

REPUBLIC  
OF  
SOUTH AFRICA



REPUBLIEK  
VAN  
SUID-AFRIKA

# Government Gazette Staatskoerant

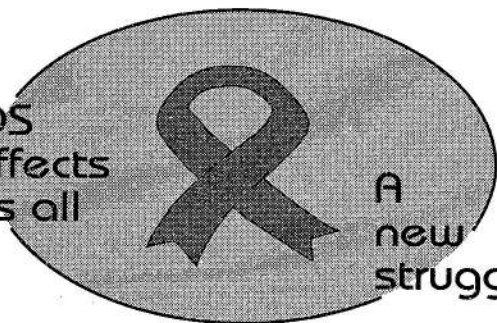
Vol. 414

PRETORIA, 24 DECEMBER 1999  
DESEMBER

No. 20752

**We all have the power to prevent AIDS**

AIDS  
affects  
us all



A  
new  
struggle

**Prevention is the cure**

**AIDS  
HELPUNE**

**0800 012 322**

DEPARTMENT OF HEALTH

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## GENERAL NOTICES

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### NOTICE 2889 OF 1999

#### DEPARTMENT OF TRADE AND INDUSTRY

#### AMENDMENT OF THE RULES FOR THE CONDUCT OF PROCEEDINGS IN THE COMPETITION COMMISSION

In terms of section 21(4) of the Competition Act, 1998 (Act No. 89 of 1998) the Minister of Trade and Industry, in consultation with the Competition Commission, has amended the Rules for the conduct of proceedings in the Competition Commission published under General Notice No. 1938 of 20 August 1999 in the manner set out in the Schedule.

### SCHEDULE

1. Rule 8(5) is amended by deleting it and replacing it with the following Rule 8(5):

“8(5) The fee for filing a Merger Notice is-

(a) for an intermediate merger

- (i) R 5 000, if the combined figure is valued at or above R 50 million, but less than R 100 million; or
- (ii) R 125 000, if the combined figure is valued at or above R 100 million, but less than R 1 billion; or
- (iii) R 250 000, if the combined figure is valued at or above R 1 billion; or

(b) for a large merger R 500 000.”

2. Rule 8(7)(b) is amended by deleting the words “Rule 25(1)” and replacing them with the words, “item 6(b) of the Amended Determination of Threshold published by the Minister of Trade and Industry in terms of section 11 of the Act.”

**NOTICE 2890 OF 1999****DEPARTMENT OF TRADE AND INDUSTRY****AMENDMENT OF COMPETITION RULES**

In terms of section 21(4) of the Competition Act, 1998 (Act No. 89 of 1998) the Minister of Trade and Industry, in consultation with the Competition Commission, has amended the Competition Rules published under General Notice No. 1939 of 20 August 1999 in the manner set out in the Schedule.

**SCHEDULE**

Forms CC 4(1), CC 4 (2), CC 4 (3), CC 9 (2), CC 9 (3) and CC 16 of the Competition Rules published under General Notice No. 1939 of 20 August 1999 are hereby withdrawn and replaced with the following Forms CC 4 (1), CC 4 (2), CC 4 (3), CC 9 (2), CC 9 (3) and CC 16.



# COMPETITION COMMISSION

## REPUBLIC OF SOUTH AFRICA

### Form CC 4(1)

### Merger Notice

#### About this Form

- This Form is issued in terms of section 13 of the Competition Act.
- Two copies of this form, and a completed Statement of Merger Information in Form CC4(2), must be filed by either the primary acquiring firm, or the primary target firm, within seven days after the earlier of: (i) the conclusion of the merger agreement; (ii) the public announcement of a proposed merger bid; or (iii) the acquisition by any one of the parties to that merger, of a controlling interest of another.
- Within five days after filing this Notice, you must pay the prescribed filing fee.
- Complete and sign the Statement of Accuracy on page 2.

(Instructions continued on page 2.)

### Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: ccsa@compcom.co.za

To: the Competition Commission  
From:

(Name and address of firm reporting the merger:)

Please take notice of a merger, as defined in section 12 of the Competition Act, involving the reporting firm as :

☐ the primary  
acquiring firm

☐ the primary  
target firm

and involving \_\_\_\_\_ as

☐ the primary  
acquiring firm

☐ the primary  
target firm

The earliest of the relevant events listed in section 13(1) of the Act occurred on \_\_\_\_\_.

The names and principal address of all other acquiring or target firms as defined in Competition Commission Rule 25(1), and of all trade unions of the primary acquiring and primary target firms, are listed on an attached sheet.

Particulars of the merger are set out in the attached Statement of Merger Information, which forms part of this Notice.

Notices and other documents concerning this merger may be served on the following person at the address and contact number shown:

For Office  
Use Only:

Commission file number: \_\_\_\_\_

Date filed: \_\_\_\_\_

## Instructions Continued:

- After receiving a case number from the Commission, you must deliver a copy of this Notice and the attached Statement of Information, to: (a) every other party to the merger; and (b) the applicable persons referred to in section 13 (2) of the Competition Act, with respect to your own firm.
- You must file proof of delivery of the Merger Notice and Statement of Information as required with the Commission within three days after filing this form.
- Parties to a merger must not implement that merger until they have received a certificate of approval, or conditional approval, in terms of the Competition Act.
- A party to a merger who does not file a notice of that merger as required by the Competition Act may be fined an administrative penalty of up to 10% of the party's annual turnover in the Republic.
- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Notice does not provide correct and complete information.

## Form CC4(1) - Page 2

(Name and file number of merger:)

### Certification of Accuracy:

I, \_\_\_\_\_,  
have prepared, or supervised those who prepared, this Notice of Merger.

To the best of my knowledge, the information contained in this document is true, correct and complete in terms of the Competition Act and Competition Commission Rules, except to the extent that I have indicated -

- (a) that requested data is not available in books or records, and reasonable estimates have been used instead; or
- (b) complete information has not been provided because it is unavailable, in which case I have provided an explanation for the information being unavailable.

I understand -

- (a) that it is an offence in terms of the Competition Act to provide false information to the Competition Commission in any manner, including in these documents; and
- (b) that sections 73 and 74 of the Competition Act provide for a penalty of a fine, or imprisonment, or both, if I am found guilty of knowingly providing false information to the Competition Commission.

