

## COMPETITION ACT 2003

Act No2 OF 2003

### RULES

The Namibian Competition Commission, under section 22 of the Competition Act, 2003 (Act 2 of 2003), with the approval of the Minister of Trade and Industry, has made the rules set out in the Schedule.

D.F. REISSNER

Chairperson

Namibian Competition Commission

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PART 1

DEFINITIONS AND OFFICE FUNCTIONS OF COMMISSION (rules 1-4)

1 Definitions

(1) In these Rules, unless the context otherwise indicates, any word or expression to which a meaning has been assigned in the Act has that meaning, and-

"certified copy" means a copy of a document certified by a Commissioner of Oaths;

"complaint" means-

(a) a matter initiated by the Commission under section 33 of the Act; or

(b) a matter that has been submitted to the Commission under section 33 of the Act, and accepted by the Commission under rule 15(2)(a);

"confidential information" means-

(a) information in the possession of the Commission in respect of which a claim has been made asserting that it is confidential information; or

(b) other information in the possession of the Commission that is restricted in terms of rule 10, 11 or 12;

"deliver" means to serve and file;

"file", when used as a verb, means to deposit with the Commission;

"merger notice" means a notification required in terms of section 44 of the Act;

"public holiday" means a public holiday referred to in section 1 of the Public Holidays Act, 1990 (Act 26 of 1990);

"restrictive practice" means a practice prohibited in terms of Chapter 3 of the Act;

"the Act" means the Competition Act, 2003 (Act 2 of 2003).

2 Office hours and address of Commission

(1) Subject to subrule (2), the offices of the Commission are open to the public every Monday to Friday, excluding public holidays, from 08:30 to 13:00 and from 13:30 to 15:30.

(2) The Commission may in exceptional circumstances accept documents for filing on any day and at any time within office hours.

(3) Subject to rules 5 and 6, any communication to the Commission, or to a member of the staff of the Commission, may be-

(a) delivered by hand to The Namibian Competition Commission, at ..... Windhoek, Namibia;

(b) mailed by post to The Namibian Competition Commission, Private Bag, ..... Windhoek, Namibia;

(c) communicated by telephone at (09264)

(61).....;

(d) transmitted by fax at (09264) (61)

.....; or

(e) transmitted by electronic mail to

.....

3 Time limits

(1) If-

(a) a particular number of days are prescribed for doing an act, the number of days must be calculated by excluding the first day and including the last day;

(b) the time for doing an act expires on a public holiday, a Saturday or a Sunday, the act may be done on the next day that is not a public holiday, a Saturday, or a Sunday;

(c) a particular number of days are prescribed for doing an act, the number of days must be calculated by excluding the first day and including the last day, but public holidays, Saturdays and Sundays are not included in the calculation of days.

(2) On good cause shown, the Commission may condone late performance of an act in respect of which these Rules prescribe a time limit, other than a time limit that is binding on the Commission itself.

4 Assigning of functions by Commission

The Commission may in writing assign any function of the Commission to a member of the staff of the Commission, either generally or in connection with a particular matter.

PART 2

DELIVERY OF DOCUMENTS (rules 5-9)

5 Delivery of documents

(1) A notice or document that is required to be delivered may be filed or served in any way permitted or required by the Act or these Rules.

(2) If, in a particular matter, it proves impossible to deliver a document in any manner provided for in the Act or these Rules, the person concerned may apply to the Commission for an order of substituted service.

(3) Subject to rule 2(2), if a date for the delivery of a document in terms of or under the Act or these Rules falls outside the office hours of the Commission as set out in rule 2(1), that document is deemed to have been delivered on the next business day.

(4) A document that is delivered by fax must include a cover page, and a document that is transmitted by electronic mail must be accompanied by a cover message, in either case setting out-

(a) the name, address, and telephone number of the sender;

(b) the name of the person to whom it is addressed, and the

name of that person's representative, if it is being sent to the representative of a person;

(c) the date and time of the transmission;

(d) the total number of pages sent, including the cover page; and

(e) the name and telephone number of the person to contact if the transmission appears to be incomplete or otherwise unsuccessful.

(5) Despite this rule, if, in terms of rule 7, a filing fee is required in respect of a document that has been filed, that document is deemed to have been filed-

(a) on the date and at the time of delivery, or determined by subrule (2), if applicable, provided that the filing fee is paid to the Commission within 5 days of that time; or

(b) when the filing fee is received by the Commission, if later.

#### 6 Filing of documents

(1) The Commission must assign distinctive case numbers to each-

(a) complaint;

(b) application; or

(c) merger notice.

(2) The Commission may combine two or more complaints under a common investigation if they concern substantially the same conduct by the same undertaking.

(3) The Commission must ensure that every document subsequently filed in respect of the same proceedings is marked with the same case number.

(4) The Commission may refuse to accept a document, subsequently filed in respect of the same proceedings, that is not properly marked with the assigned case number.

#### 7 Fees

(1) The Commission may not charge a fee to any person for filing a complaint.

(2) Subject to subrule (3), the fee for filing an application with the Commission-

(a) for a single exemption is N\$5 000, plus an annual fee, payable in advance, equal to N\$500 times the number of years for which the exemption is granted;

(b) for a category exemption is N\$100 000, plus an annual fee, payable in advance, equal to N\$1 000 times the number of years for which the exemption is granted; or

(c) for an exemption contemplated in section 31 of the Act is N\$ 100 000.

(3) If an application is refused in terms of rule 21(4)(b), or rule 23(4)(b) or an advice is given in terms of rule 21(6), the Commission must refund the applicant the annual fee paid in respect of that application.

(4) The fee for filing a merger notice is-

(a) N\$1 500, if the combined figure is valued below N\$50 million;

(b) N\$5 000, if the combined figure is valued at or above N\$50 million, but less than N\$65 million; or

(c) N\$25 000, if the combined figure is valued at or above N\$65 million, but less than N\$75 million; or

(d) N\$50 000, if the combined figure is valued at or above N\$75 million, but less than N\$100 million;

(e) N\$125 000, if the combined figure is valued at or above N\$100 million, but less than N\$1 billion;

(f) N\$250 000, if the combined figure is valued at or above N\$1 billion, but less than N\$3,5 billion; or

(g) N\$500 000, if the figure is valued at or above N\$3,5 billion.

(5) For the purposes of subrule (4)-

(a) "combined figure" means the greater of-

(i) the combined annual turnover in Namibia of the acquirer and the target;

(ii) the combined assets in Namibia of the acquirer and the target;

(iii) the annual turnover in Namibia of the acquirer plus the assets in Namibia of the target; or

(iv) the assets in Namibia of the acquirer plus the annual turnover in Namibia of the target; and

(b) annual turnover and assets must be calculated in accordance with the notice published by the Minister in terms of section 24 of the Act.

(6) For the purpose of subrule (5)-

(a) "acquirer" means the total of all the undertakings that are acquiring undertakings in respect of that merger, as defined in rule 27(1)(a); and

(b) "target" means the total of all the undertakings that are target undertakings in respect of that merger, as defined in rule 27(1)(b).

(7) The Commission may charge a fee of N\$1 per A4-size page or part thereof to any person wishing to copy a record in the possession of the Commission and N\$2 each for the Commission's certification on copies of documents.

