



# COMPETITION ALERT

## SASOL'S WOES CONTINUE

Following reports that Sasol has been fined R3.7 billion in the European Union for its role in a paraffin and wax products cartel, it has transpired that Sasol is under investigation by the South African Commission for alleged abuse of dominance in those same markets. While no mention has been made yet of possible collusive activities in South Africa by Sasol in those markets, the decision by the EU Commission is likely to spur its South African counterpart to pay special attention to Sasol's relationship with its competitors in the sale and manufacture of wax and paraffin.

## THE COMPETITION AMENDMENT BILL

The Competition Amendment Bill remains in the final throes of its Parliamentary process, but it is unclear as to when it will finally be signed into law, or when it will take effect. Whatever the case, it seems certain that the provisions providing for criminal liability for the directors and managers of firms engaged in collusive conduct will be passed into law. With this in mind, firms that have engaged in collusion (or even suspect they might have) should seriously consider availing themselves of the opportunity to apply for leniency in terms of the Commission's Corporate Leniency Policy before the criminal provisions come into effect.

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## THE WORLD'S LARGEST SEARCH ENGINE, GOOGLE, IS UNDER THE SPOT LIGHT

Entelligence, a marketing company based in the Cape, has lodged a complaint with the Competition Commission against the Internet search engine giant, Google SA. It is alleged that Google SA has abused its dominant position in the market by inducing a customer not to deal with Entelligence.

Entelligence is "the middle man" which, on the one hand, is contracted to promote Yellow Pages' on-line directory by optimizing the number of Internet hits on Yellow Pages' website, for an agreed fee, which it receives from Yellow Pages.

On the other hand, Entelligence has an agreement with Google to place advertisements on Google for a fee which is payable by Entelligence each time a user runs a Google search and clicks on an advertisement (placed by Entelligence) which links the user to Yellow Pages' website.

The difference between the fee payable to Google and the fee recovered from Telkom Yellow Pages is for Entelligence's account.

It is alleged that Google more than trebled the price per click, making it more expensive for Entelligence to promote Telkom Yellow Pages' website. Google also allegedly attempted to persuade Yellow Pages to cancel its contract with Entelligence so that Google could manage the account directly.

The Commission's investigation into the alleged abuse of dominance is currently underway.

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## THE COMMISSION PROHIBITS SEVERAL MERGERS IN THE STEEL INDUSTRY

The Commission has recently prohibited, and recommended to the Tribunal, the prohibition of, several proposed mergers in the steel industry. This action was taken on the apprehension that consolidation would only serve to enhance collusive opportunities for players in the industry. Cartels have recently been uncovered in the steel industry by the Commission, following the surprise raid on certain steel producers in June of this year. The Commission found that price fixing was already rife in the industry and was concerned that vertical integration arising from the merger (with the acquirer a major player in the construction industry and the targets being suppliers to that industry) would further lessen competition.

On this basis, the Commission has prohibited three proposed mergers by Aveng (Africa) Ltd where it sought to acquire Koedoespoort Reinforcing Steel (Pty) Ltd, Witbank Reinforcing & Wire Products (Pty) Ltd and Nelspruit Reinforcing Supplies (Pty) Ltd. In addition, the Commission has recommended to the Tribunal that the proposed large merger involving the acquisition by Aveng Africa of Silverton Reinforcing and Wire Products (Pty) Ltd, also be prohibited.

The Commission has also prohibited the proposed merger between Cape Gate (Pty) Ltd and Transvaal Gate & Wire Works (Pty) Ltd. The merged entity would be the largest player in the commercial link fencing market post merger. The Commission had also uncovered evidence of price fixing on the part of both firms and was sceptical of the merger on the basis that it would only facilitate further price fixing in the wider market, which is concentrated.

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