



COMPETITION ALERT

On 28 August 2009 the Competition Amendment Act, No 1 of 2009, was published in Government Gazette No 32533 as signed into law by the President. Although the Competition Amendment Act is now signed into law, it will only come into operation on a date to be proclaimed by the President. It is not clear when the operative date will be proclaimed or what the date itself will be.

The Competition Amendment Act provides for, amongst other matters, the personal criminal prosecution of directors and managers who cause firms to be involved in illegal price fixing, market division and collusive tendering (or who knowingly allow such conduct to take place). In addition the Competition Amendment Act now makes indirect reference to the Corporate Leniency Policy (by referring to firms and individuals “deserving of leniency” which contemplates whistle-blowers). The Competition Commission now also has the power to conduct market enquiries, and investigate so-called complex monopoly conduct which is “conscious parallel conduct” between competitors (coordinated conduct, absent an agreement to collude) that tends to substantially lessen or prevent competition.

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CONTACT US

Should any further information be required, or for competition law-related advice in general, please do not hesitate to contact one of our specialist practitioners.



Mondo Ntlha
Director
National Practice Head: Competition
T +27 (0)11 290 7128
E mondo.ntlha@dcladh.com



Nick Altini
Director
T +27 (0)11 290 7115
E nick.altini@dcladh.com



Andries le Grange
Director
T +27 (0)11 286 1150
E andries.legrange@dcladh.com



Natalie von Ey
Director
T +27 (0)11 290 7113
E natalie.von_ey@dcladh.com



Petra Krusche
Director
Regional Practice Head: Competition
T +27 (0)21 481 6350
E petra.krusche@dcladh.com



Chris Charter
Director
T +27 (0)11 290 7112
E chris.charter@dcladh.com



Coreen Scholtz
Director
T +27 (0)21 481 6351
E coreen.scholtz@dcladh.com



Rookaya Ahmed-Kaprie
Senior Associate
T +27 (0)21 405 6117
E rookaya.ahmed@dcladh.com



Vishal Koovejee
Director
T +27 (0)11 286 1339
E vishal.koovejee@dcladh.com



Janine Simpson
Director
T +27 (0)11 286 1452
E janine.simpson@dcladh.com



Pia Harvey
Senior Associate
T +27 (0)11 290 7091
E pia.harvey@dcladh.com

JOHANNESBURG

6 Sandown Valley Crescent
Sandown
Sandton 2196
Private Bag X40
Benmore 2010
South Africa
Dx 154 Randburg
T +27 (0)11 286 1100
F +27 (0)11 286 1264
E jhb@dcladh.com

CAPETOWN

11 Buitengracht Street
Cape Town 8001
PO Box 695
Cape Town 8000
South Africa
Dx 5 Cape Town
T +27 (0)21 481 6300
F +27 (0)21 481 6388
E ctn@dcladh.com

1 Protea Place
Sandown
Sandton 2196
Private Bag X7
Benmore 2010
South Africa
Dx 42 Johannesburg
T +27 (0)11 290 7000
F +27 (0)11 290 7300
E jhb@dcladh.com

5th floor Protea Place
Protea Road
Claremont 7708
PO Box 23110
Claremont 7735
South Africa
Dx 5 Cape Town
T +27 (0)21 683 2621
F +27 (0)21 671 9740
E ctn@dcladh.com

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