Name and Title of person authorised to sign:

Authorised Signature:

Date:

\_\_\_\_\_

\_\_\_\_\_

For Office  
Use Only:

Commission file number:

Date filed:

\_\_\_\_\_

\_\_\_\_\_

# COMPETITION COMMISSION

## REPUBLIC OF SOUTH AFRICA

### Form CC 4(2)

### Statement of Merger Information

#### About this Form

- This Form is issued in terms of section 13 of the Competition Act, and must be filed by the Primary Acquiring Firm, and the Primary Target firm involved in a merger.
- Attach to this Form the following items:
  - a) the most recent version of all documents constituting the merger agreement;
  - b) each report assessing the transaction with respect to competitive conditions;
  - c) your most recent annual report;
  - d) your most recent business plan for each product or service identified in this statement;
  - e) each report you provided the Securities Regulation Panel
- You may include any other relevant information that you want the Commission to consider.

To: the Competition Commission

From:

(Name of firm filing this Statement:)

If you did not file the Merger Notice, please check one of the following:

☐

we consent to being represented in this merger proceeding by the firm that filed the Merger Notice.

☐

we will participate in this merger proceeding.

On a separate sheet of paper, provide the following information in the order listed.

#### Identification:

1. State the name and principal business address of the party filing this Notice.
2. State the name and principal business address of all firms directly or indirectly controlling you.
3. List the name and principal business of each firm directly or indirectly controlled by each firm referred to in item 2.
4. List the name and principal business address of each firm you directly or indirectly control.
5. If you are an acquiring party, and you or any of the firms controlling you are owned or controlled by a member of a historically disadvantaged group as defined in Section 3(2) of the Competition Act, state the name(s) of the person(s) and the nature and extent of their ownership or control.

### Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: ccsa@compcom.co.za

For Office  
Use Only:

Commission file number:

Date filed:

## Form CC 4(2) Page 2

- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.

- Generally, information relating to this merger is not part of the public record while the Commission is considering the merger. However, if the merger is referred to the Tribunal, information relating to it becomes a public record.

You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this Statement.

- When describing the merger, please indicate any relevant facts concerning the impact of the merger on employment, or other public interest issues set out in section 16 (3) of the Act.

6. State your annual turnover in South Africa for your preceding financial year and the range of months covered by your financial year.
7. State the value of your assets in South Africa as of the date of the Merger Notice.
8. State your annual turnover in South Africa as of the date of the Merger Notice.

### Transaction Information:

9. Indicate whether you (the party filing this Notice) are:

- ☐ acquiring assets, shares, or other interests.
- ☐ selling assets, shares, or other interests.
- ☐ both acquiring and selling assets, shares, or other interests.

10. Describe the merger, including: the parties to the transaction; the assets, shares, or other interests being acquired; whether the assets, shares, or other interests are being purchased, leased, combined or otherwise transferred; the consideration; the contemplated timing for any major events required to bring about the completion of the transaction; and the intended structure of ownership and control of the completion of the merger.

### Products and Services:

11. Identify each product that you or another acquiring firm (or target firm, if applicable) sell, and each service you or that other firm provide in South Africa. Identify only products and services that you believe are considered by buyers as reasonably interchangeable with, or a substitute for, a product or service provided in South Africa by another party to the merger. Use Standard Industrial Codes to identify products, if possible.
12. For each identified product or service, state the geographic area(s) in the Republic in which you sell and in which there are other sellers whom buyers may consider to be reasonably interchangeable or substitutable.
13. For each identified product or service, identify the five producers or providers in each of the identified geographic areas with the largest estimated turnover in value and their estimated share of the total turnover during the last full 12 months.
14. For each identified product or service, state your turnover in each of the identified geographic areas for the last full 12 months.

## Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: [ccsa@compcom.co.za](mailto:ccsa@compcom.co.za)

**Form CC 4(2)**  
**Page 3**

- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.
- Generally, information relating to this merger is not part of the public record while the Commission is considering the merger. However, if the merger is referred to the Tribunal, information relating to it becomes a public record.

**You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this Statement.**

15. For each identified product or service, identify your five customers in each of the geographic areas with the largest purchases in value for the last full 12 months.

### Business Relationships Among Parties:

State the name of any other Acquiring firm(or Target firm, if applicable) that sells to you, identify the product or service sold, and show the value of each product or service during your preceding financial year.

[illegible]

This form is prescribed by the Minister of Trade and Industry in terms of section 21 (4) of the Competition Act 1998 (Act No. 89 of 1998).



## Form CC 4(2) Page 4

- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.
- Generally, information relating to this merger is not part of the public record while the Commission is considering the merger. However, if the merger is referred to the Tribunal, information relating to it becomes a public record.

You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this Statement.

### Certification of Accuracy:

I, \_\_\_\_\_, have prepared, or supervised those who prepared, this Notice of Merger.

To the best of my knowledge, the information contained in this document is true, correct and complete in terms of the Competition Act and Competition Commission Rules, except to the extent that I have indicated -

- (a) that requested data is not available in books or records, and reasonable estimates have been used instead; or
- (b) complete information has not been provided because it is unavailable, in which case I have provided an explanation for the information being unavailable.

I understand -

- (a) that it is an offence in terms of the Competition Act to provide false information to the Competition Commission in any manner, including in these documents; and
- (b) that sections 73 and 74 of the Competition Act provide for a penalty of a fine, or imprisonment, or both, if I am found guilty of knowingly providing false information to the Competition Commission.

Name and Title of person authorised to sign:

Authorised Signature:

Date:



## Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: [ccsa@compcom.co.za](mailto:ccsa@compcom.co.za)

# COMPETITION COMMISSION

## REPUBLIC OF SOUTH AFRICA

### Form CC 4(3)

#### About this Form

- This Form is issued in terms of section 13 of the Competition Act, and must be filed by each party to a merger that is not either the Primary Acquiring Firm or the Primary Target Firm.
- Attach to this Form the following items:
  - a) annual report;
  - b) your most recent business plan for each product or service identified in this statement;
  - c) each report you provided the Securities Regulation Panel within the past 12 months.
- You may include any other relevant information that you want the Commission to consider.

