



the dti campus, Building C: Mulayo

77 Meintjies Street, Sunnyside, Pretoria

✉ Private Bag X23, Lynnwood Ridge 0040

Tel: +27 (12) 394 3200 Fax: +27 (12) 394 0166

E-mail: CCSA@compcom.co.za

Website: <http://www.compcom.co.za>

competitioncommission
south africa

Our Ref: M Swart/M Narainsamy 2012Aug0494

Your Ref: Lizette Mellet 8/2/2/3

8 March 2013

Dr John Purchase

National Agricultural Marketing Council

Dear Dr Purchase,

ADVISORY OPINION: PROPOSED GRAIN AND OILSEEDS IMPORT AND EXPORT VOLUMES DATABASE AND RELEASE OF OFFICIAL SUPPLY AND DEMAND FIGURES

INTRODUCTION

1. We refer to your request for an advisory opinion dated 16 August 2012, wherein you ask the Commission to provide a view on a system of information sharing proposed by the National Agricultural Marketing Council ("NAMC"). NAMC intends to establish an official supply and demand reporting mechanism to enhance the statutory measures in terms of the Marketing of Agricultural Products Act 47 of 1996 ("MAP Act") which are already in place and which requires exporters and importers of grains and oilseeds to declare imports and exports. This is aimed at bringing about transparency and price stability in the grain and oilseed markets of South Africa and consequently food security in the country. Subsequent to the request various meetings between the Commission and NAMC have been held, the last being on 25 January 2013 as a result of which further information was provided by NAMC.

YOUR SUBMISSIONS

2. In the request you have provided the following information and submissions (including minutes of meetings with stakeholders held on 27 July 2012, 6 August 2012, 13 August 2012 and 18 September 2012 respectively) for consideration by the Commission;
 - 2.1 NAMC is a statutory body advising the Minister of Agriculture, Forestry and Fisheries. The NAMC was established in terms of the MAP Act and its mandate is *inter alia* to promote the efficiency of the marketing of agricultural products and to enhance the viability of the agricultural sector.
 - 2.2 Exporters and importers of grains and oilseeds are compelled to declare imports and exports of grains and oilseeds as per statutory measure in terms of the MAP Act. Section 18 of the Map Act provides that each end consumer, importer, storer, exporter and processor of maize and/or wheat shall keep complete records for each week (Saturday to Friday) in respect of maize and/or wheat exported or imported by him and submit to the South African Grains Information Services (“SAGIS”) an accurate return in respect of physical exports and imports that realized during the past week. These shall also include any person, e.g. a producer, agent, trader, transporter who acts in the capacity of the aforementioned persons. This statutory measure was implemented on 4 June 2008, and on 9 September 2011, the Minister approved the continuation of the statutory measure for a further period of four years to lapse on 30 April 2016.
 - 2.3 The current statutory measure however does not make provision for traders to declare exports and imports that have already been contracted and of which the slots in the ports have already been booked, as well as contracts of shipments by road / rail into Africa. Apparently this information is only available to a few stakeholders in the market, while the rest of the market is reliant on best estimates.
 - 2.4 NAMC submits that limited knowledge about future exports can have undesired effects such as food shortages, excessive price increases of basic

staple foods and price volatility that will affect the neediest. In this regard reference was made to the Great Grain Robbery of 1972, also known as the Russian Wheat Deal¹.

- 2.5 NAMC mentions another case in point is the current maize stock situation. Exports of surplus maize accelerated late in 2011, which resulted in prices moving away from export parity as the market started to realize the extent of the exports. This significant increase in prices was transmitted to maize meal prices. The result was tremendous media hype as well as enquiries by political leaders and civil society. NAMC is of the opinion that this could have been prevented if more accurate and timely information about maize exports was available.
- 2.6 In view of the importance of food security and against the background of uncertain maize stock positions and highly fluctuating maize prices over the past few years, Grain SA and SA Cereals and Oilseeds Traders Association (“SACOTA”) agreed that there is a specific need for information pertaining to grain imports and exports to be made available to all stakeholders in a timely and accurate manner. There is in addition a need for official supply and demand figures for the major grain and oilseed crops, namely white and yellow maize, wheat, soya beans and sorghum.
- 2.7 NAMC submits that grains and oilseeds supply and demand figures should be determined and released, as is the case in other countries such as the U.S., and is regarded as being a responsibility of Government. These countries demand the relevant information which is important for food security, price stability and transparency by way of legislation. The U.S. for instance compiles the World Agricultural Supply and Demand Estimates (“WASDE”).