8 Form of notices, applications, certificates and receipts  
If a notice, application, certificate or receipt is required in terms of the Act or these Rules, the document must be substantially in the form of the appropriate Form contained in Annexure A.

9 Contents of notices in Gazette  
If the Commission is required, in terms of the Act or these Rules, to publish a notice in the Gazette, that notice must contain at least the following information-

(a) the name of any undertaking or other person directly affected by the notice;

(b) the file number assigned by the Commission to the relevant matter;

(c) the provision of the Act or rules in terms of which the notice is required;

(d) a brief and concise description of the nature of the relevant matter;

(e) if the notice invites submissions, the last date on which submissions may be received;

(f) if the notice reports a decision-

(i) a brief and concise description of the nature of the relevant decision;

(ii) a statement indicating whether reasons for the decision have been published, and if so, how a copy of those reasons may be obtained; and

(iii) a statement of any right of review of that decision, including the period during which a review may be lodged;

(g) the name, address, and contact numbers of the person in the Commission responsible for publishing the notice.

PART 3

ACCESS TO RECORDS OF COMMISSION (rules 10-12)

10 Confidential information

(1) A complaint and any information received by the Commission during its investigation of the complaint are regarded confidential information.

(2) An application and any information received by the

Commission during its consideration of the application, or revocation of an exemption granted to the applicant, are regarded confidential information only to the extent provided for in rule 11.

(3) A statement relating to merger information and any information annexed to it, or received by the Commission during its investigation of that merger, are regarded as confidential information.

11 Right of informants to claim confidentiality or request restricted access

(1) When submitting information to the Commission, a person may identify information that the person claims to be confidential information, but must support that claim at the same time with a written statement in the form of Form 1, explaining why the information is confidential.

(2) If a person makes a claim in terms of subrule (1), the Commission may agree to be bound by that claim without determining whether or not the information is confidential information.

(3) Information that is the subject of a claim in terms of subrule (1) is confidential information-

(a) from the time that the claim is made, until the Commission has determined whether it is confidential information;

and

(b) only to the extent that the Commission has accepted the claim upon determination under paragraph (a).

(4) If a person has requested under rule 13(2) that the Commission treat his or her identity or any other person's identity as confidential information-

(a) the Commission must accept that request; and

(b) that information is restricted unless the person subsequently waives the request in writing.

12 Access to information

(1) Any person may inspect or copy upon payment of the fee prescribed for a copy in rule 7(7), any record of the Commission's proceedings in terms of Chapters 3 or 4 of the Act-

(a) if it is not confidential information; or

(b) if it is confidential information, to the extent permitted, and subject to any conditions imposed by this rule or an order of the Court.

(2) In a particular complaint the Commission may release to the respondent confidential information, other than confidential information relating to-

(a) a possible agreement of terms of an appropriate order; or

(b) the consent of a complainant for an order to include an award of damages.

(3) In addition to the provisions of subrule (1) and (2), the Commission may release confidential information to, or permit access to it by, the following persons-

(a) the person who provided that information to the Commission;

(b) the undertaking to whom the confidential information belongs;

(c) a person who requires it for a purpose mentioned in section 55(2)(a) or (b) of the Act;

(d) a person mentioned in section 55(2)(c) of the Act;

(e) the Minister, if the information concerns a merger; or

(f) any other person, with the written consent of the undertaking to whom the information belongs.

(4) If the Commission submits any information to the Minister, the Commission must identify to the Minister any

information included in its submission-

(a) in respect of which a claim has been made in terms of rule 11(1), that has not yet been determined by the Commission; or

(b) that has been finally determined to be confidential information.

(5) Subject to subrule (6), when making any decision in terms of the Act or these Rules, the Commission may take confidential information into account in making its decision.

(6) If the reasons of the Commission for a decision contemplated in subrule (5) would reveal any confidential information, the Commission, after publishing its decision in the matter, must provide a copy of the proposed reasons to the party concerned at least 10 days before the publications of the reasons.

#### PART 4

#### COMPLAINT PROCEDURES (rules 13-20)

##### 13 Information concerning alleged restrictive practices

(1) A person may provide information concerning an alleged restrictive practice to the Commission in any manner and at any time, whether or not a complaint has been initiated concerning those allegations.

(2) A person who provides information in terms of subrule (1) may request that the Commission treat his or her identity as confidential information, but that person may be a complainant in the relevant matter only if he or she subsequently waives the request in writing.

##### 14 Complaints initiated by Commission

The Commission may initiate a complaint at any time-

(a) in respect of a matter that is within its power; and

(b) within the time period contemplated in section 57 of the Act.

##### 15 Complaints by persons other than Commission

(1) A person other than the Commission may submit a complaint to the Commission by filing a completed Form 2, if-

(a) the complaint is in respect of a matter that is within the scope of the Act;

(b) the complaint is, in terms of section 57 of the Act, done within three years from the date the infringement has ceased;

(c) the complaint is not frivolous; and

(d) the Commission has not initiated or has not already accepted a complaint in respect of that practice.

(2) Upon receiving a complaint in terms of subrule (1), the Commission may-

(a) accept it as a complaint in terms of section 33 of the Act; or

(b) notify, in the form of Form 3, the person who made the complaint that the Commission has decided not to conduct an investigation, and inform the person of the reasons for that decision.

(3) A person whose complaint under subrule (1) has been accepted may withdraw that complaint at any time before the matter has been referred to the Court as contemplated in section 38 of the Act, if applicable, but the Commission may continue to investigate that matter as if the Commission had initiated the complaint as from the date the complaint was originally accepted.

##### 16 Notice of proposed investigation and notice to furnish information to, or produce any document or article to, or to appear before Commission

(1) If the Commission on its own initiative or upon receipt of information or a complaint from any person, decides to conduct an investigation as contemplated in section 33, it must in

the form of Form 4 give notice of the proposed investigation to every undertaking the conduct of which is to be investigated.

(2) A notice to a person to-

- (a) furnish information to;
- (b) produce any document or article to; or
- (c) to appear before,

the Commission as contemplated in section 33(4) of the Act must be in the form of Form 5.

(3) A notice contemplated in subrule (1) must be served as follows-

- (a) to the person concerned at his or her place of work or residence;
- (b) if the person concerned is not at his or her place of work or residence, to any person apparently not less than 16 years of age at the place of work or residence of the person concerned; or
- (c) by registered post addressed to the postal address of the person concerned.

17 Notice of proposed decisions of Commission

A notice containing a proposed decision of the Commission as contemplated in section 36(1) of the Act must be in the form of Form 6.

18 Notice of action to be taken under section 38 and institution of proceedings in Court

(1) The Commission must give notice in the Gazette in the form of Form 7 of any action which it wishes to take under section 38 of the Act.

(2) Any proceedings which the Commission wishes to institute in the Court as contemplated in section 38(1) of the Act must be in the form of Form 8.

19 Application to Court for interim order

An application to the Court for an interim order as contemplated in section 39(1) of the Act must be in the form of Form 9.

20 Notice of consent agreement to be submitted to Court for confirmation as an order of the Court and application to Court for confirmation of agreement of settlement as order of the Court

(1) The Commission must give notice in the Gazette in the form of Form 10 of any consent agreement referred to in section 40 of the Act to be submitted to the Court for confirmation as an order of the Court.

(2) An application to the Court for confirmation of an agreement of settlement as an order of the Court as contemplated in section 40(1) of the Act must be in the form of Form 11.