(Continued on next page)

### Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: ccsa@compcom.co.za

### Statement of Merger Information

To: the Competition Commission

From:

(Name of firm filing this Statement:)

The above named firm:

☐ consents to being represented in this merger proceeding by the firm that filed the Merger Notice.

☐ will participate in this merger proceeding.

On a separate sheet of paper, provide the following information in the order listed.

#### Identification:

1. State the name and principal business address of the party filing this Notice.
2. State the name and principal business address of each firm directly or indirectly controlling you.
3. List the name and principal business of each firm directly or indirectly controlled by each firm referred to in item 2.
4. List the name and principal business address of each firm you directly or indirectly control.
5. If you are an acquiring party, and you or any of the firms controlling you are owned or controlled by a member of a historically disadvantaged group as defined in Section 3(2) of the Competition Act, state the name(s) of the person(s) and the nature and extent of their ownership or control.

For Office  
Use Only:

Commission file number:

Date filed:



## Form CC 4 (3)

### Page 2

- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.
- Generally, information relating to this merger is not part of the public record while the Commission is considering the merger. However, if the merger is referred to the Tribunal, information relating to it becomes a public record.

You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this Statement.

6. State your annual turnover in South Africa for your preceding financial year and the range of months covered by your financial year.
7. State the value of your assets in South Africa as at the date of the Merger Notice
8. State your annual turnover in South Africa as at the date of the Merger Notice

#### Products and Services:

9. Identify each product that you or another acquiring firm (or target firm, if applicable) sell, and each service you or that other firm provide in South Africa. Identify only products and services that you believe are considered by buyers as reasonably interchangeable with, or a substitute for, a product or service provided in South Africa by another party to the merger. Use Standard Industrial Codes to identify products, if possible.
10. For each identified product or service, state the geographic area(s) in the Republic in which you sell and in which there are other sellers whom buyers may consider to be reasonably interchangeable or substitutable.
11. For each identified product or service, state the estimated total turnover of all suppliers in each of the identified geographical areas for the last full 12 months.
12. For each identified product or service, identify the five producers or providers in each of the identified geographic areas with the largest estimated turnover in value and their estimated share of the total turnover during the last full 12 months.
13. For each identified product or service, identify your five customers in each of the geographic areas with the largest purchases in value for the last full 12 months.

(Continued on next page)

## Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: [ccsa@compcom.co.za](mailto:ccsa@compcom.co.za)

**Form CC 4 (3)**  
**Page 3**

- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.
- Generally, information relating to this merger is not part of the public record while the Commission is considering the merger. However, if the merger is referred to the Tribunal, information relating to it becomes a public record.

**You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this Statement.**

## Contacting the Commission

**The Competition Commission**  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: [ccsa@compcom.co.za](mailto:ccsa@compcom.co.za)

**Business Relationships with Other Parties to the Merger:**

State the name of any other Acquiring firm(or Target firm, if applicable) that sells to you, identify the product or service sold, and show the value of each product or service during your preceding financial year.

[illegible]

This form is prescribed by the Minister of Trade and Industry in terms of section 21 (4) of the Competition Act 1998 (Act No. 89 of 1998).

## Form CC 4 (3) Page 4

- Approval, or conditional approval of a merger may be revoked if it is subsequently discovered that this Statement of Information is not accurate.
- Generally, information relating to this merger is part of the public record. You have a right to identify information that you believe is confidential, by completing Form CC7 and submitting it with this Statement.

### Certification of Accuracy:

I, \_\_\_\_\_, have prepared, or supervised those who prepared, this Statement of Information.

To the best of my knowledge, the information contained in this document is true, correct and complete in terms of the Competition Act and Competition Commission Rules, except to the extent that I have indicated -

- (a) that requested data is not available in books or records, and reasonable estimates have been used instead; or
- (b) complete information has not been provided because it is unavailable, in which case I have provided an explanation for the information being unavailable.

I understand -

- (a) that it is an offence in terms of the Competition Act to provide false information to the Competition Commission in any manner, including in these documents; and
- (b) that sections 73 and 74 of the Competition Act provide for a penalty of a fine, or imprisonment, or both, if I am found guilty of knowingly providing false information to the Competition Commission.

## Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: [ccsa@compcom.co.za](mailto:ccsa@compcom.co.za)

Name and Title of person authorised to sign:

Authorised Signature:

Date:

# COMPETITION COMMISSION

## REPUBLIC OF SOUTH AFRICA

### Notice CC 9 (2)

#### About this Notice

- This notice is issued in terms of Competition Commission Rule 21(5).
- Please see Competition Commission Rule 21(5) and (6) concerning this notice.
- In terms of Competition Commission Rule 21(5)(c), the Commission may not initiate or accept a complaint against you in respect of the practice referred to in this matter for anything done between the date of the advice that is being withdrawn and the date of this notice.

### Withdrawal of Advice (Rule 21(5))

Date: \_\_\_\_\_

To:

(Name of Applicant:)

(Name and file number of application:)

You applied to the Competition Commission on \_\_\_\_\_ for an exemption from Chapter 2 of the Competition Act.

After reviewing the information you provided, the Competition Commission advised on \_\_\_\_\_ that it did not consider the agreement or practice described by you to be a prohibited practice in terms of Chapter 2 of the Competition Act, 1998.

In terms of Competition Commission Rule 21(5), the Competition Commission now withdraws the advice set out in our notice to you for the reasons set out in the attached Reasons for Decision.

This notice takes effect 90 days after the date it is issued.

The Competition Commission will now evaluate your original application for exemption to determine whether the agreement or practice may be exempted in terms of section 10(a) of the Act, and invites you to submit any new information relevant to your application.

### Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:

# COMPETITION COMMISSION

## REPUBLIC OF SOUTH AFRICA

### Notice CC 9 (3)

#### About this Notice

- This notice is issued in terms of section 10(5)(a) of the Competition Act.
- You may apply to the Competition Tribunal to review this decision within 5 business days. Please see Rule 21(6) of the Commission Rules.

### Revocation of Advice (Rule 21(6))

Date: \_\_\_\_\_

To: \_\_\_\_\_

(Name of Applicant:)

(Name and file number of application:)

You applied to the Competition Commission on \_\_\_\_\_  
for an exemption from Chapter 2 of the Competition Act.