¹ In July and August 1972, the United States sold to the Soviet Union about 440 million bushels of wheat for approximately \$700 million, more than the total U.S. commercial wheat exports for the year beginning in July 1971. The sales were equivalent to 30 percent of average annual U. S. wheat production during the previous five years and more than 80 percent of the wheat used for domestic food during that period. Previously the Russians had purchased only a relatively small quantity of U.S. farm products. Immediately following the sales announcements, the domestic price of wheat began to rise and shortly thereafter the prices of feed and food grain, soy-beans, and livestock rose and continued to do so at high rate during most of the next twelve months. A report by the General Accounting Office, amongst other things, that trading rules and procedures of the USDA are not adequate for dealing with the bargaining power of a foreign state trading monopoly which is a fully informed buyer and have the advantage when dealing with partially informed individual sellers and that farmers were not provide with timely information with appropriate interpretative comments to help them make sound marketing decisions. (The Russian Wheat Deal-Hindsight vs. Foresight, Clifton B. Luttrell, Federal Reserve Bank of St. Louis, October 1973)

NAMC's plan is to model the proposed supply and demand publication on the WASDE.²

The Proposed Committees

2.8 Two committees were appointed, namely a Grains and Oilseeds Supply and Demand Estimates Committee (S&DEC), and a Grains and Oilseeds Supply and Demand Estimates Liaison Committee (S&DELC) to be responsible for the envisaged process.

2.9 The S&DEC:

2.9.1 Is composed of independent grain market experts;

2.9.2 Is responsible for the monthly data collection, calculation and dissemination of information with the assistance of SAGIS;

2.9.3 Meets within a day after the crop estimates or SAGIS deliveries were released, whichever occurred last, to release information after the market has closed; and

2.9.4 Will ensure confidentiality by means of a lock down principle, and a confidentiality clause will be signed by all members. In addition one NAMC official will be identified and contracted for the purpose of trade data collection. Only aggregate data will be tabled at the meetings of the S&DEC.

2.10 A disclaimer will be included in the publication of the supply and demand information to set out the liability of the information. In the event that the published supply and demand figures are unreliable there is a reputational risk for the S&DEC and also the NAMC. It is therefore considered important that the S&DEC members are fully informed about changes and

² The U.S. Department of Agriculture (USDA) publishes monthly crop supply and demand estimates for the U.S. and the world. These estimates are comprehensive, objective and timely and affect decisions made by farmers, businesses, and governments, by defining the fundamental conditions in commodity markets. Several agencies within USDA are responsible for preparing crop statistics. The National Agricultural Statistics Service (NASS) forecasts U.S. crop production based on data collected from farm operations and field observations. The World Agricultural Outlook Board (WAOB) coordinates an interagency process that prepares monthly forecasts of supply and demand for major crops, both for the U.S. and the world, and follows a balance-sheet approach to account for supplies and utilisation. The major components of the supply and demand balance sheet are beginning stocks, production, domestic use, trade, and end-of-season carryout stocks. Whereas forecasts of U.S. crop production and estimates of U.S. stocks on hand are independently prepared by NASS, U.S. and foreign supply and demand forecasts are developed jointly by several USDA agencies. Security measures are used to prevent leaks of market-sensitive information and the agencies conduct research to improve estimating techniques. (Understanding USDA Crop Forecasts', United States Department of Agriculture ,Miscellaneous Publication No. 1554).

developments in the grain industry. Members also need to do proper research regarding trends, substitution effects between different grains and also have a clear understanding of the global grains and oilseeds situations.

2.11 With regard to the composition of the S&DEC, NAMC requires the Commission to indicate whether members may have a trade account on SAFEX or not. Seeing that meetings will have a lock down principle, it could be argued that members will still have the same information as trade partners before and after a S&DEC meeting, as the figures will be published directly after a meeting. Some were however of the opinion that members can influence figures in defending their position on the SAFEX market.³ **Annexure A** hereto sets out the criteria for the appointment of members.

2.12 The S&DELC:

2.12.1 Comprises of the directly affected groups in the grain and oilseeds industry;

2.12.2 Oversees the work done by the S&DEC; and

2.12.3 Meets once a year or as the need arises.

2.13 S&DELC members are not expected to provide input as to the determination of the accuracy of information or estimates provided by the S&DEC. Their function is to oversee the governance and legitimacy of the process. Any accuracy determination of any factors of the S&D estimates can only be established retrospectively and after the physical transactions have taken place by way of the import or export transactional submissions to SAGIS.

