

**DEPARTMENT OF TRADE AND INDUSTRY  
DEPARTEMENT VAN HANDEL EN NYWERHEID**

No. 695

20 September 2013

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

**SOUTH AFRICAN SQUID EXPORTERS OF SOUTH AFRICA**

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 South African Squid Exporters of South Africa (SASEA) ("SASEA"), in terms of Section 10(1)(a) of the Competition Act<sup>1</sup>.

SASEA is a non-profit organization that exists independently of its members as a distinct and legal entity and body corporate established to promote the collective interests of current and future squid exporters in South Africa. SASEA's current members constitute over ninety-five per cent by number of all South African exporters of South African *Loligo Reynaudi* Squid ("Squid").

The application for exemption is in respect of a proposed arrangement by SASEA and its members to obtain and circulate up-to-date and current market information on the demand and supply conditions in the Squid market for a period of ten years. SASEA has alleged that the nature of the catching and processing Squid in conjunction with elevated bargaining power available to foreign buyers, has significantly depressed the price that SASEA members can obtain for their product. According to SASEA, the Squid export market is characterised by asymmetric information between local exporters and foreign buyers in relation to market information such as quantities available to the market. Foreign buyers obtain this information early in the season when up to fifty per cent of the annual catch is made and leverage off their information advantage to negotiate the export price with SASEA members. This export price will form a base off which adjustments take place during the course of the year.

Furthermore, SASEA alleges that about fifty per cent of the ownership stake in Squid firms is in the hands of historically disadvantaged individuals ("HDIs"), more than ninety per cent of the workforce is HDI and more than fifty per cent of directorships are HDI. In addition, the industry is characterised by interdependence in the Squid supply line which indicates the measure of risk for SMEs and HDIs in which the export price of Squid plays a significant role. Pursuant to this, the effects of the depressed export price on SMEs and HDIs are both direct and indirect and impair their competitiveness.

SASEA has therefore approached the Commission with a proposed arrangement to disseminate sensitive market related information to its members in order to prevent an impairment of the export price. In terms of the arrangement, SASEA will verify the information submitted by SASEA members and ensure that it is centrally available without identifying the relevant member. This information will be available for SASEA members in determining their own independent business decisions.

Specifically, SASEA has requested that it be permitted to engage in the following activities to achieve its objectives:

- Membership to SASEA and hence the ability obtain market related information will not be exclusive and any South African Squid exporter may become a member.
- Real time information in the December/January/February season on daily volumes of Squid actually caught by SASEA members, estimated catches for the season, estimated stocks still available for the season, daily quoted export price by each member, daily achieved price by each member and the export country of destination in each sale.

<sup>1</sup> Competition Commission case no. 2013Jun0262

- The information given above collated during the entire season on a weekly basis from any source.
- Appoint an independent person to verify and disseminate the information and ensure anonymity for all information circulated amongst SASEA members.
- Allow member to use the information given above in respect of their own independent business decisions including squid prices and inventory.

SASEA submits that the agreements between its members with the intention of collation and dissemination of market related information would contravene Section 4(1)(b)(i) and (ii) of the Competition Act which is a *per se* prohibition that cannot be defended on efficiency, technological or pro-competitive grounds. SASEA avers that the above conduct is however necessary to attain the objectives stipulated under Section 10(3)(b) of the Competition Act, namely, that such an arrangement between its members would contribute to one or all of the following objectives:

- i. The maintenance or promotion of exports; and
- ii. The promotion of the ability of small business or firms controlled or owned by historically disadvantaged persons, to become competitive.

In accordance with the provisions of Section 10(6)(a) of 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 twenty business days from the date of this notice and should be directed to:

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In correspondence, kindly refer to case no. 2013Jun0262