

ECONOMIC DEVELOPMENT DEPARTMENT

NO. 127

12 FEBRUARY 2019

**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**

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 Air Mauritius Limited ("**MK**") and South African Airways SOC Limited ("**SAA**") have jointly applied to the Competition Commission ("**Commission**"), in terms of section 10(1) of the Act, for an exemption from certain provisions of Chapter 2 of the Act to be granted.
2. Air Mauritius Limited is a public company with registration number C07001600, duly registered and incorporated in accordance with the laws of Mauritius. South African Airways SOC Limited ("SAA") is a state-owned company with registration number 1997/022444/30, duly registered and incorporated in accordance with the laws of South Africa. The two companies operate flight services (passengers and cargo) between Mauritius and Johannesburg; as well as the behind and beyond destinations (i.e. Africa, Asia, America & Europe).
3. The application for the exemption is in respect of a joint venture agreement ("**agreement**") between MK and SAA which will, subject to the Commission's approval, come into effect on 01 April 2019. The applicants seek exemption from sections 4(1)(b)(i) and (ii) of the Act for a period of 5 (five) years.
4. The agreement is expected to introduce synergies and improve efficiencies primarily through a codeshare arrangement. The parties seek to align their economic incentives by pooling the revenue and costs associated with their integrated routes.
5. The most important aspects of the proposed agreement with potential implications to competition are listed below:

Sharing of costs and revenue

5.1 MK and SAA will continue to operate on the route between Mauritius and Johannesburg; as well as the behind and beyond destinations. Each airline will undertake to at least maintain or grow the current capacity and/or frequency on such routes. The parties will share costs and revenues for operating on such routes.

Codeshare

5.2 MK and SAA will share their respective codes and flight numbers on the route between Mauritius and Johannesburg, as well as the behind and beyond destinations. The codeshare arrangement will allow for a flight operated by one carrier to be marketed by the other carrier, under that carrier's code and flight number.

Other areas of cooperation

5.3 Other areas of cooperation to be explored by MK and SAA as part of the proposed agreement include the following:

- (a) maintenance of aircraft in South Africa;
- (b) any handling that SAA may do in Mauritius;
- (c) joint fuel partnerships;
- (d) joint catering partnerships;
- (e) SAA simulator training facilities; and
- (f) reciprocal general management exposure between SAA and MK.

6. MK and SAA are competitors or potential competitors in the market for the provision of international air passenger transport services and cargo services between Mauritius and South Africa, as well as all the behind and beyond destinations. Accordingly, the above conduct may constitute a prohibited practice in contravention of section 4(1)(b) of the Act.

7. MK and SAA submit that the above conduct is necessary to attain the objectives

stipulated under sections 10(3)(i), (ii) and (iii) of the Act, in that it contributes to the following:

- a. Maintenance and promotion of exports;
 - b. Promotion of the ability of small business and also firms owned or controlled by historically disadvantaged persons to become competitive; and
 - c. Contributing to a change in productive capacity necessary to stop a decline in an industry.
8. 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 not, be granted.
9. Such representations must be directed to:

Ms Amanda Musandiwa/ Mr Derrick Bowles

Competition Commission SA

Market Conduct Division

Tel: 012 763 8663/ 012 762 6917

Email: AmandaMu@compcom.co.za / DerrickB2@compcom.co.za

10. Kindly make use of the following case number when sending correspondences in relation to this notice: Case No: **2018DEC0025**