



# Government Gazette

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## GENERAL NOTICE

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### NOTICE 1237 OF 2005

### COMPETITION COMMISSION

### APPLICATION FOR AN EXEMPTION

Notice is hereby given in terms of section 10 (6) (a) of the Competition Act, No. 89 of 1998, as amended ("the Competition Act"), that South African Airways (Pty) Ltd (herein referred to as "SAA"), a state owned company, registered in terms of the Companies Act, 1973 has applied to the Competition Commission in terms of section 10 (1) of the Competition Act for an exemption from certain provisions of Chapter 2 of the Act. SAA is active in the business of providing passenger air transportation services in South Africa, the Southern Africa region and internationally,

In its application SAA indicated that it intended to join the Star Alliance, which is an alliance between a number of international airlines and is one of three of the major Global Airline Alliances. This entailed SAA signing the Main Star Alliance agreement, which can be described as a co-operation agreement in terms of which airline members cooperate, coordinate and market certain of their services and offer joint products. Each member remains independent and maintains a separate corporate identity, brand name and capacity to take its own decisions.

The most important features of the Main Star Alliance agreement are that it provides for:

- Route and schedule coordination throughout global route networks on an alliance-wide basis
- Fare prorating on an alliance-wide basis
- Cooperation in marketing, advertising, sales and distribution activities, including travel agent and other commissions and development of joint bids for government and corporate contracts
- Information exchange
- Participation in reciprocal frequent flyer programs
- Participation in Joint Star Alliance Products ("the joint products"):
  - Round the World Fares
  - Regional Fares
  - Joint Convention Product

o **Joint Corporate Agreements**

To the extent necessary, SAA has applied for an exemption in relation to its intention to offer the joint products pursuant to its membership of the Star Alliance.

Since members of the Star Alliance are in a horizontal relationship, that is a relationship between companies operating at the same level of a market, the offering of the joint products may be in contravention of Section 4(1)(a) and/or 4(1)(b) of the Competition Act.

The application is based on the premise that SAA's offering of the joint products as a member of the Star Alliance will allow SAA to remain competitive in global aviation markets while providing better service to consumers and business in South Africa. The Competition Act provides, in section 10(3)(b), for four grounds on which an exemption application may be granted and it is argued that two of these grounds in particular are relevant, namely:

- The maintenance and promotion of exports [section 10(3)(b)(i)]; and
- A change in productive capacity necessary to stop decline in an industry [section 10(3)(b)(iii)].

Interested parties may in terms of section 10 (6) (b) of the Competition Act, within 20 business days from the date of this notice, make written representations to the Commission why the exemption should not be granted

Such representations may be directed to the Manager: Enforcement and Exemptions, Private Bag X23, Lynnwood Ridge, 0040, or by facsimile to number (012) 394 4272

In correspondence kindly refer to Case No. 2005Apr1552.

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