After reviewing the information you provided, the Competition Commission advised on \_\_\_\_\_ that it did not consider the agreement or practice described by the applicant to be a prohibited practice in terms of Chapter 2 of the Competition Act, 1998.

In terms of section 10(5)(a) of the Act, the Competition Commission now revokes the advice set out in our notice to you for the reasons set out in the attached Reasons for Decision, and on the grounds that the advice was given on the basis of false or incorrect information provided by you.

This notice takes effect 5 business days after the date of this notice.

### Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: ccsa@compcom.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:



# COMPETITION COMMISSION

## REPUBLIC OF SOUTH AFRICA

### Notice CC 16

#### About this Notice

- This notice is issued in terms of section 14 of the Competition Act.
- The primary acquiring firm or primary target firm may request the Competition Tribunal to consider the prohibition of this merger by filing a Request for Consideration in Form CT4 within 15 days after the date of this certificate. Please see Tribunal Rules 33 through 35.

#### Contacting the Commission

The Competition Commission  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9000  
fax: 27 012 482 9001  
e-mail: ccsa@compcom.co.za

### Prohibition of Merger

Date: \_\_\_\_\_

To: \_\_\_\_\_

(Name and file number of merger:)

You applied to the Competition Commission  
on \_\_\_\_\_ for merger approval in accordance  
with Chapter 3 of the Competition Act.

After reviewing the information you provided, the Competition Commission prohibits this merger in terms of section 14(1)(b) of the Act for the reasons set out in the Reasons for Decision.

Name and Title of person authorised to sign on behalf of the  
Competition Commission:

Authorised Signature:

**NOTICE 2891 OF 1999****DEPARTMENT OF TRADE AND INDUSTRY****AMENDMENT OF COMPETITION RULES**

1. In terms of section 27(2) of the Competition Act, 1998 (Act No. 89 of 1998) the Minister of Trade and Industry, in consultation with the Competition Tribunal, has withdrawn General Notice 1941 of 20 August 1999 with effect from the date of this Notice.
2. In terms of section 27(2) of the Competition Act, 1998 (Act No. 89 of 1998) the Minister of Trade and Industry, in consultation with the Competition Tribunal, has made the following regulations set out in the Schedule relating to the functions of the Competition Tribunal with effect from the date of this Notice.

**SCHEDULE**

These forms apply to the Rules of the Competition Tribunal and are published in terms of section 27(2) of the Competition Act, 1998 (Act No. 89 of 1998).



# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Form CT1(1)

#### About this Form

- This form is issued in terms of section 50 of the Competition Act.
- This form is to be used only for a referral by the Competition Commission.
- Unless this is a consent proceeding, the respondent may answer this referral within 20 business days after being served with this referral.
- If the answer raises only a point of law, it must set out the question of law to be resolved. Any other answer must be in affidavit form, setting out in numbered paragraphs:
  - (a) a concise statement of the grounds on which the Complaint is opposed;
  - (b) the material facts or points on which the respondent relies;
  - (c) an admission or denial of each ground and of each material fact relevant to each ground set out in the Complaint Referral.
- An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an answer will be deemed to have been admitted.
- Please see Competition Tribunal Rules 16 through 20.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

### Referral of Complaint by Commission

Date: \_\_\_\_\_

To: the Registrar of the Competition Tribunal, and:

(Name of respondent and [if applicable] other participants :)

Concerning:

(Complaint name and Commission file number:)

From: the Competition Commission

The Competition Commission alleges that the Respondent contravened the provisions of the Competition Act, section \_\_\_\_\_ during the period from \_\_\_\_\_ until \_\_\_\_\_ by engaging in the following prohibited conduct:

(Concise statement of the alleged prohibited practice:)

- ☐ This referral is to proceed as a consent proceeding.
- ☐ This referral is to proceed as a contested proceeding. Attached is an affidavit setting out the particulars of this complaint, and a statement of the material facts relevant to it, as required by Competition Tribunal Rule 17(2).

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT1 (2)

#### About this Form

- This form is issued in terms of section 50 of the Competition Act.
- Within 3 days of filing this notice, you must serve a copy of it on the respondent and any other person who has previously filed a Complaint Referral in the matter.
- Unless this is a consent proceeding, the respondent may answer this referral within 20 business days after being served this referral.
- If the answer raises only a point of law, it must set out the question of law to be resolved. Any answer must be in affidavit form, setting out in numbered paragraphs:
  - (a) a concise statement of the grounds on which the Complaint is opposed;
  - (b) the material facts or points on which the respondent;
  - (c) an admission or denial of each ground and of each material fact relevant to each ground set out in the Complaint Referral.
- An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an answer will be deemed to have been admitted.
- Please see Competition Tribunal Rules 16 through 20.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

### Referral of Complaint by Complainant

Date: \_\_\_\_\_

From: (Name and address of person filing referral:)

To: the Registrar of the Competition Tribunal, and:

(Name of respondent and [if applicable] other participants :)

Concerning:

(Complaint name and Commission file number:)

The Competition Commission initiated or accepted a complaint against the above named respondent on: \_\_\_\_\_

Upon completing its investigation, the Competition Commission issued a Certificate of Non-Referral on \_\_\_\_\_

In terms of section 51(1) of the Competition Act, the Party named above alleges that the Respondent contravened the provisions of the Competition Act, section \_\_\_\_\_ during the period from \_\_\_\_\_ until \_\_\_\_\_ by engaging in the following prohibited conduct:

(Concise statement of the alleged prohibited practice:)

☐ This referral is to proceed as a consent proceeding.

☐ This referral is to proceed as a contested proceeding. Attached is a detailed statement of the particulars of this complaint, and a statement of the material facts relevant to it, as required by Competition Tribunal Rule 17(2).

