

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION**NOTICE 2954 OF 2025****THE COMPETITION COMMISSION OF SOUTH AFRICA****NOTICE IN TERMS OF SECTION 10(7) OF THE COMPETITION ACT 89 OF 1998 (AS AMENDED): THE SOUTH AFRICAN GUILD OF ACTORS AND THE PERSONAL MANAGERS ASSOCIATION CONDITIONAL EXEMPTION GRANTED****THE SOUTH AFRICAN GUILD OF ACTORS AND THE PERSONAL MANAGERS ASSOCIATION – 2022OCT0030**

1. On 17 October 2022, the members of the South African Guild of Actors (“SAGA”) and the members of the Personal Managers Association (“the PMA”) (collectively referred to as the “Applicants”) filed an exemption application (the “application”) in terms of section 10(1) of the Competition Act as amended (the “Act”). The exemption application relates to conduct between the Applicants, their members and other market participants which include production houses, broadcasters, studios, advertisers, and private organisations.
2. SAGA and the PMA are non-profit organisations registered with the Companies and Intellectual Property Commission. SAGA was established in 2009 with the main purpose being to represent and protect the legal and economic rights of professional performers in the film, television, stage, commercial, voice over and corporate sectors. SAGA’s principal place of business at 357 Cork Avenue, Ferndale Randburg.
3. The PMA was established in 1980 with its main objective to implement and facilitate ethical best practice, cooperation and communication among agents/managers and all role-players in the entertainment industry for the benefit and betterment of professional performers and the industry. PMA’s principal place of business at 93 Clovelly Road, Greenside, Johannesburg.
4. SAGA membership is open to final year students at tertiary institutions studying performing arts, aspirant professionals in the early stages of their career, and any actor legally entitled to work in South Africa, who is engaged or about to be engaged as an

actor in the film/television/theatre/radio industry. PMA membership is open to professional performers' agencies in South Africa.

5. In their exemption application, the Applicants rely on the objectives set out in Section 10(3)(b)(ii) of the Act, which allows for the promotion of the effective entry into, participation in or expansion within a market by small and medium businesses, or firms controlled or owned by historically disadvantaged persons; and Section 10(3)(b)(v) of the Act, which allows the competitiveness and efficiency gains that promote employment or industrial expansion.
6. The Applicants submit that the conduct may constitute a prohibited practice in terms of section 4(1)(a), 4(1)(b)(i) and section 5(1) of the Act, in that its' members are competitors or potential competitors in the market for the provision of intellectual property services. In addition, the agents and performers are in a vertical relationship with production houses, broadcasters, studios, advertisers and/or private organisations.
7. The applicants have requested the Competition Commission ("the Commission") to grant an exemption for the period of five years to allow for the implementation of the following practices:
 - 7.1 To collectively coordinate, communicate and exchange information to design guideline rate cards with minimum rates for Performers as related to the skill and experience of a Performer when they provide intellectual property services in the entertainment industry;
 - 7.2 To collectively coordinate, negotiate and conclude collective agreements as relating to trading conditions in industry standard agreements with Production Houses, Broadcasters, Studios, Advertisers, or Private companies;
 - 7.3 To collectively negotiate and implement standardised trading terms in in the industry standard contracts between Performers and Production Houses, Broadcasters, Studios, Advertisers or Private companies); and
 - 7.4 To pool resources in order to achieve all of the above to benefit Performers whilst still maintaining the individual brands of the Applicants.

8. On 08 August 2023, the Commission published a Government Gazette Notice pertaining to the exemption application in accordance with Section 10(6)(a) of the Act. The Notice stated that the conduct sought may amount to prohibited practices in contravention of Section 4(1)(a), 4(1)(b)(i), and 5(1) of the Act. The Notice also called upon interested parties to make written representations to the Commission within 20 (twenty) business days of the publication as to why the exemption should or should not be granted. In addition, the investigating team also invited comments from stakeholders in the industry by way of direct letters following the publication of the Government Gazette Notice.
9. The submissions received from interested parties were considered in the assessment of the Applicants exemption application.
10. The Commission's assessment revealed that:
 - 10.1 The conduct of the Applicants, their members and other market participants may result in contravention of section 4(1)(a) and/or section 4(1)(b)(i), and alternatively section 5(1) of the Act.
 - 10.2 The exemption if granted, may achieve the objectives of Section 10(3)(b)(ii) and 10(3)(b)(v) of the Act.
11. After consideration of the exemption application, the Commission has decided to grant the Applicants a conditional exemption for a period of **five (5) years**, commencing from **13 December 2024** and ending on **12 December 2029**. The exemption will be subject to monitoring mechanisms which the Commission has put in place to ensure that the objectives set out in the application are met by the exemption. The Conditions and Monitoring Mechanisms are attached below as **Annexure A**.
12. Notice is hereby given in terms of Section 10(7) of the 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 lodge an appeal to the Competition Tribunal in the prescribed manner in terms of Section 10(8) of the Act.
13. Further queries concerning this Notice should be directed to:

Ms Asanda Ntunta
Market Conduct Division

Competition Commission of South Africa

Email: AsandaN@compcom.co.za

Mr Godknows Giya

Market Conduct Division

Competition Commission of South Africa

Email: GodknowsG@compcom.co.za

14. Kindly make use of the following case number when sending correspondence in relation to this Notice: Case No: 2022OCT0030.