2.14 Both committees will be facilitated by NAMC and it will provide the necessary resources and capacity. Funding will have to be considered by the four relevant industry Trusts, based on the budget of the S&DEC and the contribution proportion used for the funding of SAGIS.

³ This issue was discussed at the meeting of 25 January 2013 and the Commission requested NAMC to provide assurance to the Commission of the independence of the members of the S&DEC committee as will be discussed later.

Methodology

2.15 SACOTA agreed, on behalf of grain and oilseed traders, that generic trade information will voluntarily be supplied by individual traders to NAMC. The NAMC will then act in accordance with best practice as far as information exchange is concerned so as not to disclose any individual information to any stakeholder that could result in uncompetitive practices.

2.16 The following was agreed upon at the meeting held on 27 July 2012:

2.16.1 DAFF should be requested to explain how they do the Supply and Demand projections in their RSA Food Security Bulletin and how it is distributed.

2.16.2 The methods used by United States Department of Agriculture (“USDA”) should be investigated by NAMC.

2.16.3 The reliability of information provided could be weighted over time and information will become mature over time.

2.16.4 In view of food security, the S&DEC will focus on the following grain and oilseeds products, namely white and yellow maize, wheat, soya beans and sorghum.

2.16.5 The following information will be sourced and included in determining the supply and demand figures:

INFORMATION	SOURCE OF INFORMATION
Opening stocks	SAGIS information
Production and retentions by producers	Crop Estimates Committee (CEC) (only crop estimates and not intentions to plant or hectares planted will be used)
Imports	Individual traders (not only SACOTA members) and millers to supply information directly to NAMC
SUPPLY	
Consumption Human Animal Gristing	BFAP projections, NAMC projections, statistical data and trends. S&DC can use white maize and yellow maize ratios to determine consumption.

Retentions Seed Etc.	The same consumption items should be used as SAGIS for the different grain products
Exports Products Whole grain	Individual Traders (not only SACOTA members) and millers to supply information directly to NAMC
DEMAND	
Carry out/closing stocks	Balancing number at the end

2.17 At the meeting held on 6 August 2012 the S&DEC Committee was of the view that S&DEC meetings should rather take place on the same day as the crop estimates, in order to publish the crop estimates and supply and demand information at the same time and so reduce the possibility of further market volatility.

2.18 At the meeting of 13 August 2012 a concern with regard to the fact that the supply and demand figures will be an estimation/forecast/projection was raised and the actual purpose thereof was questioned and it was asked whether Government would intervene at a certain supply and demand level. It was agreed that the figures will indeed be forward looking projections and that the objectives of the exercise will be to have transparent information on an equitable basis to all role players, greater price stability and food security. Traders will be able to provide information without exposing them individually. The objective is not government involvement, although the information could be used in the possible implementation of a contingency plan for the import and export of grains.

2.19 The following methodology was agreed to:

2.19.1 The monthly supply and demand figures on maize, soybeans, wheat and sorghum will be published in the format proposed by the S&DEC, summarised as follows:

- Supply and demand projections for the whole marketing season, as from February until April (14 months);
- Supply and demand figures for each month, where changes to crop estimates and other variables will be incorporated and explained in footnotes, as well as actual import and export figures that can be verified with actual contracts and slot bookings; and
- Projected import and exports figures for the next 2 to 3 months (traders will be requested to give an indication of what they expect to be imported or exported).

2.19.2 All figures can change in any month and the S&DEC will provide explanations for any such changes and any underlying assumptions. The S&DEC will also have to qualify which trade figures are contracted and which are purely estimations. Although all the line items included in the table will be considered in calculating supply and demand figures, most line items such as ‘retentions’ and ‘withdrawn by producers’ will only be published in a footnote as ‘other’ to indicate what was considered by the Committee.

2.19.3 The proposed table was adopted as the basis of the supply and demand calculations, subject to the inclusion of a line that indicates the closing stock as a percentage of total consumption (see **Annexure B**). The table will be tailored for white maize, yellow maize, soybeans, wheat and sorghum.

2.20 It was pointed out that it is not the mandate of SAGIS to publish any projected market figures, and it could jeopardise the integrity of SAGIS information. SAGIS could, however, publish the S&DEC’s information in the same manner as the publication of the crop estimates, food prices and other information.

