

No. 696

20 September 2013

**NOTICE OF AN APPLICATION FOR AN EXEMPTION IN TERMS OF SECTION  
10(1)(a) OF THE COMPETITION ACT 89 OF 1998(AS AMENDED):  
OCEANA LOBSTER LIMITED; PREMIER (PTY) LTD; RUWEKUS (PTY) LTD;  
OVENSTONE (PTY) LTD AND AFRICAN MARINE PRODUCTS (PTY) LTD**

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") in terms of section 10(1)(a) of the Competition Act, by Oceana Lobster Limited; Premier (Pty) Ltd; Ruwekus, (Pty) Ltd, Ovenstone (Pty) Ltd and African Marine Products (Pty) (hereinafter collectively referred to as "the Applicants").

The Applicants are South African companies that operate in fishery sector and are active in the catching, processing, marketing and / or exporting of one or more of these fish species; South Coast Rock Lobster, West Coast Rock Lobster and Tristan Lobster ("lobster"). The Applicants market and export ninety nine (99) per cent of their produce into foreign markets.<sup>1</sup>

The application for the exemption is in respect of practices by the Applicants in terms whereof they would engage in co-ordinated sharing of detailed price sensitive information for the marketing and sale of lobster in foreign markets. The Applicants submit that in order for the South African lobster market to continue to be viable export driven industry it is necessary for the Applicants to co-ordinate their marketing strategies in respect of sales into certain international markets. In particular the Applicants want to be permitted to engage in the activities listed below, which activities are proscribed by the Competition Act:

- Meetings and communications between producers and marketers of lobster in order to share knowledge in respect of market conditions and stabilise international selling prices;
- Engage collectively in advance of marketing trips in order to communicate progress, insights and past results with particular purchasers; and
- Coordination and/or collaboration in respect of marketing, in particular, the shared use of marketing agents.

The exemption is sought for a period of ten years.

The Applicants submit that the conduct for which exemption is sought, would contravene the sections 4(1)(a) and 4(1)(b)(i) of the Competition Act which is a per se prohibition that cannot be defended on efficiency, technological or pro-competitive grounds. The Applicants aver that the above conduct is necessary to obtain one of the objectives set out in section 10(3)(b) of the Competition Act, in particular, that such co-ordination and information sharing would contribute to the maintenance and promotion of exports.<sup>2</sup>

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 20 (twenty) business days from the date of this Notice and should be directed to:

Ms Thandile Charlie / Mr. Sipho Mtombeni

---

<sup>1</sup> The foreign markets the Applicants export to include: China, Japan, U.S.A, Australia, Italy, France and Taiwan.

<sup>2</sup> Section 10(3)(b)(i) of the Competition Act.

Enforcement and Exemption  
Competition Commission of South Africa  
Telephone: (012) 394 3191/012 394 3190  
E-mail: [ThandileC@compcom.co.za](mailto:ThandileC@compcom.co.za) / [SiphoM@compcom.co.za](mailto:SiphoM@compcom.co.za)

In correspondence, kindly refer to case no. 2013Jul0332