

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. 3529

9 June 2023

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 period of **four (04) months from 01 May 2023 up to and including 31 August 2023** 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.

The Commission has previously, in response to the afore-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 the afore-mentioned short-term conditional exemption, the Commission extended such exemption several times with the previous extension ending on 31 April 2023.

¹ See Commission Case Number 2015Dec0741

On 21 April 2023, the Minister of Trade, Industry and Competition has recently granted the petroleum industry designation status for a further **four (04) months from 01 May 2023 up to and including 31 August 2023**.² Accordingly, the Commission has also granted SAPIA a conditional exemption in respect of its 2015 Exemption in terms of section 10(3) of the Act for a further **four (04) months from 01 May 2023 up to and including 31 August 2023** in line with the new designation period highlighted above.

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 Mr. Marlon Dasarath at MarlonD@compcom.co.za.

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

² See Government Gazette Vol. 694 No. 48466 dated 25 April 2023



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Enquiries: Marlon Dasarath / Nonkululeko Moeketsi

Reference Case Number: 2015DEC0741

Date: 11 May 2023

Mr. Neil Mackenzie
Fasken Martineau
150 West Street
Sandton
2196

By E-mail: nmackenzie@fasken.com / sstrachan@fasken.com

Dear Neil

**EXEMPTION APPLICATION BY SOUTH AFRICAN PETROLEUM INDUSTRY
ASSOCIATION - CASE NUMBER: 2015DEC0741**

1. We refer to the exemption application filed by the South African Petroleum Industry Association ("SAPIA") with the Competition Commission ("Commission") on 22 December 2015 ("2015 Exemption")¹, the exemption application filed by SAPIA with the Commission on 28 October 2020 ("the 2020 Exemption")² and the most recent petroleum industry designation granted by the Minister of Trade, Industry and Competition ("the Minister")³.
2. The Commission has previously granted several short-term conditional exemptions to

¹ Filed under case number 2017DEC0741.

² Reference case number 2020OCT0044

³ See Government Gazette Vol. 694 No. 48466 dated 25 April 2023

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SAPIA on the basis of corresponding short-term petroleum industry designations granted by the Minister. Further, the Commission notes that the Minister has recently granted designated status to the petroleum industry for a period of **four (04) months from 01 May 2023 up to and including 31 August 2023**.

3. In this regard, the Commission hereby also extends SAPIA's 2015 conditional Exemption for a further period of **four (04) months from 01 May 2023 up to and including 31 August 2023**, whilst it also considers SAPIA's 2020 Exemption. The applicable conditions are the same to those given by the Commission in granting the SAPIA 2015 Exemption ending on 31 April 2023 and are attached hereto.
4. In the circumstances, please find attached hereto a Form CC 10(1), which is the Exemption Certificate in terms of Rule 20 of the Rules for the Conduct of Proceedings of the Competition Commission. A Notice of the outcomes of the Commission's investigation in this matter will be published in due course as required in terms of section 10(7) of the Act.
5. Should you have any queries on the contents of this letter, feel free to contact Mr. Marlon Dasarath on email at MarlonD@compcom.co.za.

Yours faithfully

Mapato Ramokgopa
Manager: Market Conduct Division
The Competition Commission of SA
Email: MapatoR@compcom.co.za



competition commission south africa

Notice CC 10 (1)

About this Notice

- This notice is issued in terms of section 10 of the Competition Act.
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette.
- You must use form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 38.

Contacting the Commission

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Exemption Certificate (Chapter 2)

Date: 11 MAY 2023

To:

The South African Petroleum Industry Association
Ref Case Number - 2015Dec0741

You applied to the Competition Commission on **22 December 2015** for an exemption from Chapter 2 of the Competition Act.

Because the subject practice or agreement contributes to the objective set out in section 10(3)(b)(iv) of the Act, the Competition Commission grants an exemption in terms of section 10(3) of the Act for a period of 04 months from 01 May 2023 up to and including 31 August 2023 for:

- | | |
|---|--|
| <input type="checkbox"/> a single agreement | <input checked="" type="checkbox"/> a category of agreements |
| <input type="checkbox"/> a single practice | <input checked="" type="checkbox"/> a category of practice |

As described in your application. This exemption is subject to:

- ☐ no conditions.
☒ the conditions listed on attached sheet.

The Competition Commission has the authority in terms of section 10 (5) of the Competition Act to revoke this exemption if -

- (a) the exemption was granted on the basis of false or incorrect information;
- (b) a condition for the exemption is not fulfilled; or
- (c) the reason for granting the exemption no longer exists.

Name and Title of person authorised to sign on behalf of the Competition Commission:

Mapato Ramokgopa (Manager: Market Conduct Division)

This form is prescribed by the Minister of Trade and Industry in terms of section 21 (4) of the Competition Act 1998 (Act No. 89 of 1998)