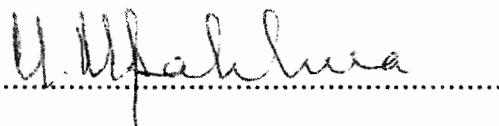


NOTICE 216 OF 2009**DEPARTMENT OF TRADE AND INDUSTRY****DETERMINATION OF MERGER THRESHOLDS AND METHOD OF CALCULATION**

Notice is hereby given that, in terms of section 11 of the Competition Act, 1998 (Act No. 89 of 1998), the Minister of Trade and Industry, in consultation with the Competition Commission, hereby

- (a) withdraws the determination of merger thresholds and method of calculation published by Government Notice No. 254 of 1 February 2001, as amended by Government Notice No. 930 of 7 May 2001; and
- (b) makes a new determination for merger thresholds as set out in the Schedule hereto.

The Schedule shall come into operation on 1 April 2009.



MINISTER OF TRADE AND INDUSTRY

M. MPAHLWA [MP]

DATE: 17/02/2009.

SCHEDULE

Part A

Determination of Thresholds

Definitions

1. In this notice any word or expression to which a meaning has been ascribed in the Act bears the same meaning as in the Act unless the context indicates otherwise, and

"G.A.A.P" means generally accepted accounting practice in South Africa;

"the Act" means the Competition Act, 1998 (Act No. 89 of 1998); and

"transferred firm" means -

- (a) a firm, or the business or assets of the firm, that as a result of a transaction in any circumstances set out in section 12 of the Act, would become directly or indirectly controlled by an acquiring firm; and
- (b) any other firm, or business or assets of the firm, the whole or part of whose business is directly or indirectly controlled by a firm contemplated in paragraph (a).

Lower thresholds

2. The lower threshold required to be determined in terms of section 11 of the Act is reached in respect of a merger if the value of that merger equals or exceeds both of the values set out in sub-items (1) and (2):

(1) Either -

- (a) the combined annual turnover in, into or from the Republic of the acquiring firms and the transferred firms is valued below R 560 million;
- (b) the combined assets in the Republic of the acquiring firms and the transferred firms are valued at less than R 560 million;
- (c) the annual turnover in, into or from the Republic of the acquiring firms plus the assets in the Republic of the transferred firms are valued at less than R 560 million; or

- (d) the annual turnover in, into or from the Republic of the transferred firms plus the assets in the Republic of the acquiring firms are valued at less than R 560 million.

(2) Either -

- (a) the annual turnover in, into or from the Republic, of the transferred firms is less than R 80 million; or
- (b) the asset value of the transferred firm is less than R 80 million.

Higher thresholds

3. The higher threshold required to be determined in terms of section 11 of the Act is reached in respect of a merger if the value of that merger equals or exceeds both of the values set out in sub-items (1) and (2):

(1) Either -

- (a) the combined annual turnover in, into or from the Republic of the acquiring firms and the transferred firms is valued at or above R 6,6 billion;
- (b) the combined assets in the Republic of the acquiring firms and the transferred firms are valued at or above R 6,6 billion;
- (c) the annual turnover in, into or from the Republic of the acquiring firms plus the assets in the Republic of the transferred firms are at or above R 6,6 billion; or
- (d) the annual turnover in, into or from the Republic of the transferred firms plus the assets in the Republic of the acquiring firms are at or above R 6,6 billion.

(2) Either -

- (a) the annual turnover in, into or from the Republic, of the transferred firms is valued at or above R 190 million; or
- (b) the asset value of the transferred firm is valued at or above R 190 million.

4. The provisions of the Act in respect of:

- (a) a small merger, apply to a merger if it falls below either value of the lower threshold;