

NOTICE 452 OF 2011**COMPETITION COMMISSION****NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED): CONDITIONAL EXEMPTION GRANTED**

On 05 January 2011, the Competition Commission ("the Commission") published a Notice in the Government Gazette (Government Gazette No. 33935, Notice 19 of 2011) in respect of the application for an exemption by the South African Airways (Pty) Ltd ("SAA") from certain provisions of Chapter 2 of the Competition Act, No. 89 of 1998, as amended ("the Act"). SAA wanted to remain part of the Star Alliance and continue to offer joint Star products mentioned hereunder.

Another Notice is hereby given in terms of Section 10(7) of the Act that the Commission has, in response to the above application, granted SAA conditional exemption for a period of 55 months (four years and seven months), commencing on June 01, 2011 and ending on December 31, 2015. The exemption applied for and granted by the Commission only relate to SAA's membership of the Star Alliance and its participation in the following joint Star products: Round-the-World Fare, Regional Passes/Fares, Corporate Plus, Conventions Plus and Meeting Plus.

The Commission concluded that SAA's membership of the Star Alliance constitutes a prohibited practice, in contravention of Section 4(1)(b)(i), (ii) and (iii) of the Act. However the Commission was satisfied after the analysis of the facts that the exemption is necessary to attain the objective contained under Section 10(3)(b)(i) of the Act, being the maintenance or promotion of South African exports.

The Commission granted SAA an exemption subject to the following conditions:

- The exemption is granted on the basis of the facts put forward by SAA. Should the said facts and circumstances change materially, the Commission should be notified so that the exemption may be re-evaluated in light of the new facts/circumstances;
- Any amendment or addendum to the Main Star Alliance Agreement, in so far as it affects South Africa shall not be of force and effect until approved by the Commission;
- The exemption is only applicable to SAA's participation in the Star Alliance and the following joint Star products: the Round-the-World-Fare, Regional Passes, Convention Plus, Corporate Plus, Meeting Plus and Air Passes. Any new joint Star product or new package created by the Star Alliance, in so far as it affects South Africa, must be approved by the Commission;
- SAA must submit a report on an annual basis in respect of the revenue it generates by participating in the above mentioned joint Star products.

It should be noted that in terms of Section 10(8) of the Act, the firm concerned (SAA) or any other person with a substantial financial interest affected by the Commission decision may appeal it to the Competition Tribunal in the prescribed manner.

Further queries in this regard should be directed to either:

Mr Shadrack Rambau / Mr Marlon Dasarath
Competition Commission of SA
Enforcement and Exemptions Division,
Private Bag X23,
Lynnwood Ridge, 0040

or by facsimile: (012) 394 4263

or by email: shadrackr@compcom.co.za / marlond@compcom.co.za

In correspondence, kindly refer to the following case number: 2010OCT5409