

MEDIA RELEASE

Investigation Ref

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THE COMPETITION COMMISSION INVESTIGATES A SUSPECTED CARTEL BY INSURANCE COMPANIES

The Executive Director of the Competition Commission has launched an investigation into a possible cartel (collusive agreement) by eleven insurance companies. The investigation concerns the supply of insurance policies to contractors to cover injury to a third-party or damage to property of a third party caused during construction projects. This insurance product is referred to as Third-Party Liability on Contractors' All Risk Insurance.

It is suspected that the insurance companies may have agreed to limit the amount of coverage (in terms of claims payable) and have also ceased to provide insurance which provides unlimited coverage. Such a cooperation between the insurance companies eliminates competition which is the process of rivalry that should exist between them as independent businesses. Thus, the contractors may be left with no choice as only limited cover is available on the market.

If proven, such an agreement would constitute a breach of section 41 of the Competition Act 2007 ('the Act') in the form of a restriction of supply of an insurance product, which is a prohibited business practice. Financial penalties which can amount to up to 10% of turnover (over a maximum of five years) for each enterprise found to be in breach, may be imposed by the Competition Commission.

The Executive Director has powers of investigation under sections 52 and 53 of the Competition Act 2007, namely, to request any person to provide information (through meeting interviews or submission of documents) and to enter and search premises for gathering information. As part of the investigation an unannounced entry and search exercise (dawn raid) was conducted at the premises of the Insurers' Association of Mauritius ('IAM') in June 2024. The IAM is suspected of being the platform through which the cartel may have been facilitated.

Deshmuk Kowlessur, the Executive Director of the Competition Commission said:

'Third-Party Liability on Contractors' All Risk Insurance is an important insurance product, providing coverage for legal liabilities arising from injury or damage caused to third parties during the execution of construction projects. It is a requirement in public procurement projects for construction works, ensuring that contractors and project owners (Government) are protected against unforeseen liabilities and that any injured person is compensated. Insurance companies should independently decide what type of insurance products and what terms they offer on the market, rather than coming together to align their decision and insurance products offered. The fact that an investigation has been initiated does not mean nor prejudice that the companies under investigation have breached the law, such finding can only be made upon completion of the investigation.'

Upon completion of the investigation, the Executive Director will submit his report of investigation to the Commission for determination of the matter. The report will contain findings on whether there is evidence of a

breach, and in case of a finding of breach, the Executive Director will also make recommendations on remedies (directions) and financial penalties. The adjudicative function of the Commission is carried out by Commissioners who are vested with the power to determine cases and issue decisions.

The Commission invites any person having information that may help the investigation to come forward and provide same (Tel: 211 2005, Email : info@competitioncommission.mu).

To encourage whistleblowing of suspected anticompetitive practices such as collusion, **Section 51A** of the Competition Act affords statutory protection to any informer (including a public official) reporting such practice, upon request made. This protection covers treating as confidential the identity of the informer and these will not be disclosed in any proceedings before the Commissioners or any Court, tribunal or other authority except by order of a Judge in Chambers.

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