THE EXISTING INFORMATION FRAMEWORK

3. The bulk of the information available on exports and import at present is one obtained through SAGIS. SAGIS reports on all commercial and emerging

producer deliveries where grain is handled commercially. This excludes grain that is retained on farms by farmers for own consumption. The reports produced by SAGIS are for marketing period of 12 calendar months (periods as agreed to by particular industries) irrespective of whether the grain was harvested in the marketing year concerned or in the previous marketing year. Although actual and physical imports and exports are recorded by SAGIS on a weekly basis, intentions to trade and future stock movements that are already contracted are not included. This is one of the areas where the current reports by SAGIS fall short of the requirement of the proposed system.

4. Information released by SAGIS include the following:
 - 4.1 Monthly Bulletin – one page per commodity with stocks, producer deliveries, imports, exports and consumption. This is released towards the end of the month
 - 4.2 Weekly Bulletin – A collection of local and international information such as prices, stocks, import parity prices, economic indicators, the food prices of Statistics SA, weather conditions, etc. This is usually released on the SAGIS website by the second working day of every week.
 - 4.3 Weekly imports and exports (maize and wheat) – This is usually released on the SAGIS website by the second working day of every week.
 - 4.4 Weekly producer deliveries (maize and wheat) – This is usually released on the SAGIS website by the third working day of every week, per grade for maize and in total for wheat.
 - 4.5 A historic database is also available on the website.
5. SAGIS does not calculate crop estimates. The National Crop Estimates Committee (NCEC) of the National Department of Agriculture calculates and releases crop estimates with the help of external inputs such as producers, institutions and historical data. The NCEC revises the crop estimate throughout the marketing season by consulting with its sources and also taking into consideration the physical producer deliveries that are reported by SAGIS.

6. The crop estimate comprises the total crop irrespective of whether:
 - 6.1 The producer retains a portion thereof on his farm for own consumption;
 - 6.2 The producer harvests and delivers the grain;
 - 6.3 The seed will be used for planting purposes or not. Seed for planting purposes are only excluded in the case of maize and sorghum.
7. Storers of grain need to make a distinction between grain actually delivered for storage or grain that was just weighed and/or graded by their facilities.
8. Further, the producer, when withdrawing his grain, must correctly declare the source and final destination to the storer to ensure that the storer submits correct information to SAGIS.
9. Discrepancies in figures reported, as a result of the above, lead to some uncertainty regarding the accuracy of the information published by SAGIS.

ADVICE

10. Kindly note that this opinion does not constitute a finding or a decision by the Commission on the desirability of the information sharing system as proposed by NAMC. This opinion merely serves as a guide on the approach that is likely to be taken by the Commission in assessing the risks to competition presented by the proposed system. A finding on actual competitiveness can only be made after an investigation which normally takes place after it has been initiated by the Commissioner or lodged by a complainant in terms of section 49B (1) and (2) of the Act.
11. The information sharing proposal of this nature is likely to lend itself to assessment under section 4(1) of the Act⁴. There is currently very little South

⁴ Section 4 of the Act reads as follows:

4. Restrictive horizontal practices prohibited

(1) An agreement between, or concerted practice by, firms, or a decision by an association of firms, is prohibited if it is between parties in a horizontal relationship and if –

(a) It has the effect of substantially preventing, or lessening, competition in a market, unless a party to the agreement, concerted practice, or decision can prove that any technological efficiency or other pro-competitive gain resulting from it outweighs that effect; or

(b) it involves any of the following restrictive horizontal practices:

(i) directly or indirectly fixing a purchase or selling price or any other trading condition;

(ii) dividing markets by allocating customers, suppliers, territories, or specific types of goods or services; or

African jurisprudence on information sharing and it is likely that the Commission will have regard to the foreign jurisprudence in dealing with such matters.

12. According to Whish and Bailey, competitors cannot compete in a statistical vacuum. The more information they have about market conditions, the volume of demand, the level of capacity that exists in an industry and investment plans of rivals, the easier it is for them to make rational and effective decisions on production and marketing.⁵ Good market information also tends to make investment more accurate. Both under-production and over-production are socially costly.⁶
13. There is increasing recognition that information exchange could result in large efficiency benefits. Information exchange could improve investment decisions and organisational learning of firms, which could potentially result in better quality, more variety and better future ability to respond to demand changes. It could also result in more efficient production planning, improved distribution and marketing strategies and better product positioning (in the case of differentiated products), all of which could improve consumers welfare. Information exchange may also lead to the exit of less efficient firms and facilitate the entry of firms who are not challenged by information asymmetry as a barrier to entry.⁷ The risks of collusion amongst competitors associated with information exchange therefore, do not attach to each and every situation where information is exchanged.
14. The USDA considers accurate data about the situation and outlook for agricultural commodities to improve the efficiency of the production and marketing chain by helping farmers, agribusinesses and governments to make informed decisions and levels the playing field by reducing informational disparities.⁸

(iii) collusive tendering.