PART 5

EXEMPTION APPLICATIONS AND PROCEDURES (rules 21-26)

21 Applications for exemption in respect of certain restrictive practices

(1) An application for exemption as contemplated in section 27(1) of the Act must be in the form of Form 12.

(2) Upon receiving an application in terms of section 27 of the Act, the Commission must give notice of receipt of the application in the Gazette in the form of Form 13.

(3) The Commission may request further information from any person who has submitted a representation in response to a notice published in terms of subrule (2).

(4) If the Commission-

(a) grants an exemption in terms of section 28(1) of the Act, it must issue to the applicant an exemption certificate in the form of Form 14;

(b) refuses to grant an exemption in terms of section 28(1) of the Act, it must issue to the applicant a notice of refusal to grant exemption in the form of Form 15.



(5) The Commission must publish in the Gazette a notice in the form of Form 16 of its decision referred to in subrule 4(a) or (b), setting out the section of the Act in terms of which the exemption was granted or refused.

(6) If the subject matter of the application concerned appears not to constitute an infringement of the Part I or the Part II prohibition as contemplated in section 28(1)(c) of the Act, the Commission must issue to the applicant a certificate of clearance in the form of Form 17.

22 Revocation or amendment of exemption or revocation of certificate of clearance

(1) If the Commission proposes to revoke or amend an exemption or to revoke a certificate of clearance under section 29(1) of the Act, the Commission must give notice of the proposed action in the form of Form 18-

(a) to the person to whom the exemption was granted or the certificate of clearance was issued; and

(b) to any other person who, in the opinion of the Commission, is likely to have an interest in the matter.

(2) The Commission must issue a revocation or amendment of an exemption or a revocation of a certificate of clearance in the form of Form 19.

(3) An application to the Court for a pecuniary penalty under section 29(3) of the Act must be in the form of Form 20.

23 Applications for exemption in respect of intellectual property rights

(1) An application for exemption in respect of intellectual property rights as contemplated in section 30(1) of the Act must be in the form of Form 21.

(2) Upon receiving an application in terms of section 30 of the Act, the Commission must give notice of receipt of the application in the Gazette in the form of Form 22.

(3) The Commission may request further information from any person who has submitted a representation in response to a notice published in terms of subrule (2).

(4) If the Commission-

(a) grants an exemption under section 30(1) of the Act, it must issue to the applicant an exemption certificate in the form of Form 23;

(b) refuses to grant an exemption under section 30(1) of the Act, it must issue to the applicant a notice of refusal to grant exemption in the form of Form 24.

(5) The Commission must publish in the Gazette a notice in the form of Form 25 of its decision referred to in subrule 4(a) or (b), setting out the section of the Act in terms of which the exemption was granted or refused.

(6) If the subject matter of the application concerned appears not to constitute an infringement of the Part I or the Part II prohibition as contemplated in section 30(1) of the Act, the Commission must issue to the applicant a certificate of clearance in the form of Form 26.

24 Revocation or amendment of exemptions contemplated in section 30 of Act

(1) If the Commission proposes to revoke or amend an exemption or to revoke a certificate of clearance under section 30(2) of the Act, the Commission must give notice of the proposed action in the form of Form 27-

(a) to the person to whom the exemption was granted or the certificate of clearance was issued; and

(b) to any other person who, in the opinion of the Commission, is likely to have an interest in the matter.

(2) The Commission must issue a revocation or amendment of an exemption or a revocation of a certificate of clearance in the form of Form 28.

(3) An application to the Court for a pecuniary penalty under section 29(3) of the Act must be in the form of Form 29.

25 Application for exemption in respect of professional rules  
(1) An application for exemption as contemplated in section 31(1) of the Act must be in the form of Form 30.

(2) Upon receiving an application in terms of section 31 of the Act, the Commission must give notice of receipt of the application in the Gazette in the form of Form 31.

(3) The Commission may request further information from any person who has submitted a representation in response to a notice published in terms of subrule (2).

(4) If the Commission-  
(a) grants an exemption under section 31(4) of the Act, it must issue to the applicant an exemption certificate in the form of Form 32;

(b) rejects an application for exemption under section 31(4) of the Act, it must issue to the applicant a notice of refusal to grant exemption in the form of Form 33.

(5) The Commission must publish in the Gazette a notice in the form of Form 34 of its decision referred to in subrule 4(a) or (b), setting out the section of the Act in terms of which the exemption was granted or refused.

(6) If the professional rules concerned appear not to contain a restriction that has the effect of preventing or substantially lessening competition in a market, the Commission must issue to the applicant a certificate of clearance in the form of Form 35.

26 Revocation of exemptions as contemplated in section 31 of

Act

(1) If the Commission proposes to revoke an exemption in respect of any rules under section 31(5) of the Act, the Commission must give notice in the Gazette of the proposed action in the form of Form 36.

(2) The Commission must issue a revocation of an exemption in respect of any rules in the form of Form 37.

PART 6

MERGER PROCEDURES (rules 27-33)

27 Merger parties and participants

(1) In this Part, in respect of any particular merger-  
"acquiring undertaking" means-

(a) any undertaking that, as a result of a transaction in any circumstances set out in section 42 of the Act, would acquire or establish direct or indirect control over the whole or part of the business of another undertaking;

(b) any other undertaking that has direct or indirect control over the whole or part of the business of an undertaking referred to in paragraph (a); and

(c) any other undertaking that is controlled by, or the direct or indirect control over the whole or part of the business which is held by, an undertaking referred to in paragraph (a) or

(b);

"primary acquiring undertaking" means an undertaking that meets the definition of acquiring undertaking in paragraph (a) of that definition;

"primary target undertaking" means the undertaking that satisfies the definition of "target undertaking" in paragraph (a) of that definition; and

"target undertaking" means-

(a) an undertaking that, as a result of a transaction in any circumstances set but in section 42 of the Act-

(i) would become controlled by, or the direct or indirect control over the whole or part of the business which is held by, another undertaking; or

(ii) would transfer control of, or the direct or indirect control over the whole or part of its business to another undertaking; and

(b) any other undertaking that is controlled by, or the direct or indirect control over the whole or part of the business which is held by, a business described in subparagraph (i).

(2) The following persons may participate in proceedings before the Commission in respect of any merger-

(a) the party to the merger who files the merger notice contemplated in Form 38;

(b) any other party to the merger who indicates an intention to participate when filing a statement of merger information contemplated in Form 39.

28 Merger notice requirements

Each undertaking involved in a proposed merger as contemplated in section 44(1) of the Act must notify the Commission of the proposal in the merger notice in the form of Form 38, and must attach to it a completed statement of merger information in the form of Form 39.

29 Notification of merger investigation

If the Commission has referred the particulars of a proposed merger to an inspector for investigation and a report as contemplated in section 49(3) of the Act, the Commission must inform the undertakings involved of such referral in the form of Form 40.

30 Notice of determination made by Commission in relation to proposed merger

The Commission must give notice of the determination made by it in relation to a proposed merger in the form of Form 41-

(a) to the parties involved in the proposed merger; and

(b) by notice in the Gazette, as contemplated in section 47(7) of the Act.

