

DEPARTMENT OF TRADE AND INDUSTRY

NO. 718

14 AUGUST 2015

**NOTICE IN TERMS OF SECTION 10(6) OF THE COMPETITION ACT NO. 89 OF 1998
(AS AMENDED)****THE COMPETITION COMMISSION OF SOUTH AFRICA****NOTICE OF APPLICATION FOR AN EXEMPTION
BY****ALITALIA SOCIETA AEREA ITALIANA S.P.A AND ETIHAD AIRWAYS**

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 Alitalia Societa Aerea Italiana S.p.A ("Alitalia") 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.
2. Both Alitalia and Etihad operate in the air travel industry and provide passenger and cargo air transportation services. They submit this exemption application as joint Applicants, and shall hereafter be referred to collectively as "the Applicants".
3. Both Alitalia, a foreign entity of Italy, and Etihad, a foreign entity of the United Arab Emirates ("UAE"), will under the proposed agreements with each other, conduct their activities that have an effect in the Republic of South Africa. Section 3(1) of the Act stipulates that the Act "applies to all economic activity within, or having effect within the Republic", and, as such, covers the conduct that the Applicants seek an exemption for.

4. The subject matter of the application is an arrangement between the Applicants that will, essentially, involve a codeshare agreement covering flights on Alitalia operations between Italy and Abu Dhabi and beyond to points in Europe, Africa and South America, as well as on Etihad operations from Abu Dhabi to the Middle East, Asia, Australasia and Africa (including Johannesburg South Africa). The arrangement will be governed by a Transaction Implementation Agreement, Commercial Co-operation Agreement and various other related transaction documents concluded on by the Applicants.
5. The Applicants have requested, from the Commission, that they be exempt from Section 4(1)(a), 4(1)(b)(i) and 4(1)(b)(ii) of the Act in respect of the following conduct that arises from the proposed arrangement –
 - a. *Reciprocal, preferred and enhanced fare proration on shared services;*
 - b. *Joint pricing on complementary routes*
 - c. *Joint route and schedule co-ordination*
 - d. *Joint dealing, joint marketing, distribution, sales representation and co-operation including travel agency and corporate account dealing arrangements; and*
 - e. *Sharing of competitively sensitive information*
6. The Applicants are competitors or potential competitors in the passenger airline and air cargo markets. Accordingly, the above conduct may constitute prohibited practices in contravention of Section 4(1)(a), 4(1)(b)(i) and 4(1)(b)(ii) of the Act.
7. The Applicants submit that their alliance is necessary and required for:
 - a. The maintenance or promotion of exports (Section 10(3)(b)(i) of the Act); and\ or
 - b. A change in productive capacity necessary to stop decline in an industry (Section 10(3)(b)(iii) of the Act).
8. The Applicants seek the exemption for a minimum period of five (5) years.
9. Notice is hereby given in terms of section 10(6)(b) of the Act to allow interested parties twenty (20) business days from the date of the publication of this notice to make written representations to the Commission as to why the exemption should, or should not, be granted.
10. Such representations must be directed to either Mr Marlon Dasarath or Ms Selelo Ramohlola MarlonD@compcom.co.za or SeleloR@compcom.co.za, respectively.
11. In correspondence kindly refer to the Case No: **2015MAY0262**