

DEPARTMENT OF ECONOMIC DEVELOPMENT

NO. 356

23 April 2021

COMPETITION COMMISSION

NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED): SOUTH AFRICAN PETROLEUM INDUSTRY ASSOCIATION GRANTED CONDITIONAL EXEMPTION

On 22 December 2015, the South African Petroleum Industry Association ("SAPIA") and its members applied to the Competition Commission of South Africa ("Commission") in terms of section 10(1)(b) of the Competition Act 89 of 1998, as amended ("the Act") to be exempted from certain provisions of section 4 of the Act ("2015 Exemption"). The exemption was sought for a period of 5 (five) years from 1 January 2016 ending on 31 December 2020.¹

Notice is hereby given in terms of section 10(7) of the Act that the Commission has extended the 2015 Exemption for a further period of 3 (three) months, from 1 April 2021 up to and including 30 June 2021 and on the same terms and conditions as published in Government Gazette No.34651 of 7 October 2011.

The exemption granted by the Commission covers a wide range of agreements and practices which, according to SAPIA, are required to ensure the continuity and stability of liquid fuels supply to various sectors and geographic locations of the South African economy. In particular, the exemption covers agreements and practices in the petroleum and refinery industry which are considered by the Commission to be in contravention of sections 4(1)(a) and (b) of the Act. SAPIA based its application on the premise that the aforesaid agreements and practices are required to obtain the objective set out under section 10(3)(b)(iv) of the Act.

¹ See Commission Case Number 2015Dec0741

The Commission has previously, in response to the above mentioned application, granted SAPIA a conditional exemption in terms of section 10(2)(a) of the Act for a period of 6 (six) months starting from 01 January 2016 and ending on 30 June 2016. Following the expiry of this short-term conditional exemption, the Commission has extended such exemption several times with the last one ending on 31 March 2021.

This is after the Minister of Economic Development designated the petroleum and refinery industry for a period of 6 (six) months starting from 01 January 2016 ending on 30 June 2016, which was extended to 31 December 2016, 31 December 2017; 31 March 2018; 30 September 2018; 31 March 2019, 30 June 2019, 31 December 2019, 31 December 2020 and further to 31 March 2021.

The Minister of Trade, Industry and Competition has subsequently granted the petroleum industry a 3 (three) month extension in respect of its designation status ending 30 June 2021.

SAPIA or any other person with substantial financial interest affected by this decision may appeal it to the Competition Tribunal in the prescribed manner in terms of section 10(8) of the Act.

Further queries should be directed to either Mr. Marlon Dasarath at MarlonD@compcom.co.za or Mr. Ruan Mare at RuanM@compcom.co.za.

In correspondence, kindly refer to the following case number: 2015Dec0741