

NOTICE 688 OF 2006

COMPETITION COMMISSION

NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED) OF THE GRANTING OF AN EXEMPTION

Notice is hereby given in terms of section 10(7) of the Competition Act 89 of 1998, as amended ("the Act"), that the Competition Commission ("the Commission") has, in response to an application by Petroleum Oil and Gas Corporation of South Africa (Proprietary) Limited ("PetroSA") for an exemption of the Petroleum Product Purchase and Sale Agreement ("the agreement") in terms of section 10(1)(a) of the Act, granted an exemption in terms of section 10(2)(a) of the Act for a period of three years, commencing on 29 January 2005 and ending on 28 January 2008.

PetroSA applied to the Commission for the agreement entered into between PetroSA and the major South African oil companies (BP South Africa (Proprietary) Limited, Caltex Oil (SA) (Proprietary) Limited, Engen Petroleum Limited, Sasol Oil (Proprietary) Limited, Shell South Africa Marketing (Proprietary) Limited and Total SA (Proprietary) Limited) to be exempt from the provisions of section 4(1) of the Act. PetroSA relied on the grounds available for the granting of an exemption in section 10(3)(b)(iv) of the Act. Section 10(3)(b)(iv) provides that the Commission may grant an exemption of an agreement in terms of section 10(2)(a) of the Act only if the agreement concerned contributes to the economic stability of any industry designated by the Minister of Trade and Industry after consulting the Minister responsible for that industry. The Minister of Trade and Industry, by way of a Notice in the Government Gazette published on 28 January 2005 and after consultation with the Minister of Minerals and Energy, designated the industry in terms of section 10(3)(b)(iv) of the Act.

The exemption applied for and granted allows the major oil companies to determine the volumes of liquid fuel to be purchased by each company from PetroSA at predetermined prices in order to ensure PetroSA's survival in the petroleum market. This agreement makes it possible for PetroSA to sell almost all its production to the major oil companies, and make the products available to their retail outlets situated in the Eastern Cape. The purpose of the exemption is to allow PetroSA time to build an infrastructure and acquire necessary resources to enable it to distribute and market its products at the wholesale and retail segments of the market in competition with all oil companies.

The Commission is satisfied that this exemption will contribute to the economic Stability of the petroleum industry.

The exemption was granted without any conditions.

Any queries in this regard should be directed to: The Manager, Enforcement and Exemptions Division, Private Bag X23, Lynnwood Ridge, 0040; or facsimile 012- 394 4272, citing case number : 2005May1594