Name and Title of person authorised to sign:

Authorised Signature: \_\_\_\_\_

Date: \_\_\_\_\_

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT1 (3)

#### About this Form

- This form is issued in terms of Competition Tribunal Rule 15(1)(c).
- Within 3 days of filing this notice, you must serve a copy of it on the respondent.
- Unless this is a consent proceeding, the respondent may answer this referral within 20 business days after being served this referral.
- If the answer raises only a point of law, it must set out the question of law to be resolved. Any answer must be in affidavit form, setting out in numbered paragraphs:
  - (a) a concise statement of the grounds on which the Complaint is opposed;
  - (b) the material facts or points on which the respondent;
  - (c) an admission or denial of each ground and of each material fact relevant to each ground set out in the Complaint Referral.
- An allegation of fact set out in the Complaint Referral that is not specifically denied or admitted in an answer will be deemed to have been admitted.
- Please see Competition Tribunal Rules 16 through 20.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

### Referral of Complaint by Complainant

Date: \_\_\_\_\_

From: (Name and address of person filing referral:)

To: the registrar of the Competition Tribunal, and:

(Name of respondent and [if applicable] other participants :)

(In the matter of:)

The complainant is a party to the above referenced matter in the \_\_\_\_\_ court, case number \_\_\_\_\_, in the matter between \_\_\_\_\_ and \_\_\_\_\_. On \_\_\_\_\_, the Court referred that matter to the Tribunal in terms of section 65(2)(b) of the Competition Act.

In terms of section 51(1) of the Competition Act, the complainant alleges that the Respondent contravened the provisions of the Competition Act, section \_\_\_\_\_ during the period from \_\_\_\_\_ until \_\_\_\_\_ by engaging in the following prohibited conduct:

(Concise statement of the alleged prohibited practice:)

☐ This referral is to proceed as a consent proceeding.

☐ This referral is to proceed as a contested proceeding. Attached is a detailed statement of the particulars of this complaint, and a statement of the material facts relevant to it, as required by Competition Tribunal Rule 17(2).

Name and Title of person authorised to sign:

Authorised Signature:

Date:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Form CT 2

#### About this Form

- This Form is issued in terms of Competition Tribunal Rule 26.
- This Form must be signed by the respondent and the Competition Commission and attached to a referral to the Competition Tribunal, together with a draft order and any Form CT 3 that has been completed in relation to this matter.

### Consent to Order

Date: \_\_\_\_\_

To: the Competition Tribunal

From:

(Name of respondent firm filing this Consent:)

Concerning:

(Name and Commission file number of complaint:)

The Competition Commission initiated or accepted a complaint against the above named respondent on: \_\_\_\_\_.

The Competition Commission and the respondent have agreed terms of an appropriate order in this matter and each consent to the Competition Tribunal making an order in terms of section 63 of the Act, as attached.

Name and Title of person authorised to sign on behalf of respondent:

Authorised Signature:

Date:

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

Name and Title of person authorised to sign on behalf of the Competition Commission:

Authorised Signature:

Date:



# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Form CT 3

#### About this Form

- This Form is issued in terms of Competition Commission Rule 20.
- This Form must be attached to a referral to the Competition Tribunal, together with a draft order and Form CT 2 in relation to this matter.

### Consent to Include Damages in Consent Order

Date: \_\_\_\_\_

To: The Competition Commission and the Competition Tribunal

From:

(Name of claimant:)

Concerning:

(Name and file number of complaint:)

#### Statement of Claimant:

The claimant has suffered material damages as a result of the conduct that is the subject matter of this complaint, and agrees to having compensation for those damages, payable on the terms set out in the attached sheet, and in the amount of R\_\_\_\_\_, included in a consent order made by the Competition Tribunal in terms of section 63 of the Competition Act.

The claimant understands that if compensation is awarded in a consent order as contemplated, any right of the claimant to civil damages arising out of the same conduct may be limited or precluded in terms of section 63(3) of the Competition Act.

Name and Title of person authorised to sign:

Authorised Signature:

Date:



### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

For Office  
Use Only:

Tribunal file number:

Date filed:

\_\_\_\_\_

\_\_\_\_\_

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Form CT 4

#### About this Form

- This form is issued in terms of Tribunal Rule 33.
- This notice may be filed with the Tribunal at any time within 14 days after the decision of the Commission.
- The party filing this notice must attach a summary of the factual and legal basis upon which the request is based.
- The party filing this notice must serve a copy of it on the Commission and on every other participant in the merger proceedings before the Commission.
- Please refer to Competition Tribunal Rules 33 through 35.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

### Request for Consideration of Intermediate Merger

To: The registrar, Competition Tribunal and the Competition Commission:

From:

(Name of party to the merger filing this request:)

Concerning:

(Name and file number of merger:)

On \_\_\_\_\_, the Competition Commission

☐

prohibited

☐

conditionally approved

the above referenced merger.

For the reasons set out on the attached sheet, we request that the Competition Tribunal consider the merger in terms of section 15(1) of the Act, and substitute the following decision in place of the decision of the Commission.

State concisely the decision you seek:

Name and Title of person authorised to sign:

Authorised Signature:

Date:



For Office  
Use Only:

Tribunal file number:

Date filed:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Form CT 5

### Notice

#### About this Form

- This form is issued in terms of the Competition Tribunal Rules. to be used in any case in which the Rules require a Notice to be filed with the Tribunal, but do not stipulate the a particular form of Notice.
- Please indicate in the space provided the nature of the matter of which you are giving notice, including specific reference to the relevant section of the Act or Tribunal Rule.

Date: \_\_\_\_\_

To: The registrar, Competition Tribunal:

From:

(Name of party giving notice:)

Concerning:

(Name and file number:)

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

For Office  
Use Only:

Tribunal file number: \_\_\_\_\_

Date filed: \_\_\_\_\_



# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Form CT 6

### Notice of Motion

#### About this Form

- This Form is issued in terms of the Competition Tribunal Rules.
- Please indicate in the space provided the nature of your motion, including specific reference to the relevant section of the Act or Tribunal Rule.
- If this Notice of Motion concerns a matter being brought in terms of Division E of Part 4 of the Competition Tribunal Rules, it must comply with the requirements of Competition Tribunal Rule 42(3).

Date: \_\_\_\_\_ File # \_\_\_\_\_

To: the registrar of the Competition Tribunal  
From:

(Name of participant filing this notice:)

Concerning the matter between:

\_\_\_\_\_ (Applicant)

and

\_\_\_\_\_ (Respondent)

Take notice that the \_\_\_\_\_  
intends to apply to the Tribunal for the following order:

Name and Title of person authorised to sign:

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

Authorised Signature:

Date:

For Office  
Use Only:

Tribunal file number:

Date filed:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 7

#### About this Form

- This form is issued in terms of the Competition Tribunal Rules, to be used for filing an appeal in terms of Tribunal Rule 38.
- Please attach to this notice a typed document, which must comply with the requirements of Competition Tribunal Rule 38(4), setting out thereasons for your appeal.