31 Revocation of approval of proposed merger

(1) If the Commission proposes to revoke its decision under section 48(1) to approve the implementation of a proposed merger, the Commission must give notice of the proposed action in the form of Form 42-

(a) to every undertaking involved in the merger; and

(b) to any other person who in the opinion of the Commission is likely to have an interest in the matter.

(2) The Commission must issue a revocation of its decision to approve the implementation of a proposed merger in the form of Form 43.

32 Notice of application for review of decisions of Commission on mergers by Minister and notice of determination

(1) The Minister must give notice, as contemplated in section 49(2) of the Act, of an application to review the decision of the Commission in relation to a proposed merger in the Gazette in the form of Form 44.

(2) The Minister must give notice, in the form of Form 45-

(a) to the Commission;

(b) to the parties involved in a proposed merger; and

(c) in the Gazette,

of the determination made by the Minister in relation to the review by the Minister of the decision of the Commission in relation to a proposed merger, as contemplated in section 49(4).

33 Application to Court in terms of section 51

An application to the Court as contemplated in section 51 of the Act in respect of a merger which being, or has been implemented in contravention of Chapter 4 of the Act, must be in the form of Form 46.

PART 7

MISCELLANEOUS (rules 34-37)

34 Requirements for small undertaking

A small undertaking is-

(a) a separate and distinct business entity, including co-operative enterprises and non-governmental organisations, which is managed by one owner or more and, includes its branches or subsidiaries, if any; and

(b) predominantly carried on in any sector or subsector of the economy mentioned in column 1 of Annexure B, and which can be classified as a micro-, a very small, a small or a medium enterprise by satisfying the criteria mentioned in columns 3, 4 and 5 of that Annexure opposite the smallest relevant size or class as mentioned in column 2 of that Annexure.

35 Financial year of Commission

The financial year of the Commission ends on 31 March of each year.

36 Criteria to be applied for determining dominant position in market

(1) An undertaking has, or two or more undertakings have, a dominant position in a market if-

(a) it has or they have at least 45% of that market;

(b) it has or they have at least 35%, but less than 45%, of that market, unless it can show that it does not have market power; or

(c) it has or they have less than 35% of that market, but has or have market power.

(2) For the purposes of this rule "market power" means the power of an undertaking or undertakings to control prices, to exclude competition or to behave to an appreciable extent independently of its competitors, customers or suppliers.

37 Notice from chairperson of Commission

A notice from the chairperson of the Commission as contemplated in section 54(2) of the Act, must be in the form of Form 47.

ANNEXURE A

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Form 13 Notice of receipt of application for exemption in respect of certain restrictive practices 21(2)

Form 14 Exemption certificate in respect of certain restrictive practices 21(4)(a)

Form 15 Notice of refusal to grant exemption 21(4)(b)

Form 16 Notice of decision of Commission regarding exemption 21(5)

Form 17 Certificate of clearance in respect of certain restrictive practices 21(6)

Form 18 Notice of proposed revocation or amendment of exemption / Revocation of clearance certificate 22(1)

Form 19 Revocation or amendment of exemption / Revocation of clearance certificate 22(2)

Form 20 Application to Court for pecuniary penalty 22(3)

Form 21 Application for exemption in respect of intellectual property rights 23(1)

Form 22 Notice of receipt of application for exemption in respect of intellectual property rights 23(2)

Form 23 Exemption certificate in respect of intellectual property rights 23(4)(a)

Form 24 Notice of refusal to grant exemption in respect of intellectual property rights 23(4)(b)

Form 25 Notice of decision of Commission regarding exemption in respect of intellectual property rights 23(5)

Form 26 Certificate of clearance in respect of intellectual property rights 23(6)

Form 27 Notice of proposed revocation or amendment of exemption / Revocation of clearance certificate in respect of intellectual property rights 24(1)

Form 28 Revocation or amendment of exemption / Revocation of clearance certificate in respect of intellectual property rights 24(2)

Form 29 Application to Court for pecuniary penalty 24(3)

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Form 31 Notice of receipt of application for exemption in respect of professional rules 25(2)

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FORM 1  
NAMIBIAN COMPETITION COMMISSION  
CONFIDENTIALITY CLAIM  
COMPETITION ACT, 2003  
(Rule 11(1))  
To: The Namibian Competition Commission  
Concerning:  
(Name and file number :)

On a separate sheet of paper, list the following information, and set out the facts and contentions supporting your claim that the identified information is confidential.  
Column 1: The name of the document that contains the confidential information.  
Column 2: The page and line number.  
Column 3: The name of the undertaking that owns the particular information.  
Column 4: The nature of the economic value of the information.  
Column 5: The existing restrictions on access to the information.  
Statement of confidentiality:  
I,

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have compiled or supervised the persons who compiled the attached list. I believe that the information identified in that list is confidential information as defined in section 1 of the Act.  
Name and title of person authorised to sign:

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Authorised signature: Date:

For office Commission file number: Date filed:  
Use only: \_\_\_\_\_  
\_\_\_\_\_

FORM 2  
NAMIBIAN COMPETITION COMMISSION  
COMPLAINT  
COMPETITION ACT, 2003  
(Section 33, Rule 15(1))  
To: The Namibian Competition Commission  
From:  
(Name of person submitting complaint:)

Concerning:  
(Name or person whose conduct is the subject of this complaint:)

Despcription of complaint:  
(Provide a concise statement of the conduct that is the  
subject of this complaint:)

- 1 Please attach to this form any relevant documents, as well as a typed statement describing the conduct that is the subject of this complaint, including-
  - (a) the names of each party involved in the conduct;
  - (b) the dates on which the conduct occurred;
  - (c) a statement indicating when and how you became aware of the conduct, and
  - (d) any other information you consider relevant.
- 2 Is the conduct continuing? Yes No
- 3 If not, when did the conduct end? \_\_\_\_\_

Name and title of person authorised to sign:

---

Authorised signature: Date:

FORM 2 (continue)  
For officeCommission file number:Date filed  
Use only:\_\_\_\_\_

Please note:  
If this complaint is lodged by a person other than an individual, please provide contact details of the person authorised to discuss the complaint.

FORM 3  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF DECISION NOT TO CONDUCT AN INVESTIGATION  
COMPETITION ACT, 2003  
(Section 33(2), Rule 15(2)(b))

To: \_\_\_\_\_

Concerning:  
(Name and file number of complaint:)

1 The Commission has received a complaint against the above named respondent

on \_\_\_\_\_

2 The Commission gives notice that it has decided not to conduct an investigation into the alleged infringement concerned.

3 The reasons for the decision of the Commission are as follows:

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

Authorised signature: Date:

Please note:  
This notice must be sent to the person from whom a complaint has been received.

FORM 4  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF PROPOSED INVESTIGATION  
COMPETITION ACT, 2003  
(Section 33(3), Rule 16(1))

To: \_\_\_\_\_

Concerning:  
(Name and file number of complaint:)

1 The Commission has received a complaint against the above named respondent on: \_\_\_\_\_ in relation to the following subject matter: \_\_\_\_\_

2 The Commission gives notice that it has decided to conduct an investigation into the alleged infringement concerned.

3 The purpose of the investigation is:

4 You are hereby invited to submit to the Commission within 30 days as from the date of this notice, any written



representations which you may wish to make to the Commission in connection with any matter to be investigated.  
Name and title of person authorised to sign on behalf of the Commission:

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Authorised signature: Date:

Please note:  
This notice must be sent to the person from whom a complaint has been received.

