

## **Competition Economics winter-school: Lessons from key South African cases**

**Sol Kerzner School of Hospitality and Tourism, UJ Bunting Road Campus, Johannesburg**

**6 & 7 May 2013**

### **Objectives**

Over an intensive two days the winter-school will cover key principles and tests in competition economics. The course draws in particular on decisions of the South African Competition Tribunal which set out the appropriate tests, evidence and analysis required in South African competition law cases. Although the decisions relate to particular provisions of the South African Competition Act, the cases are also useful as an illustration of the application of the broader principles of competition economics.

The course will be strongly focussed on how the principles of competition economics are applied in practice, from a practitioner's perspective. The school is mainly aimed at competition authority employees.

### **Approach**

A case study approach will be used to cover the main areas of mergers and exclusionary abuse of dominance. Each topic will involve:

- a presentation of the key principles
- an overview of relevant South African cases
- an in-depth assessment of a selected key case, in breakaway groups
- an application to a hypothetical case scenario, based on actual cases
- a wrap up of the main points

For the first session on market definition there will be a hypothetical exercise, and a collective discussion of the *Distillers/Stellenbosch Farmers Winery* merger.




For sessions 2, 3 and 4, two groups will present the arguments, one from the side of the Competition Commission and one for the merging parties or the respondent. The participants will be divided into groups, and we will indicate for which side your group will be presenting. The groups not presenting on a given case will be expected to comment on the arguments being made, and to make a determination.




The hypothetical cases are based on real cases, and the key Tribunal decisions will be provided and discussed in the sessions.

## Programme

<b>Day 1, 6 May 2013</b>			
<b>0830-1000</b>	<b>Market definition &amp; market power</b>	<b>Facilitators</b>	<b>Materials</b>
	Presentation <ul style="list-style-type: none"> <li>Hypo exercise: bulk water pipes</li> <li>For discussion: <i>SFW/Distell</i></li> </ul>	Simon	Slides Hypo <i>SFW/Distell</i> decision
Tea break			
<b>1015-1145</b>	<b>Horizontal mergers: lecture</b>	Junior/Reena	Slides <i>JD/Ellelirines</i> decision
<b>1145-1245</b>	<b>Horizontal retail merger: group work</b>	Junior/Reena	Hypo
Lunch break			
<b>1330-1430</b>	<b>Horizontal retail merger: argument</b>	Junior/Reena	Slides – key points
Tea break			
<b>1500-1630</b>	<b>Vertical mergers and agreements: lecture</b>	Sha'ista	Slides <i>Telkom</i> decisions
<b>Day 2, 7 May 2013</b>			
<b>0830-0930</b>	<b>Foreclosure in telecomms: group work</b>	Fatima Sha'ista	Hypo
<b>0930-1030</b>	<b>Foreclosure in telecomms: argument</b>	Fatima	Slides – key points
Tea break			
<b>1100-1230</b>	<b>Exclusionary abuse of dominance: lecture</b>	Andrew/ Simon	Slides <i>SAA decision</i>
Lunch break			
<b>1330-1430</b>	<b>Exclusionary abuse, loyalty rebates beer: Group work</b>	Andrew/ Simon	Hypo
Tea break			
<b>1500-1600</b>	<b>Loyalty rebates exercise in beer: argument</b>	Andrew/ Simon	Hypo
<b>1600-1630</b>	<b>Wrap up</b>	Simon	

## Facilitators

	<p>Simon Roberts held the position of Chief Economist and Manager of the Policy &amp; Research Division at the Competition Commission from November 2006 to December 2012. He is a visiting professor at the University of Johannesburg where he is Director of the Centre for Competition Economics. In addition, Simon has consulted extensively on competition matters over the past 15 years and has been an expert witness in a number of major cases. He has published widely in local and international journals. Simon holds a PhD from University of London, MA from University of East Anglia, and BA (Hons) from Oxford University.</p>
	<p>Reena das Nair is a Programme Manager: Industrial Policy at Trade and Industrial Policy Strategies (TIPS). Prior to joining TIPS, she was a Principal Economist in the Policy and Research division at the Competition Commission of South Africa. She has experience in undertaking investigations and economic analysis in mergers, abuse of dominance and cartel cases, mainly in intermediate industrial product industries, such as fertiliser, steel, petrochemicals and forestry. She has been involved in research on prioritisation and impact assessments of the Commission's interventions. Reena has a M Com in economics and BCom (Hons) from the University of the Witwatersrand.</p>
	<p>Fatima Maria Fiandeiro is a manager in the Competition and Regulatory Economics practice of Genesis Analytics. Prior to joining Genesis in 2006, Fatima was an associate lecturer at the University of the Witwatersrand. Fatima has provided analysis and advice on a number of major prohibited practice cases and merger transactions across sectors as diverse as telecommunications, broadcasting, healthcare, financial services, industrial products, agriculture and consumer goods. She has also provided economic modelling and analysis on regulatory matters involving airline liberalisation and digital migration of broadcasting as well as in damages litigation cases. She holds a Master's degree in economics from the University of the Witwatersrand.</p>

	<p>Sha'ista Goga is an Economist and Senior Researcher at SECTION27. Her focus is on policy, competition and economic regulation within the healthcare sector. Sha'ista holds an M Phil in economics from Oxford University, where she was a Rhodes Scholar and a Bachelors degree in economics from the University of the Witwatersrand. Prior to joining SECTION27, Sha'ista worked as a manager in the Competition and Regulatory practice at a Genesis Analytics. She has provided regulatory advice to key stakeholders in the healthcare, energy and broadcasting sectors, and has provided analysis and advice on mergers and prohibited practices cases appearing before both South African and Indian competition authorities. Sha'ista has also been an Associate lecturer at the University of the Witwatersrand and is currently an associate at the Centre for Competition Economics at the University of Johannesburg.</p>
	<p>Junior Khumalo is currently acting Chief Economist and Divisional Manager of the Policy &amp; Research Division, Competition Commission of South Africa. Junior has worked on a number of enforcement and merger cases at the Competition Commission covering a wide range of industries including forestry, steel, metallic abrasives, electric equipment, building materials and construction, managed health care, airline code-shares, school textbooks, quarrying machinery, and numerous others. Some of these cases were heard at the Competition Tribunal, where Junior made substantial contributions to the running of the cases. Junior has authored several papers presented at overseas and local competition conferences. Junior also regularly participates at international forums such as the ICN and the OECD. He has an MA (Economics) from the Colorado State University.</p>
	<p>Andrew Swan is a Senior Associate in RBB's Johannesburg office, where he has been based since 2009. Prior to an initial period working in RBB's London office, he worked in the Policy &amp; Research division of the South African Competition Commission. Andrew has advised clients on antitrust matters before authorities in the UK, Europe and South Africa. This work has included both horizontal and non-horizontal mergers, abuses of dominance, cartel investigations and market enquiries. In particular, Andrew has experience in the competitive implications of information exchanges and in the economics of two-sided markets. Andrew holds a MSc in Economics from the University of Edinburgh and a Bachelor of Business Science degree in Economics and Finance from the University of Cape Town.</p>