### Notice of Appeal

Date: \_\_\_\_\_

To: The registrar, Competition Tribunal

From: \_\_\_\_\_

Concerning:

(Name and Commission file number:)

(Date of Commission decision being appealed:)

Take notice that we appeal from the decision of the Competition Commission, to the Competition Tribunal in terms of

☐ section \_\_\_\_\_ of the Competition Act.

☐ Competition Tribunal Rule \_\_\_\_\_.

Our reasons for appeal, and the facts and contentions on which we rely, are set out on the attached sheet.

Name and Title of person authorised to sign: \_\_\_\_\_

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

Authorised Signature: \_\_\_\_\_

Date: \_\_\_\_\_

For Office  
Use Only:

Tribunal file number: \_\_\_\_\_

Date filed: \_\_\_\_\_

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 8

### Notice of Withdrawal

#### About this Form

- This form is issued in terms of Competition Tribunal Rule 51.

Date: \_\_\_\_\_

To: the registrar, Competition Tribunal

From: \_\_\_\_\_

(Name of initiating party:)

Concerning the matter between:

\_\_\_\_\_ (Applicant)

and

\_\_\_\_\_ (Respondent)

Take Notice that the initiating party withdraws

☐ all of the initiating document in this matter.

☐ that part of the initiating document in this matter that is noted on the attached sheet.

☐ The \_\_\_\_\_ consents to pay costs as set out in the attached sheet.

Name and Title of person authorised to sign:

Authorised Signature: \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

For Office  
Use Only:

Tribunal file number: \_\_\_\_\_

Date filed: \_\_\_\_\_

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 9

#### About this Notice

- This notice is issued in terms of Competition Commission Rule 36.

### Extension Certificate

Date: \_\_\_\_\_

To all participants in:

(Name and file number of merger:)

The Competition Commission received notice of the merger referred to above on \_\_\_\_\_.

In terms of Competition Commission Rule 36(2), the Competition Tribunal extends until \_\_\_\_\_ the period within which the Competition Commission must refer the above referenced merger to the Tribunal with a recommendation.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: [ctsa@comptrib.co.za](mailto:ctsa@comptrib.co.za)

The registrar, Competition Tribunal:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 10

### Merger Clearance Certificate

#### About this Notice

- This notice is issued in terms of section 15 of the Competition Act.
- You may appeal against this decision to the Competition Appeal Court within 30 days.

Date: \_\_\_\_\_

To:

(Name and file number of merger:)

You applied to the Competition Commission on \_\_\_\_\_ for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14 (3) of the Act, or was the subject of a Request for Consideration by the Tribunal in terms of section 15(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approves the merger in terms of section 15(2) of the Act, for the reasons set out in the Reasons for Decision.

This approval is subject to:

☐

no conditions.

☐

the conditions listed on the attached sheet.

The Competition Tribunal has the authority in terms of section 15(3) of the Competition Act to revoke this approval if

- it was granted on the basis of incorrect information for which the party to the merger was responsible.
- the approval was obtained by deceit.
- a firm concerned has breached an obligation attached to this approval.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

The registrar, Competition Tribunal:



# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 11

### Prohibition of Merger

#### About this Notice

- This notice is issued in terms of section 15 of the Competition Act.
- You may appeal against this decision to the Competition Appeal Court within 30 days.
- A firm that proceeds to implement a merger that has been prohibited is subject to an administrative fine in terms of Section 61 of the Competition Act.

Date: \_\_\_\_\_

To:

(Name and file number of merger:)

You applied to the Competition Commission on \_\_\_\_\_ for merger approval in accordance with Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14 (3) of the Act, or was the subject of a Request for Consideration by the Tribunal in terms of section 15(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal prohibits this merger in terms of section 15 (2) of the Act, for the reasons set out in the Reasons for Decision.

#### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

The registrar, Competition Tribunal:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 12

### Revocation of Merger Decision

#### About this Notice

- This notice is issued in terms of section 37 of the Competition Act.
- You may apply to the Competition Appeal Court within 30 days to review this decision.

Date: \_\_\_\_\_

To:

(Name and file number of merger:)

You applied to the Competition Commission on \_\_\_\_\_  
for merger approval in terms of Chapter 3 of the Competition Act.

Your merger was referred to the Competition Tribunal in terms of section 14 (3) of the Act, or was the subject of a Request for Consideration by the Tribunal in terms of section 15(1) of the Act.

After reviewing all relevant information, and the recommendation or decision of the Competition Commission, the Competition Tribunal approved your merger.

In terms of section 15(3) of the Competition Act, the Competition Tribunal advises that the approval granted on \_\_\_\_\_ is  
revoked with effect from \_\_\_\_\_  
for the reasons set out in the attached Reasons for Decision.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

The registrar, Competition Tribunal:



# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 13

### Tribunal Summons

#### About this Notice

- This notice is issued in terms of section 54 of the Competition Act. Please also see Tribunal Rule 48.
- It is an offence in terms of the Act for a person who has been summoned to fail to attend without sufficient excuse.
- It is an offence in terms of the Act for a person who has been summoned and attends as required, to refuse to be sworn in or make an affirmation or to fail to produce any item if it is in possession or under the control of that person.
- It is an offence in terms of the Act for a person who has been summoned and attends as required, to fail to answer any question fully or to give false evidence, knowing or believing it is to be false.

#### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

To:

Concerning:

(Name and file number:)

A proceeding concerning this matter has been commenced before the Competition Tribunal.

You are required to appear at

and give evidence before the Competition Tribunal  
on \_\_\_\_\_  
at \_\_\_\_\_ o'clock, in the morning/afternoon.

You are also required to bring with you:

- (a) the documents or items listed on the attached \_\_\_\_\_ sheet(s); and
- (b) any other documents or items in your possession or under your control that relate to this matter.

Issued on \_\_\_\_\_, by \_\_\_\_\_,  
the member of the Tribunal presiding over this matter,  
in terms of section 49 of the Competition Act.

The registrar, Competition Tribunal:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 14

### Notice of Hearing

#### About this Notice

- This notice is issued in terms the Competition Tribunal Rules.