FORM 5  
NAMIBIAN COMPETITION COMMISSION  
NOTICE TO APPEAR BEFORE COMMISSION  
COMPETITION ACT, 2003  
(Section 33(3), Rule 16(1))  
To:

Concerning:  
(Name and file number:)

1 The Commission has decided to conduct an investigation concerning the above mentioned matter.  
2 You are required to appear at \_\_\_\_\_ and give evidence before the Competition Commission on \_\_\_\_\_ at \_\_\_\_\_ o' clock, in the morning/ afternoon.[i]\*  
3 You are also required to bring with you:  
(a) the documents or items listed on the attached \_\_\_\_\_ sheet(s); and  
(b) any other documents or items in your possession or under your control that relate to this matter.  
Name and title of person authorised to sign on behalf of the Commission:

---

Authorised signature:Date:

Please note: [sic]

[i>Delete whichever is not applicable

FORM 6  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF PROPOSED DECISION OF COMMISSION IN RELATION TO INVESTIGATION  
COMPETITION ACT, 2003  
(Section 36(1), Rule 17))  
To: \_\_\_\_\_

Concerning:  
(Name and file number of complaint:)

1 The Commission has received a complaint against the above named respondent on \_\_\_\_\_  
2 The Commission proposes to make a decision that-  
(a) the Part I prohibition has been infringed;[i]\*

(b) the Part II prohibition has been infringed.[ii]\*

3 The reasons for the proposed decision are:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

4 The Commission considers to seek the following relief from the Court by way of the institution of proceedings in accordance with section 38:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. In relation to the proposed decision of the Commission you may-

(a) submit written representations to the Commission;

(b) indicate whether you require to an opportunity to make oral representations to the Commission, within 30 days as from the date of this notice.

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

\_\_\_\_\_  
Authorised signature:Date:

Please note:

This notice must be send to every undertaking which may be affected by the proposed decision.

[i>Delete whichever is not applicable.  
[ii>Delete whichever is not applicable.

FORM 7  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF ACTION TO BE TAKEN UNDER SECTION 38  
COMPETITION ACT, 2003  
(Section 41, Rule 18(1))  
Concerning:  
(Name and file number of complaint:)

1 The Commission has received a complaint against the above named respondent on \_\_\_\_\_ and has given notice of its proposed decision on\_\_\_\_\_.

2 The Commission gives notice that it intends to take the following action under section 38:\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

against:[i]\*\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

3 The nature of the conduct that is the subject of the action is: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
Name and title of person authorised to sign on behalf of the Commission:

\_\_\_\_\_  
Authorised signature: Date:

Please note: [sic]

[i]Please mention the name of every undertaking involved.

FORM 8  
NAMIBIAN COMPETITION COMMISSION  
INSTITUTION OF PROCEEDINGS IN COURT FOR ORDER  
COMPETITION ACT, 2003  
(Section 38, Rule 18(2))  
Concerning:  
(Name and file number of complaint:)

1 The Commission has received a complaint against the above named respondent on \_\_\_\_\_ and has given notice of its proposed decision on \_\_\_\_\_.

2 The Commission hereby institutes proceedings in the Court for an order:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
against: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
on the grounds: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
Name and title of person authorised to sign on behalf of the Commission:

\_\_\_\_\_  
Authorised signature: Date:

Please note:  
Please mention in paragraph 2 the order which the Commission sought, the name(s) of the undertaking(s) involved and grounds on which the order is sought.

FORM 9  
NAMIBIAN COMPETITION COMMISSION  
APPLICATION TO COURT FOR INTERIM ORDER  
COMPETITION ACT, 2003  
(Section 39(1), Rule 19)  
Concerning:  
(Name of undertaking concerned:)

1 The Commission on reasonable grounds believes that the undertaking(s) mentioned above: \_\_\_\_\_

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and that it is necessary for the Commission to act as a matter of urgency for the purpose-

(a) of preventing serious, irreparable damage to any person or category of persons; or [i]\*  
(b) of protecting the public interest.

2 The Commission therefore applies to the Court for an interim order restraining the undertaking or undertakings from engaging in the conduct referred to in paragraph 1.  
Name and title of person authorised to sign on behalf of the Commission:

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Authorised signature:Date:

Please note:

Please mention in paragraph 1 the conduct of the undertaking on which the application of the Commission is based [sic], as contemplated in section 39(1).

[i>Delete whichever is not applicable.

FORM 10  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF CONSENT AGREEMENT TO BE SUBMITTED TO COURT  
COMPETITION ACT, 2003  
(Section 41, Rule 20(1))  
Concerning:  
(Name and file number of complaint:)

1 The Commission has received a complaint against the above named respondent on \_\_\_\_\_ and has given notice of its proposed decision on \_\_\_\_\_.

2 The Commission gives notice that it intends to submit the attached consent agreement with: [i]\*

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to the Court for confirmation as an order of the Court as contemplated in section 40(1) of the Act.

3 The nature of the conduct that is the subject of the consent agreement is:\_\_\_\_

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

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Authorised signature:Date:

Please note: [sic]

[i]Please mention the name of every undertaking involved.

FORM 11  
NAMIBIAN COMPETITION COMMISSION  
APPLICATION TO COURT FOR CONFIRMATION OF SETTLEMENT AGREEMENT  
AS ORDER OF COURT  
COMPETITION ACT, 2003  
(Section 40(1), Rule 20(2))  
Concerning:  
(Name and file number of complaint:)

1 The Commission has received a complaint against the above named respondent on \_\_\_\_\_ and has given notice-

(a) \_\_\_\_\_ of its proposed decision on \_\_\_\_\_;

(b) \_\_\_\_\_ in the Gazette of the consent agreement to be submitted to the Court for confirmation as an order to the Court on \_\_\_\_\_

2 The Commission hereby applies to the Court for confirmation as an order of the Court of the attached consent agreement with:[i]\*\_\_\_\_\_

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

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Authorised signature: Date:

Please note: [sic]

[i]Please mention the name of every undertaking involved.

FORM 12  
NAMIBIAN COMPETITION COMMISSION  
APPLICATION FOR EXEMPTION IN RESPECT OF CERTAIN RESTRICTIVE  
PRACTICES  
COMPETITION ACT, 2003  
(Section 27(1), Rule 21(1))  
To: The Competition Commission  
From:  
(Name of Applicant:)

(Name of undertaking:)

1 We apply in terms of section 27(1) of the Act for an exemption from the provisions of Part I[i]\* / Part II[ii]\* of Chapter 3 of the Act in respect of-

a single agreement a category of agreements

a decision a category of decisions

a concerted practice a category of concerted practices,

as described in the attached document.

2 We seek an exemption for a period of \_\_\_\_\_ years.

3 In respect of this matter, has a previous exemption been:  
Granted? Yes No

Refused? Yes No

4 If you have answered "yes" to either question above, please provide the case number for the previous exemption application \_\_\_\_\_.

