

ECONOMIC DEVELOPMENT DEPARTMENT

NO. 1532

29 NOVEMBER 2019

COMPETITION COMMISSION SOUTH AFRICA

NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT NO. 89 1998 (AS AMENDED): SOUTH AFRICAN AIRWAYS SOC LIMITED AND AIR MAURITIUS LIMITED GRANTED AN UNCONDITIONAL EXEMPTION

1. On 18 December 2018, South African Airways SOC Limited (“**SAA**”) and Air Mauritius Limited (“**MK**”) hereafter jointly referred to as (“**the Applicants**”) filed an application for exemption (“**the application**”) in terms of section 10(1)(b) of the Competition Act No 89 of 1998, as amended (“the Competition Act”) to be exempted from certain provisions of Chapter 2 of the Competition Act for a period of 5 (five) years.
2. MK is a public company with registration number C07001600, duly registered and incorporated in accordance with the laws of Mauritius. SAA is a state-owned company with registration number 1997/022444/30, duly registered and incorporated in accordance with the laws of South Africa.
3. The scope of the exemption application involves SAA and MK cooperating by entering into a Joint Venture (“JV”) on the Johannesburg (“JHB”) and Mauritius (“MRU”) route as well as the behind and beyond routes. The proposed JV allows collaboration on network, scheduling, revenue management and distribution across both carriers, thereby enhancing their existing bilateral offering. In addition, the conclusion of this JV will enable both airlines to explore opportunities to improve capacity utilisation, distribution, procurement, networking and scheduling across all other routes serviced by these airlines.
4. In their exemption application, SAA and MK relied on the objective set out in Section 10(3)(b)(i) and 10(3)(b)(ii) of the Competition Act, which allows an exemption of agreements and/or practices that contribute towards maintenance or promotion of exports and change in productive capacity necessary to stop decline in an industry.
5. The Commission’s investigation revealed that the conduct of SAA and MK would result in a contravention of Section 4 of the Competition Act, as the JV relates to coordination between parties in a horizontal relationship. Furthermore, the Commission’s investigation revealed that:

- 5.1 SAA and MK are currently experiencing viability challenges and it is therefore anticipated that the JV will enhance profitability and efficiency over their operations on the JHB-MRU route as well as the behind and beyond routes;
 - 5.2 immediate efficiency gains are likely to arise from the synchronisation of passenger and cargo capacity and the sharing of cost information; and in the longer term, from cooperation in training, maintenance and procurement;
 - 5.3 the exemption will enable SAA and MK to compete more effectively in the global market by using the JNB-MRU trunk route as the platform. Thus, greater benefits are expected to flow from destinations behind and beyond the JNB-MRU trunk route; and
 - 5.4 the JV will lead to increased foreign currency earnings, improved capacity utilisation and employment in fulfilment of Section 10(b)(3) of the Competition Act.
6. In light of the above, the Commission has decided to grant SAA and MK an **unconditional exemption for a period of five (5) years**, commencing from **21 October 2019** up to and including **31 October 2024**.
 7. The exemption is granted based on the information submitted to the Commission by SAA, MK and other stakeholders. Therefore, this exemption does not immune SAA and MK from being investigated and prosecuted under the Competition Act for any conduct outside the scope of the application.
 8. Notice is hereby given in terms of Section 10(7) of the Competition Act regarding the Commission's decision to grant this exemption. The Applicants and any other person with a substantial material interest affected by this decision may appeal it to the Competition Tribunal in the prescribed manner in terms of Section 10(8) of the Competition Act.
 9. Any queries in this regard should be directed to

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In correspondence kindly refer to the following case number: 2018DEC0025