⁵ Richard Whish and David Bailey, "Competition Law", 7th Ed. p540

⁶ Phillip Areeda and Herbert Hovenkamp, "An Analysis of Antitrust Principles and Their Application" Supplement 2012, 2111b

⁷ Nitshe and von Hinten-Reed (2004)

⁸ Michael K. Adjemian (Economic Research Service: USDA), Amber Waves, June 2012, Vol. 10, Issue 2

15. In the U.K Agricultural Tractor Registration Exchange⁹ decision, the European Economic Community (“EEC”) found against an information exchange agreement called the UK Agricultural Tractor Registration Exchange (“the Exchange”). This Exchange identified the volume of retail sales and market shares of eight manufactures and importers of agricultural tractors in the U.K. market. The exchanged information included disaggregated industry data on sales which could be broken down by geographic areas, regions, land use, counties, dealer territories and postal code sectors. This information could be made available for yearly, quarterly, monthly and weekly time periods.
16. There was also data identifying sales of individual competitors (volume of retail sales and market shares of each individual member of the Exchange with detailed breakdowns by model, product groups). The EEC found the Exchange led to restriction of competition in terms of Article 85 (now Article 81) of the EEC Treaty because it prevented “hidden competition” in a highly concentrated market and increased barriers to entry for non-members. It also noted that this information permitted each member to follow the sales performance and market penetration of each participating competitor on a yearly, quarterly, monthly and daily basis in respect of all the specific products and within the smallest geographic areas.
17. The extent to which information exchange may dampen competition depends on the levels of concentration in the relevant market (both upstream and downstream), the level of disaggregation of the information that is the subject of the exchange (i.e. by geography, customer category, pack size or product specification), the frequency of exchanges, the age of the information at the time of the exchange and the homogenous nature of the products in question and to what extent the information covers the market.
18. The collection and dissemination of information that is genuinely aggregated, where individualised company level information is sufficiently difficult to recognize is less likely to have any restriction on competition. Disaggregated information, such as discussed in the U.K. Tractors case above, may facilitate

⁹ Tractor Exchange U.K. Agricultural Tractor Registration Exchange par 61 [1992] O.J. L68/19, [1993]4 C.M.L.R.358

a common approach to business by market participants, reduce the incentive to compete and allow for the singling out of deviators for punishment. Based upon the submissions made to the Commission there seems to be recognition by NAMC that information collected from individual traders needs to be aggregated¹⁰.

19. The exchange of historic data is unlikely to lead to collusive outcomes as it is unlikely to be indicative of competitors' future conduct or to provide a common understanding of the market¹¹. According to Whish and Bailey, the Guidelines suggest exchange of information which identify future intended prices or quantities of individual firms has as its object the restriction of competition. It is also not necessary for competitors to agree explicitly that they will increase prices, the mere fact of providing each other information about future pricing behaviour may be sufficient for a finding of an agreement between them.¹²
20. The S&DEC's will publish current and future information on a monthly basis to the public. This information comprises of a combination estimates of future imports and exports and actual import and export contracts concluded. The exchange of future forecast information may be acceptable particularly where such information contains general forecast information or information pertaining to general market developments. Information on current contracts and detailed estimates based on actual contracts may however be problematic from a competition point of view, since it provides firms with the ability to determine the conduct of participants in the market at the time of the exchange, greatly facilitating its ability to adapt and react accordingly.
21. Depending on the structure and nature of the market, unreliable estimates, which are not objectively determined, may be at risk of being manipulated by market participants responsible for providing the input data, in this particular instance it being the traders.. Traders perform three functions. They match many farmers with customers in for instance Europe; they move large

¹⁰ Minute of the Supply & Demand Liaison Committee, 13 August 2012, reads as follows: "The commitment of individual traders to supply trade information to the NAMC is of utmost importance. One NAMC official will be identified and contracted for the purpose of the trade data collection. Only aggregate data will be tabled at the meeting of S&DEC".