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

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Authorised Signature: Date:

For office Use only: Commission file number: Date filed:

---

[i>Delete whichever is applicable  
[ii>Delete whichever is applicable

FORM 12 (Continue)  
Please note:

1 The following information must be included in your description of the agreement, decision or practice for which you seek an exemption:

- (a) Your address in Namibia for service of documents.
- (b) A short description of your business.
- (c) A brief description of the agreement, decision or practice which you seek to have exempted from the application of Chapter 2, and, if an agreement or decision has already been made, its date, as well as a certified copy thereof.
- (d) The names and addresses of other parties to that agreement, decision or practice.
- (e) The objective in terms of section 28(3) of the Act on which you rely.
- (f) The facts and contentions on which you rely.
- (g) The sections of the Act that you believe may be contravened by the agreement, decision, practice, or category of agreements, decisions or practices you have described, and a motivation for the belief.

2 Generally, information relating to this application is part of the public record. You have the right to identify information that you believe is confidential, by completing Form 1 and submitting it with this application.

FORM 13  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF RECEIPT OF APPLICATION FOR EXEMPTION IN RESPECT OF CERTAIN RESTRICTIVE PRACTICES  
Competition Act, 2003 (Act 2 of 2003)  
(Section 27(3), Rule 21(2))  
Concerning:  
(Name and file number of applicant:)

1 The Commission gives notice that it has received an application for exemption in respect of certain restrictive practices from the above named applicant on \_\_\_\_\_

2 The nature of the exemption sought by the applicant is:  
\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3 Interested persons are invited to submit to the Commission, within 30 days as from the date of this notice, any written representations that they may wish to make in regard to the application.

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

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Authorised signature: Date:

FORM 14  
NAMIBIAN COMPETITION COMMISSION  
EXEMPTION CERTIFICATE IN RESPECT OF CERTAIN RESTRICTIVE PRACTICES  
Competition Act, 2003 (Act 2 of 2003)  
(Section 28(1)(a), Rule 21(4)(a))  
To:

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(Name and file number of applicant:)

1 You have applied to the Commission on:

\_\_\_\_\_ for an exemption in respect of certain restrictive practices, as contemplated in section 27(1) of the Act.

2 Because the agreement, decision or practice concerned contributes to the objective set out in section 28(3)

\_\_\_\_\_ [i]\*of the Act, the Commission grants an exemption in terms of section 28(1)(a) of the Act for a period of \_\_\_\_\_ years, ending on \_\_\_\_\_, for:

a single agreement a category of agreements

a decision a category of decisions

a concerted practice a category of concerted practices,

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

no conditions

the conditions listed on the attached sheet.

3 The Commission has the authority in terms of section 29(1) of the Act to revoke or amend this exemption if-

(a) the exemption was granted on materially incorrect or misleading information;

(b) there has been a material change of circumstances since the exemption was granted; or

(c) a condition upon which the exemption was granted, has not been complied with.

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

---

Authorised Signature: Date:

[i]Please insert the appropriate paragraph of section 28(3) of the Act.



FORM 15  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF REFUSAL TO GRANT EXEMPTION  
Competition Act, 2003 (Act 2 of 2003)  
(Section 28(1)(b), Rule 21(4)(b))  
To:

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(Name and file number of applicant:)

1 You have applied to the Commission on:  
\_\_\_\_\_ for an exemption in respect  
of certain restrictive practices, as contemplated in section  
27(1) of the Act for:

a single agreement a category of agreements

a decision a category of decisions

a concerted practice a category of concerted practices,

as described in your application.

2 After reviewing the information you provided, the  
Commission refuses to grant an exemption for the reasons  
mentioned in the accompanied statement.

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

---

Authorised Signature: Date:

FORM 16  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF DECISION OF COMMISSION REGARDING EXEMPTION  
Competition Act, 2003 (Act 2 of 2003)  
(Section 28, Rule 21(5))  
Concerning:  
(Name and file number of Applicant:)

1 The above named applicant has applied to the Commission  
on\_\_\_\_\_for an exemption in respect of certain  
restrictive practices, as contemplated in section 27(1) of the  
Act for:

a single agreement a category of agreements

a decision a category of decisions

a concerted practice a category of concerted practices,

as described in his or her or its application.

2 The Commission gives notice of its decision in terms of  
section 28(1)(a)[i]\* or (b)[ii]\* of its decision to grant  
[iii]\* / refuse[iv]\* the exemption concerned.

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

---

Authorised Signature: Date:

- [i>Delete whichever is not applicable.
- [ii>Delete whichever is not applicable.
- [iii>Delete whichever is not applicable.
- [iv>Delete whichever is not applicable.

FORM 17  
NAMIBIAN COMPETITION COMMISSION  
CERTIFICATE OF CLEARANCE IN RESPECT OF CERTAIN RESTRICTIVE  
PRACTICES  
Competition Act, 2003 (Act 2 of 2003)  
(Section 28(1)(c), Rule 21(6))  
To: \_\_\_\_\_  
(Name and file number of Applicant:)

1 You have applied to the Commission on  
\_\_\_\_\_ for an exemption in respect of  
certain restrictive practices, as contemplated in section  
27(1) of the Act for:

a single agreement a category of agreements

a decision a category of decisions

a concerted practice a category of concerted practices,

as described in your application.

2 In the opinion of the Commission, based on the facts in  
its possession, the agreement, decision or concerted practice  
or the category of agreements, decisions or concerted  
practices concerned, does not constitute an infringement of  
the Part I[i]\* / Part II[ii]\* prohibition as contemplated in  
section 28(1)(c) of the Act.

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

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Authorised Signature: Date:

- [i>Delete whichever is not applicable.
- [ii>Delete whichever is not applicable.

FORM 18  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF PROPOSED REVOCATION OR AMENDMENT OF EXEMPTION /  
REVOCATION OF CLEARANCE CERTIFICATE  
Competition Act, 2003 (Act 2 of 2003)  
(Section 29(2)(a) and (b), Rule 22(1))  
To: \_\_\_\_\_

Concerning:  
(Name and file number of applicant:)

1 The Commission has issued an exemption certificate[i]\* / clearance certificate[ii]\* to the above named applicant on \_\_\_\_\_

2 The Commission gives notice that it intends to revoke[iii]\* / amend[iv]\* the exemption concerned[v]\* / revoke the clearance certificate concerned[vi]\* on the ground that-

(a) the exemption was granted[vii]\* / the certificate of clearance[viii]\* was issued on materially incorrect[ix]\* / misleading information[x]\*; [xi]\*

(b) there has been a material change of circumstances since the exemption was granted[xii]\* / the certificate was issued[xiii]\*; [xiv]\*

(c) a condition upon which an exemption was granted has not been complied with. [xv]\*

3 You may submit to the Commission, within 30 days as from the date of receipt of this notice, any written representations that you may wish to make in regard to the proposed revocation[xvi]\* / amendment[xvii]\* of the exemption[xviii]\* / revocation of the clearance certificate[xix]\*.

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

---

Authorised signature: Date:

[i]Delete whichever is not applicable.

FORM 19  
NAMIBIAN COMPETITION COMMISSION  
REVOCATION OR AMENDMENT OF EXEMPTION / REVOCATION OF CLEARANCE  
CERTIFICATE  
Competition Act, 2003 (Act 2 of 2003)  
(Section 29(1)(a) and (b), Rule 22(2))  
To:

---

Concerning:  
(Name and file number of applicant:)

1 The Commission has issued an exemption certificate[i]\* / clearance certificate[ii]\* to the above named applicant on \_\_\_\_\_ and has given notice on \_\_\_\_\_ that it intends to revoke[iii]\* / amend[iv]\* the exemption concerned[v]\* / revoke the clearance certificate concerned[vi]\*.