ANNEXURE A: EXEMPTION CONDITIONS**Preamble**

1. The Exemption is granted to SAGA and the PMA for a period of **five (5) years** effective from **13 December 2024** up to and including **13 November 2029**, subject to the conditions listed below.
2. The conditions below only apply for the purpose and duration of the Exemption. The Exemption is in respect of collectively coordinating and designing rate cards that set minimum rates for Performers and setting of trading conditions and standard agreements regulating the working conditions between members of the Applicants, and Market participants in the entertainment industry.
3. SAGA and the PMA have requested an exemption in terms of section 10 of Act for a period of five (5) years to engage in the following activities on behalf of its members with production houses, broadcasters, studios, advertisers, and private organisations:
 - 3.1. To collectively coordinate, communicate and exchange information to design guideline rate cards with minimum rates for Performers as related to the skill and experience of a Performer when they provide intellectual property services in the entertainment industry;
 - 3.2. To collectively coordinate, negotiate and conclude collective agreements as relating to trading conditions in industry standard agreements with Production Houses, Broadcasters, Studios, Advertisers, or Private companies;
 - 3.3. To collectively negotiate and implement standardised trading terms in in the industry standard contracts between Performers and Production Houses, Broadcasters, Studios, Advertisers or Private companies); and
 - 3.4. To pool resources in order to achieve all of the above to benefit Performers whilst still maintaining the individual brands of the Applicants.
4. The exemption is meant to achieve the objectives (i) of section 10(3)(b)(ii) of the Act which reads "*promotion of the effective entry into, participation in or expansion within a market by small and medium businesses, or firms controlled or owned by historically disadvantaged persons*" and (ii) section 10(3)(b)(v) of the Act which reads "*competitiveness and efficiency gains that promote employment or industrial expansion*".

Conditions

1. The Applicants and their members must ensure that all negotiations regarding minimum rate cards, and trading conditions are conducted transparently, actively seeking cooperation and input from all relevant stakeholders, including those not represented by SAGA and PMA to foster a collaborative environment.
2. The Applicants and their members must establish clear and equitable minimum rate cards that consider the Performers' experience and skill level, professional designation, project type and scale of the project to ensure that these minimum rates are fair and reflective of industry standards. The minimum rate cards can be published on their websites or social media platforms once negotiated with the industry.
3. The Applicants and their members shall commit to using the minimum rate cards as guidelines for starting negotiations with market participants and not prescribe the minimum rate cards to the industry.
4. The Applicants shall commit to implementing initiatives and/or programs aimed at:
 - 4.1 promoting access to the industry for HDP Performers; and
 - 4.2 developing the competencies of HDP Performers.
5. The Applicants shall commit to taking active steps in promoting overall transformation including the membership structure to enhance participation of HDPs in the industry in line with the targets set out in Table A below.

Table A: Transformation Targets for SAGA and PMA

Element	Indicator	Measurement Criteria	Compliance Target	Target for year 1 of the exemption	Target for year 2 of the exemption	Target for year 3 of the exemption	Target for year 4 of the exemption	Target for year 5 of the exemption
Membership (SAGA)	Participation	HDP members as a percentage of all members	60%	52%	54%	56%	58%	60%
Membership (PMA)	Participation	HDP Performers as a percentage of Performers represented by PMA members	70%	66%	67%	68%	69%	70%

Annual reporting to the Commission by the Applicants

1. SAGA and the PMA are required to submit a report to the Commission on an annual basis as the Commission is obliged to monitor the impact of the measures taken to meet the objectives relied upon and to assess whether SAGA and the PMA are meeting the objectives on an on-going basis. The requested report must include the following information:
 - 1.1 The published minimum rate cards for the different categories of Performers in the industry and the factors that were considered when determining each minimum rate card per category of Performers.
 - 1.2 Minutes of meetings discussing minimum rate cards and a list of stakeholders that would have participated in the discussions.
 - 1.3 All agreements concluded by the Applicants relating to trading conditions in the industry and standard agreements with the representative organisations and associations in good standing which represent production houses, broadcasters, studios, advertisers, and private organisations in accordance with the collective negotiations.
 - 1.4 Minutes of meetings discussing trading conditions in the industry and standard agreements and a list of stakeholders that would have participated in the discussion.
 - 1.5 The number and details of new members who joined SAGA and the PMA respectively within the preceding year.
 - 1.6 The number and details of members who left SAGA and the PMA, respectively, in the preceding year and detailed reasons regarding members that left.
 - 1.7 While recognising that the Applicants do not represent all Performers and personal managers in the entertainment industry and that membership is voluntary. The Applicants must, submit information demonstrating how the benefits of the Exemption have been transferred to Performers in terms of:
 - a) Remuneration levels;
 - b) Employment and expansion for historically disadvantaged performers; and
 - c) Growth and sustainability of the sector.
2. The compliance report(s) must be submitted to the following email address exemption.conditions@compcom.co.za.

Variation Clause

3. Notwithstanding the aforementioned conditions, the Commission may at any time upon good cause shown decide to vary or revise any condition during the period of the exemption.