¹¹ EC Guidelines par 90

¹² R. Whish and D. Bailey p 542

volumes of goods from origin to customers and in the process manage operational costs associated with transportation, quality control and storage; and they manage financing and risks by paying farmers before the harvest and even before negotiating a price with customers and transferring risk to a financial player via the futures markets. Traders rely on price volatility to make money and they may be in a position to manipulate the markets to counter price stability. Traders have for instance manipulated the cocoa bean trading to a large degree during the summer of 2010 on the London Exchange.¹³

22. In the case of the USDA's WASDE report the risk of manipulation of the data is reduced to a large extent by sourcing information from various government agencies, which have many checks and balances in place, and the monthly publication of a scorecard of the accuracy of its U.S. and world commodity forecasts in the WASDE report. The WAOB also conducts periodic in-depth analysis and evaluation of WASDE forecasts. These focus on the accuracy of monthly estimates. The purpose of this review is to identify forecasting bias, if present, and guard against repetitive errors.¹⁴ It is suggested that, to the extent possible, NAMC incorporates similar review measures to guard against bias.
23. As indicated above the information exchange must be assessed with regard to the particular characteristics of the market within which it takes place¹⁵. These include, amongst others, the concentration of the market, and the level of prevailing transparency, stability and symmetry of information. It should be borne in mind that the information exchanged may actually transform a particular market into one that is susceptible to coordination.
24. The market for grains and oilseeds is a commodities market, which is subject to regulation. Commodity markets were the first to innovate contracts in which to manage price risk. The use of derivative instruments through futures and options contracts enables market participants to manage their price risk in the underlying physical market the SAFEX Commodity Derivatives Market

¹³ Speculate or Integrate: Rethinking Agricultural Commodity Markets, A. T. Kearney

¹⁴ 'Understanding USDA Crop Forecasts', United States Department of Agriculture, Miscellaneous Publication No. 1554

¹⁵ EC Guidelines on Horizontal Cooperation Agreement par 58

provides a platform for price discovery and price risk management for the grains market. Transparency is further enhanced by the detailed information made available to the public by SAGIS and the NCEC.

25. The issue for consideration is therefore whether the increased level of transparency brought about by the proposed official supply and demand information dissemination adds anything significant to the already existing transparency and whether such additions increase the likelihood of collusion in this market. *“An information exchange that contributes little to the transparency in a market is less likely to have restrictive effects on competition than an information exchange that significantly increases transparency. Therefore it is the combination of both pre-existing level of transparency and how the information exchange changes that level that will determine how likely it is that the information will have restrictive effects on competition.”*¹⁶
26. Where import and export volumes are already published on a weekly basis with only a week’s lag, it does not seem that monthly, albeit current and future information would significantly increase transparency in the market.
27. NAMC submitted that the proposed information is currently in possession of only a few “insiders” (the large traders) allowing them to manipulate the market, leading to price volatility. NAMC believes that making this information available to everyone will neutralise the ability of traders to manipulate the market. It is however not a given that price stability would naturally follow in view of the incentives of traders mentioned above. It is accepted that the information is required by government to manage and maintain food security. It is however clear that making the information available only to Government may also not be a satisfactory solution.
28. In addition to the review measures mentioned above, to counter the risk of manipulation, NAMC must ensure that the members of the S&DEC are

¹⁶ EC Guidelines par 78

entirely independent, not only with regard to trading companies, but also in respect of farming interests.

CONCLUSION

29. The Commission is concerned that unintended outcomes of the proposed exchange may be price stability coupled with price increases, due to co-ordination, or increased price volatility due to increased manipulation of the market by traders through the exchange. However measures such as the implementation of a review to check for bias and assuring the independence of the S&DEC may lessen the risk of manipulation.
30. In view of the above and having regard to the information exchange framework already in place within the market, the Commission does not anticipate that the proposed exchange is likely to result in a substantial lessening of competition.
31. Kindly note that this opinion is provided entirely on the basis of the information provided to the Commission, in order to provide guidance for compliance with the Act. It is not binding on the Commission or the parties requesting it. Should the information provided for purposes of this opinion change, this opinion shall not apply to such changed facts.
32. Should you wish to discuss this matter further please contact the writer hereof on telephone number: 012 394 3054

Yours faithfully

Maya Swart
Principal Legal Counsel: Legal Services Division
Competition Commission of South Africa
(unsigned electronic version)