2 The Commission hereby, in terms of section 29(1) of the Act, revokes[vii]\* / amends[viii]\* the exemption concerned[ix]\* / revokes the clearance certificate concerned[x]\* on the ground that-

(a) the exemption was granted[xi]\* / the certificate of clearance[xii]\* was issued on materially incorrect[xiii]\* / misleading information[xiv]\*; [xv]\*

(b) there has been a material change of

circumstances since the exemption was granted[xvi]\* / the certificate was issued[xvii]\*;[xviii]\*

(c) a condition upon which an exemption was granted has not been complied with. [xix]\*

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

---

Authorised signature: Date:

[i>Delete whichever is not applicable.

FORM 20

NAMIBIAN COMPETITION COMMISSION  
APPLICATION TO COURT FOR PECUNIARY PENALTY  
Competition Act, 2003 (Act 2 of 2003)  
(Section 29(3), Rule 22(3))

Concerning:

(Name and file number of applicant:)

1 The Commission has granted an exemption to the above named applicant for an exemption in respect of certain restrictive practices, as contemplated in section 27(1) of the Act and has issued an exemption certificate to the above named applicant on \_\_\_\_\_

2 The exemption concerned has been made subject to the conditions listed on the attached sheet.

3 Due to the fact that there has been non-compliance with a condition of the exemption concerned, namely

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

the Commission hereby applies to the Court for the imposition of a pecuniary penalty of N\$ \_\_\_\_\_-\_\_in respect of the non-compliance concerned.

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

---

Authorised signature: Date:

FORM 21

NAMIBIAN COMPETITION COMMISSION  
APPLICATION FOR EXEMPTION IN RESPECT OF INTELLECTUAL PROPERTY RIGHTS

Competition Act, 2003 (Act 2 of 2003)  
(Section 30(1)), Rule 23(1))

To: The Competition Commission

From:  
(Name of Applicant:)

(Name of undertaking:)

1 We apply in terms of section 30( 1) of the Act for an exemption from the provisions of Part I\* / Part II\* of Chapter 3 of the Act in respect of-

a single agreement a category of agreements

a concerted practice a category of concerted practices,

relating to the exercise of any right or interest acquired or protected in terms of any law relating to copyright, patents, designs, trade marks, plant varieties or any other intellectual property rights, as described in the attached document.

2 We seek an exemption for a period of \_\_\_\_\_years.

3 In respect of this matter, has a previous exemption been:  
Granted? Yes No

Refused? Yes No

4 If you have answered "yes" to either question above, please provide the case number for the previous exemption application\_\_\_\_\_.

Name and title of person authorised to sign:

---

Authorised Signature: Date:

For office Commission file number:Date filed:

Use only: \_\_\_\_\_

FORM 21 (Continue)

Please note:

1 The following information must be included in your description of the agreement or practice for which you seek an exemption:

(a) Your address in Namibia for service of documents.

(b) A short description of your business.

(c) A brief description of the agreement or practice which you seek to have exempted from the application of Chapter 2, and, if an agreement has already been made, its date, as well as a certified copy thereof.

(d) The names and addresses of other parties to that agreement or practice.

(e) The objective in terms of section 28(3) of the Act on which you rely.

(f) The facts and contentions on which you rely.

(g) The sections of the Act that you believe may be contravened by the agreement, practice, or category of agreements or practices you have described, and a motivation for the belief.

2 Generally, information relating to this application is part of the public record. You have the right to identify information that you believe is confidential, by completing Form 1 and submitting it with this application.

FORM 22  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF RECEIPT OF APPLICATION FOR EXEMPTION IN RESPECT OF  
INTELLECTUAL PROPERTY RIGHTS  
Competition Act, 2003 (Act 2 of 2003)  
(Section 30(2)), Rule 23(2))  
Concerning:  
(Name and file number of applicant:)

1 The Commission gives notice that it has received an application for exemption from the above-named applicant in respect of an agreement or practice relating to the exercise of any right or interest acquired or protected in terms of any law relating to copyright, patents, designs, trade marks, plant varieties or any other intellectual property rights on \_\_\_\_\_.

2 The nature of the exemption sought by the applicant is:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

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\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3 Interested persons are invited to submit to the Commission, within 30 days as from the date of this notice, any written representations that they may wish to make in regard to the application.  
Name and title of person authorised to sign on behalf of the Commission:

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Authorised signature: Date:

FORM 23  
NAMIBIAN COMPETITION COMMISSION  
EXEMPTION CERTIFICATE IN RESPECT OF INTELLECTUAL PROPERTY RIGHTS  
Competition Act, 2003 (Act 2 of 2003)  
(Section 30(1), Rule 23(4)(a))  
To: \_\_\_\_\_  
(Name and file number of applicant:)

1 You have applied to the Commission on:

\_\_\_\_\_for an exemption in respect of intellectual property rights, as contemplated in section 30(1) of the Act.

2 After reviewing the information you provided, the Commission grants an exemption in terms of section 30(1) of the Act in respect of an agreement or practice relating to the exercise of any right or interest acquired or protected in terms of any law relating to copyright, patents, designs, trade marks, plant varieties or any other intellectual property rights as described in your application. This exemption is subject to:

no conditions

the conditions listed on the attached sheet.

3 The Commission has the authority in terms of section 30(2) of the Act to revoke or amend this exemption if-

(a) the exemption was granted on materially incorrect or misleading information;

(b) there has been a material change of circumstances since the exemption was granted; or

(c) a condition upon which the exemption was granted, has not been complied with.

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

---

Authorised signature: Date:

FORM 24  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF REFUSAL TO GRANT EXEMPTION IN RESPECT OF  
INTELLECTUAL PROPERTY RIGHTS  
Competition Act, 2003 (Act 2 of 2003)  
(Section 30(1), Rule 23(4)(b))  
To:  
(Name and file number of applicant:)

1 You have applied to the Commission on:

\_\_\_\_\_ for an exemption in respect of intellectual property rights, as contemplated in section 30(1) of the Act for:

a single agreement a category of agreements

a concerted practice a category of concerted practices,

as described in your application.

2 After reviewing the information you provided the Commission refuses to grant an exemption for the reasons mentioned in the accompanied statement.

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

---

Authorised Signature: Date:

FORM 25

NAMIBIAN COMPETITION COMMISSION  
NOTICE OF DECISION OF COMMISSION REGARDING EXEMPTION IN  
RESPECT OF INTELLECTUAL PROPERTY RIGHTS  
Competition Act, 2003 (Act 2 of 2003)  
(Section 30(2), Rule 23(5))  
Concerning:  
(Name and file number of applicant:)

1 The above named applicant has applied to the Commission  
on \_\_\_\_\_ for an exemption in respect of  
intellectual property rights as contemplated in section 30(1)  
of the Act for:

a single agreement a category of agreements

a concerted practice a category of concerted practices,

as described in his or her or its application.

2 The Commission gives notice of its decision in terms of  
section 30(1) of the Act of its decision to grant  
[i]\*/refuse[ii]\* the exemption concerned.

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

---

Authorised Signature: Date:

[i>Delete whichever is not applicable.  
[ii>Delete whichever is not applicable.

