

NOTICE 157 OF 2014**COMPETITION COMMISSION****APPLICATION FOR AN EXEMPTION**

1. Notice is hereby given in terms of section 10(6)(a) of the Competition Act, No. 89 of 1998, as amended ("the Act") that South African Airways (SOC) Limited (henceforth "SAA") and Etihad Airways PJSC ("Etihad"), have applied to the Competition Commission ("the Commission"), in terms of section 10(1) of the Act, to be exempted from certain provisions of Chapter 2 of the Act. SAA and Etihad both operate in the air travel industry and provide both passenger and cargo air transportation services internationally. They therefore submit for this exemption application as joint applicants.
2. Etihad, while a foreign airline entity of the United Arab Emirates (UAE), will under its proposed alliance with SAA (as detailed below), operate its activities and hold effect in the Republic of South Africa. Section 3(1) stipulates that the Act "applies to all economic activity within, or having an effect within the Republic", and as such covers the conduct for which Etihad, jointly with SAA, seeks an exemption for. SAA on the other hand is a state-owned company registered in terms of the Company Act of 1973 of the Republic of South Africa.
3. The subject matter of the application is an alliance between SAA and Etihad; incorporating both a codeshare agreement on the route between Abu Dhabi (the capital city of the UAE) and Johannesburg, and a commercial co-operation agreement which governs their commercial relationship.
4. The scope of the alliance will cover flights with SAA code on Etihad's operations from Johannesburg to Abu Dhabi and similarly cover flights with Etihad's codes on SAA from Abu Dhabi to Johannesburg (the Johannesburg/Abu Dhabi route accordingly is referred to in the code share agreement as the 'trunk route'). Furthermore, the alliance extends

coverage to routes of destinations beyond Abu Dhabi¹ and Johannesburg², respectively. These routes serve as the complementary routes of operation.

5. Specifically, SAA and Etihad have requested the Commission that they be exempt from the following activities as shall arise from the alliance:

5.1 Reciprocal, preferred and enhanced fare proration on shared services;

- The alliance will enable SAA and Etihad to align their airfares, and eliminate the costs resultant of 'double marginalization' as would otherwise occur without the exemption. Double marginalization essentially involves each carrier applying its own mark-ups to prices.

5.2 Joint route and schedule co-ordination;

- Joint route and schedule co-ordination will enable SAA and Etihad to offer a cost-effective schedule to ensure greater frequencies and expanded operations in the future. The greater frequencies contribute to airline sustainability and competitiveness against larger (and often dominant) competitors in the market like Emirates. This co-ordination will possibly also expand the presence of the applicants in markets where they currently face limited exposure; and improve aircraft utilization, resource allocation, and connectivity to beyond markets.

5.3 Joint pricing on the trunk route and specified complementary routes;

- The alliance will also involve collaborative pricing efforts on both the trunk route and specified complementary routes. Joint pricing introduces reduced fare-price benefits from the removal of double marginalization, and additional efficiency

¹ Destinations on the Etihad network beyond Abu Dhabi to points on the SAA network: Accra (Ghana); Brazzaville and Pointe-Noire (Congo); Buenos Aires (Argentina); Cape Town, Durban, East London and Port Elizabeth (South Africa); Cotonou (Benin); Dakar (Senegal); Harare and Victoria Falls (Zimbabwe); Livingston, Lusaka and Ndola (Zambia); Windhoek (Namibia).

² Destinations on the SAA network beyond Johannesburg to points on the Etihad network: Amsterdam (Netherlands); Athens (Greece); Bangkok (Thailand); Beirut (Lebanon); Colombo (Sri Lanka); Dublin (Ireland); Ho Chi Minh City (Vietnam); Jeddah, Ad Dammam and Riyadh (Saudi Arabia); Karachi (Pakistan); Kuala Lumpur (Malaysia); Kuwait City (Kuwait); Manama (Bahrain); Manchester (United Kingdom); Manila (Philippines); Milan (Italy); Muscat (Oman); Seoul (South Korea); Shanghai (China); The Republic of Singapore.

gains to the operating airlines by way of lower average costs owing to higher load factors. Joint pricing on the complementary routes will follow pricing on the trunk route as the latter inevitably forms part of the travel route connecting destination points beyond the Johannesburg/Abu Dhabi hubs. Thus, joint pricing will not only enable reasonable price offerings to passengers of SAA and Etihad, but also an optimal route network selection to destinations beyond the hubs referred to above.

5.4 Joint dealing, joint marketing, distribution, sales representation and co-operation including travel agency and corporate account dealing arrangements; and

- Further cooperation between SAA and Etihad on marketing, distribution and ticket sales will also promote alliance specific efficiencies and cost reductions. The eliminated duplication effect of roles at various destinations forming part of the alliance generates cost savings which ultimately filter through to passengers. SAA and Etihad will also collaborate on offering joint fares to sales channels, including travel agents and corporate customers.

5.5 Sharing of competitively sensitive information

- To facilitate the efforts of joint scheduling and joint pricing on the affected routes, SAA and Etihad submit that there arises a need to exchange competitively sensitive information. This information primarily comprises the pricing levels which each airline would charge to its passengers. To the extent of these exchanges, the applicants aver that the prices would only reflect the final prices, and exclude any additional cost information they hold, respectively. The information will further include both prospective and existing passengers' details in respect of the routes concerned.

6. The alliance sought characterizes a horizontal agreement, as SAA and Etihad are competitors or potential competitors in the passenger airline industry. Accordingly, the alliance constitutes a prohibited practice, a possible contravention of section 4(1)(b) of the Act.

7. SAA and Etihad submit that their alliance is necessary and required for:
 - The maintenance or promotion of exports [section 10(3)(b)(i) of the Act];
 - A change in productive capacity necessary to stop decline in an industry [section 10(3)(b)(iii) of the Act].
8. SAA and Etihad seek this exemption for a minimum period of five (5) years, starting from the date of approval of the application by the Commission.
9. The Notice is hereby given in terms of section 10(6)(b) of the Act to allow interested parties 20 business days from the date of the publication to make written representations to the Commission as to why the exemption should not be granted.

Such representations must be directed to either Ms. Boitumelo Nte or Ms. Mabocha Mokobane or Mr. Shadrack Rambau on the following electronic mailing addresses, BoitumeloN@compcom.co.za, MabochaM@compcom.co.za, ShadrackR@compcom.co.za, respectively.

In correspondence kindly refer to the following Case No: 2013Nov0578
