

NOTICE 179 OF 2011

**NOTICE OF AN APPLICATION FOR AN EXEMPTION IN TERMS OF SECTION 10(1)(a) OF THE COMPETITION ACT 89 OF 1998:
WESTERN CAPE CITRUS PRODUCERS FORUM**

An application for an exemption from the provisions of the Competition Act 89 of 1998, as amended ("the Competition Act") has been filed with the Competition Commission of South Africa ("the Commission") by the Western Cape Citrus Producers Forum ("WCCPF"), in terms of Section 10(3)(b)(i) of the Competition Act.¹

WCCPF was formerly known as the Citrus Producers Forum and is a legal entity independent of its members which exists to grow and produce summer citrus fruit for purposes of export to the United States of America ("USA"). The WCCPF has previously applied for and been granted an exemption in terms of section 10(3)(b)(i) of the act for a period of five years. The new application is therefore brought in anticipation of this expiry².

The application for the exemption is in respect of a proposed scheme by WCCPF and its members to continue its established export pool aimed at exporting citrus fruit to the USA market. Given that the demand for citrus fruit in the USA is high and South Africa is the world's second largest producer of citrus fruit, such an export scheme has proven successful in the past because it enables producers to pool together resources and overcome the stringent regulations imposed by the USA on exported products. Previous attempts by citrus producers to export individually to the USA have been unsuccessful.

Specifically, WCCPF has requested that it be permitted to engage in the following activities to achieve its objective -

- Coordination between producers to ensure compliance with the stringent quality and phyto-sanitary standards necessary for exportation to the USA;
- To establish and stimulate a demand for South African summer citrus fruit in the USA;
- Co-ordinating and allocating volumes for specific types of cultivars of citrus fruit to be exported at specific times;
- Facilitating logistical, marketing and sales support for the collective exports of citrus fruit of South African producers and
- Generating substantial economies of scale in order to penetrate the USA market in a sustainable and profitable manner.
- Circulating information amongst members regarding the prices achieved on the export market in order to assist price negotiations with exporters.
- Formulating a demand plan for the marketing of their exports in the USA

The exemption is sought for a period of five years.

WCCPF submits that the collective agreements between its members and shareholders would contravene section 4(1)(a) alternatively section 4(1)(b) of the Competition Act which is a *per se* prohibition that cannot be defended on efficiency, technological or pro-competitive grounds. WCCPF avers that the above conduct is however necessary to

¹ Competition Commission case no. 2010Oct5428

² Competition Commission case no. 2010Oct5428

attain the objective stipulated under section 10(3)(b)(i) of the Act, namely, that such an export pool scheme would contribute to the following objective:

l) The maintenance or promotion of exports

In accordance with the provisions of Section 10(6)(a) the Competition Act, notice is hereby given of the above application for exemption. Interested parties can make written submissions to the Commission as to why the exemption should not be granted as required by section 10(6)(b) of the Competition Act. Such submissions must reach the Commission within 20 (twenty) business days from the date of this Notice and should be directed to:

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Enforcement and Exemptions Division
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In correspondence, kindly refer to case number: 2010OCT5428