Date: \_\_\_\_\_

From: the registrar of the Competition Tribunal

To: participants in the following matter:

(Name and file number:)

Take notice that the hearing of this matter will commence

at \_\_\_\_\_

on \_\_\_\_\_,

at \_\_\_\_\_ o'clock in the morning/afternoon.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

The registrar, Competition Tribunal:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 15

### Notice of Set - Down

#### About this Notice

- This notice is issued in terms of Competition Tribunal Rules.

Date: \_\_\_\_\_

From: the registrar of the Competition Tribunal

To: participants in the following matter:

(Name and file number of merger:)

The hearing of this matter commenced on \_\_\_\_\_  
and was postponed on \_\_\_\_\_.

Take notice that the hearing will resume at

\_\_\_\_\_

on \_\_\_\_\_,

at \_\_\_\_\_ o'clock in the morning/afternoon.

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

The registrar, Competition Tribunal:

# COMPETITION TRIBUNAL

## REPUBLIC OF SOUTH AFRICA

### Notice CT 16

### Certificate of Decision

#### About this Notice

- This notice is issued in terms of section 65(6)(b) of the Competition Act 1998.

- Section 65(7) of the Competition Act states:

"A certificate ... is conclusive proof of its contents and is binding on a civil court."

Date: \_\_\_\_\_

From: Chairperson, the Competition Tribunal

To: Registrar/Clerk of the court of \_\_\_\_\_:

(In the matter of:)

Upon hearing a complaint referred to it, in terms of the Competition Act 1998, the Competition Tribunal, on \_\_\_\_\_, found the practice described below to be a prohibited practice in terms of section \_\_\_\_\_ of that Act.

(Name of party engaging in the prohibited practice:)

(Section of the Act in terms of which the Tribunal made its finding:)

(Nature of prohibited practice:)

### Contacting the Tribunal

The Competition Tribunal  
Private Bag X23  
Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
tel: 27 012 482 9200  
fax: 27 012 482 9201  
e-mail: ctsa@comptrib.co.za

The chairperson, Competition Tribunal:

Amendment to Determination of Threshold :

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**NOTICE 2892 OF 1999**

**NOTICE**

**BY**

**THE MINISTER OF TRADE AND INDUSTRY**

**THE COMPETITION ACT, 1998**

**(ACT 89 OF 1998)**

**Amendment to Determination of Threshold**

I, Alexander Erwin, Minister of Trade and Industry, do hereby in terms of section 6(1) of the Competition Act, 1998 (Act 89 of 1998), ("the Act") in consultation with the Competition Commission amend General Notice No. 1942 of 20 August 1999 by replacing the Schedule to that Notice with the Schedule set out below.



## **Schedule**

### **Method of Calculation**

#### **1. Generally accepted accounting practices apply**

For the purposes of section 6 of the Act, the assets, and the turnover, of a firm must be calculated in accordance with South African generally accepted accounting practice ("G.A.A.P."), subject only to the following provisions of this notice.

#### **2. Valuation of Assets**

- (1) For the purpose of section 6 of the Act, the asset value of a firm at any time is based on the gross value of the firm's assets as recorded on the firm's balance sheet for the end of the immediately previous financial year, subject to the provisions of sub-items (2) and (3).
- (2) In particular –
  - (a) the asset value equals the total assets less any amount shown on that balance sheet for depreciation or diminution of value;
  - (b) the assets are to include all assets on the balance sheet of the firm including any goodwill or intangible assets included in the balance sheet;
  - (c) no deduction may be taken for liabilities or encumbrances of the firm;
  - (d) assets in the Republic includes all assets arising from activities in the Republic.
- (3) If, between the date of the financial statements being used to calculate the asset value of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those statements –

**Method of Calculation :**

s3

- 
- (a) The following items must be added to the calculation of the firm's asset value if these items should in terms of G.A.A.P. be included in the firm's asset value;
    - (i) The value of those recently acquired assets; and
    - (ii) Any asset received in exchange for those recently divested assets.
  - (b) The following items may be deducted in calculating the firm's asset value if these items were included in the firm's asset value:
    - (i) The value of those recently divested assets at the date of their divestiture; and
    - (ii) Any asset that was shown on the balance sheet and was subsequently used to acquire the recently acquired asset.

**3. Calculation of annual turnover**

- (1) For the purpose of section 6 of the Act, the annual turnover of a firm at any time is the gross revenue of that firm from income in, into or from the Republic, arising from the following transactions and events as recorded on the firm's income statement for the immediately previous financial year, subject to the provisions of sub-items (2), (3) and (4):
  - (a) the sale of goods;
  - (b) the rendering of services; and
  - (c) the use by others of the firm's assets yielding interest, royalties and dividends.
- (2) In particular –
  - (a) When calculating turnover the following amounts may be excluded:
    - (i) any amount that is properly excluded from gross revenue in accordance with G.A.A.P.;

- (ii) taxes, rebates, or any similar amount calculated and paid in direct relation to revenue, as for example, sales tax, value added tax, excise duties, and sales rebates, may be deducted from gross revenue;
  - (b) revenue excludes gains arising from non current assets and from foreign currency transactions; and
  - (c) for banks and insurance firms revenue includes those amounts of income required to be included in an income statement in terms of generally accepted accounting practice, but excluding those amounts noted in 3(2)(b).
- (3) If, between the date of the most recent financial statements being used to calculate the turnover of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements –
  - (a) the turnover generated by those recently acquired assets must be included in the calculation of the firm's turnover if this turnover should in terms G.A.A.P. be included in the turnover of the firm; and
  - (b) the turnover generated by those recently divested assets in the immediately previous financial year may be deducted from the firm's turnover if this turnover was included in the turnover of the firm.
- (4) If the financial statements used as a basis for calculating turnover or the turnover included in terms of sub-item 3(a) are for more or less than twelve months, the values recorded on those statements must be pro-rated to the equivalent of twelve months.

#### **4. Form of financial statements**

Financial statements used as a basis for calculating assets or turnover of a firm –

- (a) must be the firm's audited financial statements, if, -
  - (i) in terms of any law, the firm is required to produce such statements; or
  - (ii) the firm has audited statements for the relevant period; and
- (b) otherwise, must be prepared in accordance with G.A.A.P.

