)(a) van die Padongelukfondswet, No. 56 van 1996, soos gewysig, bekend dat, met effek vanaf **31 Januarie 2021**, die bedrae waarna verwys word in subartikel 17(4)(c) aangepas word tot **R299 154**, ten einde die uitwerking van VPI inflasie teen te werk.

Neem kennis: Die VPI indeks gebasseer op die nuwe "mandjie en gewigte" is gebruik om hierdie aanpassing, **effektief vanaf 31 Januarie 2021**, te bereken (met basisjaar Desember 2016 = 100). Die heraangepaste VPI indeks vir Mei 2008 was 62.63. Die VPI indeks vir November 2020 was 117.1. Hierdie aanpassing was bereken deur die R 160 000 limiet te vermenigvuldig met 117.1/62.63

BOARD NOTICE 2 OF 2021

APPOINTMENT OF MEMBERS TO SERVE ON THE 6th TERM COUNCIL OF THE ENGINEERING COUNCIL OF SOUTH AFRICA

At its meeting that was held on 18 November 2020, the Cabinet endorsed the appointment of the recommended candidates for the 6th Term Council of the Engineering Council of South Africa (ECSA). As such, as the Minister of Public Works and Infrastructure, pursuant to such an endorsement and in line with Section 4 (6) of the Engineering Profession Act, 2000 (Act No. 46 of 2000), I have hereby announce the appointment of the following persons to serve as council members of the ECSA for a four-year term, starting from 20 November 2020 to 19 November 2024.

NO		APPOINTED MEMBERS
	Section 3 (1) (a): Professionals	
1.		Ms Refilwe Buthelezi
2.		Ms Prudence Madiba
3.		Ms Tshwaraganang Ramagofu
4.		Mr John Daniels
5.		Mr Mashao Lawrence Lebea
6.		Prof Kasongo Nyembwe
7.		Mr Simphiwe Nathaniel Zimu
8.		Mr Thembinkosi Cedric Madikane
9.		Mr Sipho Mkhize
10.		Ms Nirvanna Rampersad
11.		Ms Liezl Smith
12.		Ms Refilwe Lesufi
13.		Ms Sarah Skorpen
14.		Ms Abimbola Olukunle
15.		Mr Sandiswa Jekwa
16.		Ms Linda Njomane
17.		Mr Mpho Ramuhulu
18.		Ms Phillile Precious Mdletshe
19.		Mr Lesetja Boshomane
20.		Ms Amelia Mtshali
21.		Mr Thulebona Memela
22.		Prof Carlo van Zyl
23.		Mr Ranthekeng Moloisane
24.		Mr Njabulo Nhleko
25.		Ms Elizabeth Theron
26.		Mr Arnold Heinz Sommer
27.		Ms Rachel Ledwaba
28.		Mr Nic Smit
	Section 3 (1) (b): State Representatives	
29.		Ms Simangele Mngomezulu
30.		Ms Otilie Mthethwa
31.		Mr Thembinkosi Gamedze
32.		Ms Phumza Zweni
33.		Cpt Bhekinkosi Mvovo
34.		Ms Petronella Sibiya
35.		Ms Cingisa Mbola
36.		Ms Thulisile Mwelase

37.		Mr Kennej Ojagaar
	Section 3 (1) (d): Public Representatives	
38.		Ms Thandeka Chili
39.		Mr Sifiso Keswa
40.		Ms Sejako Tolo
41.		Ms Nirashe Sampson
42.		Ms Siwele Mudileni
43.		Ms Nokhana Moerane
44.		Mr Mamadi Isau Mailula
45.		Dr Natalie Skeepers
46.		Mr Metome Edmund Modipa
47.		Dr Reginald Sethole Legoabe

P. de Lille

MS P DE LILLE, MP
MINISTER OF PUBLIC WORKS & INFRASTRUCTURE
DATE: 7 December 2020