

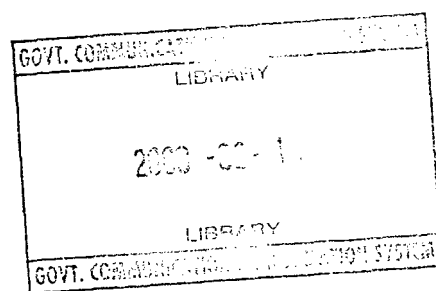
REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO**

**COMPETITION SECOND
AMENDMENT BILL**

[B 41—2000]

(As agreed to by the Portfolio Committee on Trade and Industry (National Assembly))



[B 41A—2000]

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AMENDMENTS AGREED TO
COMPETITION SECOND AMENDMENT BILL
[B 41-2000]

CLAUSE I

1. On page 2, from line 10, to omit "a significant interest in".
2. On page 3, from line 30, to omit paragraph (a).
3. On page 3, from line 37, to omit "a significant interest in, or".
4. On page 3, in line 40, to omit all the words after "(d)" up to and including "or".
5. On page 3, in line 42, to omit ", (b) or (c)" and to substitute "or (b)"

CLAUSE 2

1. On page 3, after line 51, to add the following paragraph:

(b) by the insertion after subsection(1) of the following subsection:

“(1 A) (a) In so far as *this Act* applies to an industry, or sector of an industry, that is subject to the jurisdiction of another *regulatory authority*, which authority has jurisdiction in respect of conduct regulated in terms of Chapter 2 or 3 of *this Act*, *this Act* must be construed as establishing concurrent jurisdiction in respect of that conduct.

(b) The manner in which the concurrent jurisdiction is exercised in terms of *this Act* and any other *public regulation*, must be managed, to the extent possible, in accordance with any applicable agreement concluded in terms of sections 21(1)(h) and 81(1) and (2).”.

CLAUSE 5

1. On page 5, in line 36, after “of” to insert “intellectual property rights, including”.

CLAUSE 6

1. On page 7, from line 3, to omit subparagraph (ii).
2. On page 7, in line 5, to omit “(i) or (ii)”.
3. On page 10, from line 37, to omit subsection (1) and to substitute:

(1) If the Competition Commission approves—

(a) a small or intermediate merger subject to any conditions, or prohibits such merger, any party to the merger, by written notice and in the *prescribed* form, may request the Competition Tribunal to consider the conditions or prohibited merger; or

(b) an intermediate merger, or approves such merger subject to any conditions, a person who in terms of section 13A(2) is required to be given notice of the merger, by written notice and in the *prescribed* form, may request the Competition Tribunal to consider the approval or conditional approval, provided the person had been a participant in the proceedings of the Competition Commission.

4. On page 11, in line 6, to omit “in the case of a large merger, by”.
5. On page 11, in line 7, after “merger” to insert:
~~, provided the person had been a participant in the proceedings of the~~
 Competition Tribunal
6. On page 11, in line 30, to omit “54” and to substitute “37”.
7. On page 11, in line 31, to omit “transfer of all or part of the assets and liabilities of a bank” and to substitute “transaction”.
8. On page 11, in line 32, to omit “50” and to substitute “54”.
9. On page 11, in line 36, to omit “the merger is”.
10. On page 11, in line 37, after “(i)” to insert “the merger is”.
11. On page 11, from line 38, to omit subparagraph (ii) and to substitute:
 (ii) it is in the public interest that the merger is subject to the jurisdiction of the Banks Act, 1990 (Act No. 94 of 1990), only.

CLAUSE 15

1. On page 20, in line 36, to omit “(7)” and to substitute “(8)”.
2. On page 20, in line 42, to omit “*Minister*” and to substitute “Minister”.

CLAUSE 20

- I. On page 27, in line 13, to omit “exercises jurisdiction over competition matters” and to substitute:
 has jurisdiction in respect of conduct regulated in terms of Chapter 2 or
 3
2. On page 27, in line 14, to omit “may” and to substitute “must”.
3. On page 27, in line 18, to omit “(I)(b)” and to substitute “(I)(a) and (b)”.
4. On page 27, after line 19, to insert the following subsection:
 (3) In addition to the matters contemplated in section 21(1)(h), an agreement in terms of subsection (1) must—
 (a) identify and establish procedures for the management of areas of concurrent jurisdiction;
 (b) promote co-operation between the *regulatory authority* and the Competition Commission;
 (c) provide for the exchange of information and the protection of *confidential information*; and
 (d) be published in the *Gazette*.

CLAUSE 21

1. On page 27, in line 25, after “amended” to insert the following paragraph:
 (a) by the substitution for the heading of the following heading:
“EXEMPTION OF PROFESSIONAL RULES”

LONG TITLE

1. On page 2, in the twelfth line, after “agencies” to insert “and to provide for concurrent jurisdiction”.