**NOTICE 2893 OF 1999****DEPARTMENT OF TRADE AND INDUSTRY****THE COMPETITION ACT, 1998****(ACT 89 OF 1998)****Amendment to Determination of Threshold**

I, Alexander Erwin, Minister of Trade and Industry, do hereby in terms of section 11(1) of the Competition Act, 1998 (Act 89 of 1998), ("the Act") in consultation with the Competition Commission amend General Notice No. 1943 of 20 August 1999 by -

- (1) Amending item 6(a) of the Determination of Threshold, by inserting the words "of the Rules for the Conduct of Proceedings in the Competition Commission, as contained in General Notice number 1938 of the 20<sup>th</sup> August 1999", after the words "Rule 25(1)".
- (2) Deleting item 6(b) of the Determination of Threshold and replacing it with the following:

"6(b) "target firm" means-

- (i) a firm, or the business or assets of a firm, that as a result of a transaction in any circumstances set out in section 12 of the Act, would become controlled by, or a significant interest in which would be held by another firm; and
- (ii) any other firm, or business or assets of a firm, that is controlled by, or a significant interest in which is held by, a firm or business described in subparagraph (i)."

(3) Replacing the Schedule to that Notice with the Schedule set out below:

## **Schedule**

### **Method of Calculation**

#### **1. Generally accepted accounting practices apply**

For the purposes of section 11 of the Act, the assets, and the turnover, of a firm must be calculated in accordance with South African generally accepted accounting practice ("G.A.A.P."), subject only to the following provisions of this notice.

#### **2. Valuation of Assets**

- (1) For the purpose of section 11 of the Act, the asset value of a firm at any time is based on the gross value of the firm's assets as recorded on the firm's balance sheet for the end of the immediately previous financial year, subject to the provisions of sub-items (2) and (3).
- (2) In particular –
  - (a) the asset value equals the total assets less any amount shown on that balance sheet for depreciation or diminution of value;



**Method of Calculation :**

s2

- 
- (b) the combined assets are to include all assets on the balance sheets of the firms concerned, including any goodwill or intangible assets included in their balance sheets;
  - (c) no deduction may be taken for liabilities or encumbrances of the firm;
  - (d) the combined assets are to be calculated on the basis of the combined assets before giving affect to the merger and accordingly the combined assets do not include any goodwill or intangible assets that would arise as a result of the merger;
  - (e) the combined assets are not adjusted for any investments the acquiring firm might have in the target firm or amounts due by one firm to the other; and
  - (f) assets in the Republic includes all assets arising from activities in the Republic.
- (3) If, between the date of the financial statements being used to calculate the asset value of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements –
- (a) The following items must be added to the calculation of the firm's asset value if these items should in terms of G.A.A.P. be included in the firm's asset value;
    - (i) The value of those recently acquired assets; and
    - (ii) Any asset received in exchange for those recently divested assets.
  - (b) The following items may be deducted in calculating the firm's asset value if these items were included in the firm's asset value:
    - (i) The value of those recently divested assets at the date of their divestiture; and
    - (ii) Any asset that was shown on the balance sheet and was subsequently used to acquire the recently acquired asset.

### 3. Calculation of annual turnover

- (1) For the purpose of section 11 of the Act, the annual turnover of a firm at any time is the gross revenue of that firm from income in, into or from the Republic, arising from the following transactions and events as recorded on the firm's income statement for the immediately previous financial year, subject to the provisions of sub-items (2), (3) and (4):
  - (a) the sale of goods;
  - (b) the rendering of services; and
  - (c) the use by others of the firm's assets yielding interest, royalties and dividends.
- (2) In particular –
  - (a) When calculating turnover the following amounts may be excluded:
    - (i) any amount that is properly excluded from gross revenue in accordance with G.A.A.P.;
    - (ii) taxes, rebates, or any similar amount calculated and paid in direct relation to revenue, as for example, sales tax, value added tax, excise duties, and sales rebates, may be deducted from gross revenue;
  - (b) no adjustment is made for any amount that represents a duplication arising from transactions between the acquiring firm and the target firm;
  - (c) revenue excludes gains arising from non current assets and from foreign currency transactions; and
  - (d) for banks and insurance firms revenue includes those amounts of income required to be included in an income statement in terms of generally accepted accounting practice, but excluding those amounts noted in 3(2)(c).
- (3) If, between the date of the most recent financial statements being used to calculate the turnover of a firm, and the date on which that calculation is being made, the firm has acquired any subsidiary company, associated company or joint venture not

**Method of Calculation :**

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shown on those financial statements, or divested itself of any subsidiary company, associated company or joint venture shown on those financial statements –

- (a) the turnover generated by those recently acquired assets must be included in the calculation of the firm's turnover if this turnover should in terms G.A.A.P. be included in the turnover of the firm; and
  - (b) the turnover generated by those recently divested assets in the immediately previous financial year may be deducted from the firm's turnover if this turnover was included in the turnover of the firm.
- (4) If the financial statements used as a basis for calculating turnover or the turnover included in terms of sub-item 3(a) are for more or less than twelve months, the values recorded on those statements must be pro-rated to the equivalent of twelve months.

**4. Combined valuation of firms**

- (1) If the acquiring firm is a subsidiary of a group of companies as contemplated in the Companies Act, 1973 (Act No. 61 of 1973) for the purposes of calculations required in terms of this notice –
  - (a) the combined assets of the firms that are part of that group, and the combined turnover of those firms, must be consolidated;
  - (b) the consolidated assets and turnover of the group are to exclude turnover or assets arising as a result of transactions by one part of the group with another part of the same group.
- (2) If the target firm controls any other firm or business for the purposes of calculations required in terms of this notice –
  - (a) the combined assets of those firms and businesses, and their combined turnover, must be consolidated; and

- (b) the consolidated assets and turnover of the group are to exclude turnover or assets arising as a result of transactions by one part of the group with another part of the same group.

## **5. Form of financial statements**

Financial statements used as a basis for calculating assets or turnover of a firm –

- (a) must be the firm's audited financial statements, if, -
    - (i) in terms of any law, the firm is required to produce such statements; or
    - (ii) the firm has audited statements for the relevant period; and
  - (b) otherwise, must be prepared in accordance with G.A.A.P.
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