

DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. 601

26 APRIL 2019

EXECUTION VERSION

Project No. 602710 and 602781

# Memorandum of Understanding

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between

THE COMPETITION COMMISSION OF THE REPUBLIC OF SOUTH AFRICA

and

INTERNATIONAL FINANCE CORPORATION

Dated: March 11<sup>th</sup>, 2019

MoU between the Competition Commission of South Africa and the International Finance Corporation: March 11, 2019

  


## MEMORANDUM OF UNDERSTANDING

MEMORANDUM dated March 11<sup>th</sup>, 2019 between:

- (1) **THE COMPETITION COMMISSION OF THE REPUBLIC OF SOUTH AFRICA**, an independent and duly constituted juristic person established in terms of section 19 of the South Africa Competition Act, 89 of 1998, and with offices in Tshwane (Sunnyside) in the Republic of South Africa (the “Client”); and
- (2) **INTERNATIONAL FINANCE CORPORATION**, an international organization established by Articles of Agreement among its member countries, including the Republic of South Africa (“IFC”).

In this Memorandum of Understanding the term “Parties” is sometimes used to refer to IFC and the Client collectively, and the term “Party” is sometimes used to refer to either of them individually, including the Republic of South Africa (“IFC”).

### WHEREAS

- (A) IFC, a member of the World Bank Group, is an international organization whose mandate, contemplated under its Articles of Agreement, includes seeking to stimulate, and to help create conditions conducive to, the flow of private capital (domestic and foreign) into productive investments in member countries.
- (B) The Client is a statutory body in the Republic of South Africa and is empowered to investigate, control and evaluate restrictive business practices, abuse of dominant positions and mergers.
- (C) The Client and IFC are considering cooperating in the development of additional technical expertise to enhance the policy underpinnings, the reach, the impact and the transparency of competition policy and market regulation in order to cultivate an inclusive economy for South Africa (the “Project”).
- (D) The purpose of this Memorandum is to set out the possible steps which could lead to the negotiation and execution of an Advisory Agreement between the Client and IFC in respect of the Project described above.

### I. Project Objectives and Proposed Timing

(a) Promptly after execution of this Memorandum each of the Client and IFC shall discuss the main aspects of their future possible cooperation, in particular:

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- (i) the Project's objectives;
- (ii) its respective roles and responsibilities with respect to the Project;
- (iii) external assistance which may be needed and, as the case may be, identity of such external consultant(s), main terms of reference, remuneration (fees and costs);
- (iv) proposed budget and respective financial contribution of parties; and
- (v) proposed timing for Project implementation.

(b) Assuming that the parties have been able to reach a general understanding on the matters referred to hereinabove and decide to proceed with the Project, IFC will prepare and submit a draft Advisory Agreement to the Client for comments. That draft agreement will contain the main terms and conditions governing the parties' relationship in respect of the Project.

(c) Promptly after the draft Advisory Agreement has been finalized and found acceptable by the parties, the parties will make appropriate arrangements to have it authorized and executed as promptly as practicable.

(d) IFC has always worked to avoid fraud and corruption in all of its activities and continues to strengthen its governance and anti-corruption work. IFC's procedures for addressing allegations of fraud and corruption in IFC projects can be found at [www.ifc.org/anticorruption](http://www.ifc.org/anticorruption).

## II. No Commitment.

The parties hereby acknowledge and agree that this Memorandum is not legally binding. It is not the parties' intention to create, and nothing herein shall be construed as creating, legal rights and obligations or any commitment whatsoever. Each party shall have the discretionary right to terminate at any time any discussion whatsoever regarding the Project or this Memorandum.



IN WITNESS WHEREOF, the parties have caused this Memorandum to be signed in their respective names as of the date first above written.

**THE COMPETITION COMMISSION OF THE  
REPUBLIC OF SOUTH AFRICA**

By : 

Name: Thembinkosi Bonakele

Title : Competition Commissioner

**INTERNATIONAL FINANCE CORPORATION**

By : 

Name: Kevin Njiraini

Title : Regional Director, Southern Africa and Nigeria



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