FORM 26  
NAMIBIAN COMPETITION COMMISSION  
CERTIFICATE OF CLEARANCE IN RESPECT OF INTELLECTUAL PROPERTY  
RIGHTS  
Competition Act, 2003 (Act 2 of 2003)  
(Section 30(2), Rule 23(6))  
To: \_\_\_\_\_  
(Name and file number of Applicant:)

1 You have applied to the Commission on:  
\_\_\_\_\_ for an exemption in respect of  
intellectual property rights, as contemplated in section 30(1)  
of the Act for:

a single agreement a category of agreements

a concerted practice a category of concerted practices,

as described in your application.

2 In the opinion of the Commission, based on the facts in  
its possession, the agreement or concerted practice or the  
category of agreements or concerted practices concerned, does  
not constitute an infringement of the Part I[i]\* / the Part  
II[ii]\* prohibition as contemplated in section 30(1) of the  
Act.

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



---

Authorised Signature: Date:

[i>Delete whichever is not applicable.  
[ii>Delete whichever is not applicable.

FORM 27  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF PROPOSED REVOCATION OR AMENDMENT OF EXEMPTION  
/REVOCATION OF CLEARANCE CERTIFICATE IN RESPECT OF  
INTELLECTUAL PROPERTY RIGHTS  
Competition Act, 2003 (Act 2 of 2003)  
(Section 30(2), Rule 24(1))  
To: \_\_\_\_\_  
Concerning:  
(Name and file number of applicant:)

1 The Commission has issued an exemption certificate[i]\* /  
clearance certificate[ii]\* to the above named applicant on

2 The Commission gives notice that it intends to  
revoke[iii]\* / amend[iv]\* the exemption concerned[v]\* / revoke  
the clearance certificate concerned[vi]\* on the ground that-

(a) the exemption was granted[vii]\* / the  
certificate of clearance[viii]\* was issued on materially  
incorrect[ix]\* / misleading information[x]\*;[xi]\*

(b) there has been a material change of  
circumstances since the exemption was granted[xii]\* / the  
certificate was issued[xiii]\*;[xiv]\*

(c) a condition upon which an exemption was  
granted has not been complied with. [xv]\*

3 You may submit to the Commission, within 30 days as from  
the date of receipt of this notice, any written  
representations that you may wish to make in regard to the  
proposed revocation[xvi]\* / amendment[xvii]\* of the  
exemption[xviii]\* / revocation of the clearance  
certificate[xix]\*.

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

---

Authorised signature: Date:

[i>Delete whichever is not applicable.  
[ii>Delete whichever is not applicable

FORM 28  
NAMIBIAN COMPETITION COMMISSION  
REVOCATION OR AMENDMENT OF EXEMPTION / REVOCATION OF CLEARANCE  
CERTIFICATE IN RESPECT OF INTELLECTUAL PROPERTY RIGHTS

Competition Act, 2003 (Act 2 of 2003)  
(Section 30(2), Rule 24(2))

To: \_\_\_\_\_

Concerning:

(Name and file number of applicant:)

1 The Commission has issued an exemption certificate[i]\* / clearance certificate[ii]\* to the above named applicant on \_\_\_\_\_ and has given notice on \_\_\_\_\_ that it intends to revoke[iii]\* / amend[iv]\* the exemption concerned[v]\* / revoke the clearance certificate concerned[vi]\*.

2 The Commission hereby, in terms of section 30(2) of the Act, revokes[vii]\* / amends[viii]\* the exemption concerned[ix]\* / revokes the clearance certificate concerned[x]\* on the ground that-

(a) the exemption was granted[xi]\* / the certificate of clearance[xii]\* was issued on materially incorrect[xiii]\* / misleading information[xiv]\*;[xv]\*

(b) there has been a material change of circumstances since the exemption was granted[xvi]\* / the certificate was issued[xvii]\*;[xviii]\*

(c) a condition upon which an exemption was granted has not been complied with.[xix]\*

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

---

Authorised signature: Date:

[i>Delete whichever is not applicable.

[ii>Delete whichever is not applicable.

FORM 29

NAMIBIAN COMPETITION COMMISSION  
APPLICATION TO COURT FOR PECUNIARY PENALTY  
Competition Act, 2003 (Act 2 of 2003)  
(Section 30(2), Rule 24(3))

Concerning:

(Name and file number of applicant:)

1 The Commission has granted an exemption to the above named applicant in respect of an agreement or practice relating to the exercise of any right or interest acquired or protected in terms of any law relating to copyright, patents, designs, trade marks, plant varieties or any other intellectual property rights, on \_\_\_\_\_

2 The exemption concerned has been made subject to the conditions listed on the attached sheet.

3 Due to the fact that there has been non-compliance with a condition of the exemption concerned, namely

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

the Commission hereby applies to the Court for the imposition of a pecuniary penalty of N\$ \_\_\_\_\_ - \_\_\_\_\_ in respect of the non-compliance concerned.

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

---

Authorised signature: Date:

FORM 30  
NAMIBIAN COMPETITION COMMISSION  
APPLICATION FOR EXEMPTION IN RESPECT OF PROFESSIONAL RULES  
Competition Act, 2003 (Act 2 of 2003)  
(Section 31(1), Rule 25(1))  
To: The Competition Commission  
From:  
(Name of applicant association:)

1 We apply in terms of section 31(1) of the Act to exempt the professional rules of the applicant association from the provisions of Part I[i]\* / Part II[ii]\* of Chapter 3 of the Act.

2 This profession is registered[iii]\*\* is not registered in terms of  
a particular Act:

\_\_\_\_\_ (insert name of Act).

3 We seek an exemption for a period of \_\_\_\_\_ years.

4 The exemption is required in order to maintain-  
Professional Standards the orderly function of the profession,

as motivated in the attached document, which also sets out-

(a) our address in Namibia for service of documents;

(b) the facts and contentions on which we rely;

(c) the sections of the Act which we believe our rules may contravene, and a motivation for that belief.

6 Name of Minister concerned: \_\_\_\_\_

Authorised Signature: Date

For office Use only: Commission file number: Date filed:  
\_\_\_\_\_

[i>Delete whichever is not applicable.

[ii>Delete whichever is not applicable.

[iii]If the applicant association is registered, attach a copy of the registration certificate, or other comparable proof of registration.

FORM 30 (Continue)

Please note:

1 Generally, information relating to this application is

part of the public record. You have a right to identify information that you believe is confidential, by completing Form 1 and submitting it with this application.

FORM 31  
NAMIBIAN COMPETITION COMMISSION  
NOTICE OF RECEIPT OF APPLICATION FOR EXEMPTION IN RESPECT OF PROFESSIONAL RULES  
Competition Act, 2003 (Act 2 of 2003)  
(Section 31(3)), Rule 25(2))  
Concerning:  
(Name and file number of applicant association)

1 The Commission gives notice that it has on \_\_\_\_\_ received an application from the above-named applicant association for exemption from the provisions of Part 1[i]\* / Part[ii]\* of Chapter 3 of the Act in respect of professional rules.

2 The nature of the exemption sought by the applicant is:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

3 Interested persons are invited to submit to the Commission, within 30 days as from the date of this notice, any written representations that they may wish to make concerning the application.  
Name and title of person authorised to sign on behalf of the Commission:

---

Authorised signature: Date:

[i>Delete whichever is not applicable.  
[ii>Delete whichever is not applicable.