PRICE - Control of Contraventions
1985 - 1986
Fury over massive powers of new coal controller

COAL mining companies, distributors and exporters are furious over draft legislation which seeks to set up a 'coal controller' who will have dictatorial powers over the industry. The measures introduced in the draft Bill have "brought local coal mining companies, distributors and exporters, most of whom feel it is being "rushed through with indecent haste." The Sunday Express has obtained a copy of the draft Coal Control Bill, which is on the agenda for the coming parliamentary session. It is the latest in a series of controversial moves by the government to control or "rationalise" the industry.

The Bill creates a government coal controller who will have almost carte blanche powers in the coal industry. It follows the government's acceptance in principle of Competition Board recommendations that it should end its interference in the domestic coal market. The agency turned about has been condemned by many, including Mr D Kirilen, chairman of the Independent Coal Producers' Association comprising most independent mining companies.

"Why did they spend all that money on a Competition Board inquiry if they intended to do the exact opposite," he said. "This legislation is aimed at giving them total control of the industry."

"Mr L H Ween, managing director of the Transvaal Coal Owners' Association - the largest coal producing body for domestic coal, believe there to be no need for the "totally unacceptable" provisions.

By JO-ANNE RICHARDS

Mr Muntjes said the Bill lacks "natural justice" and could theoretically open the way for bribery and corruption. Were there to be an unscrupulous controller, coal consumers felt the devastating effects of the Bill would result in a monopoly situation which would lead to coal price rises.

Mr Roets, Deputy Director of the Department of Mineral and Energy Affairs, said the Bill was not aimed at creating a monopoly. It was merely a consolidation of provisions at present under a number of Acts. "These have not been changed, but have been adapted to accommodate coal," he said. "It is not being done in haste as the rationalisation of the public service has been going on since 1981."

The extensive powers of the controller did not represent a danger as "he will be an instrument of the government, subject to the decisions of Cabinet," Mr Roets said.

"Our members, who include Barlow Rand, JCI and Anglo American, are responsible companies who do not need the government to dictate to them," he said. Mr E Muntjes, managing director of Mmusa, a coal exporting company, said he was "horrified by the draft Bill."

There was no doubt that the government was trying to exert greater control over the industry.

"This horrendous Bill was seen by a director of Aluchsco/Reef Coal, Mr M Rooshe, as a real threat to the existence of many small distributors. "The controller can put any of us out of business as he sees fit, and we would have very little recourse."

In pushing this Bill through, the department was allowing itself to be swayed by "companies who do not have the interests of the industry at heart, but rather their own specific interests."

"Responsible"
Concern at loss of bread subsidy

WENDY JAYA

WITH their meagre profit margin of 1.5c a loaf, one would expect bakers to welcome removal of the bread subsidy and price controls.

Not so, says Johan Louw, MD of Fedfood, South Africa's fourth largest diversified food company. Owned by Federale Volksbeleggings, it is fast approaching an annual turnover of R1bn.

Wheat milling and baking represented 35% of last year's R819m turnover.

Louw and financial director Francois Rossouw are apprehensive about possible government acceptance of the Davon Commission's recommendations to do away with the bread subsidy, price control and the restrictive registration of bakers.

Louw believes the move away from controls will be a move away from any profits at all.

However, if possible deregulation of the industry is a source of concern, Louw and Rossouw express optimism about other sectors of Fedfood operations in the year ahead.

Lifting controls will mean businesses trying to increase market share by producing more volumes, says Rossouw.

"They will run all over the place. With the cost of distribution what it is today, I cannot see that they will be able to produce bread more cheaply."

Delivery costs represent about 35% of total operating costs. Last year's increase in the fuel bill swallowed up permitted profits completely.

Rossouw believes the present registration of bakers and zoned delivery areas "rationalises" transport costs. He considers that this outweighs any possible advantages to be gained by free competition, which would not dish up more attractive profit margins.

On the financial front, management believes the recent R40m rights issue — used to reduce debt — has "dramatically" reduced the interest bill and lowered the gearing ratio from 68% to 54%.

No major capital investment is envisaged for the 1986/87 financial year. Fedfood has spent a large amount on capital expenditure in the past two to three years, which led, says Rossouw, to "an uncomfortable debt/equity ratio in present times."

The group is not closed to the idea of new acquisitions and while Louw would not comment on which areas they would like to enter, he did say they would consider anything suitable which came up.

Exports of Table Top frozen vegetable and Fedfood's Sumba snack operation are expected to continue to be money-spinners this year.
Minister's warning against price fixing

JOHANNESBURG. — A sharp warning about price fixing was given to the tyre, cement and fertilizer industries yesterday by Dr Dawie de Villiers, the Minister of Trade and Industries.

He said that the Competition Board was preparing to deal severely with any form of collusion.

Dr De Villiers said in a statement released yesterday: "Joint statements by competitors announcing uniform price increases have recently attracted wide attention.

"Conspicuous examples of such price increases were those in respect of tyres, fertilizers and cement."

"These announcements are often made by associations representing many, if not all, manufacturers of particular products.

"Such joint price increases give rise to a good deal of justified objections.

"The question is quite rightly asked how such an apparent elimination of competitors' price competition could be tolerated within the context of a policy of effective competition."

Dr De Villiers said "The government views this development in a very serious light."

"I, therefore, deem it necessary to again invite attention to the Competition Board's announcement in the Government Gazette of November 30, 1964, that it was to embark upon a new and important investigation.

"Basically this investigation embraces agreements or arrangements establishing any form of

- Fixing prices (or other conditions of sale) horizontally (that is, between competitors) or vertically (for example, between manufacturers and retailers).
- Market sharing
- Collusion in respect of tender practices.

Dr De Villiers said "The purpose of this investigation is to determine whether these agreements or arrangements, with or without exceptions, should summarily be prohibited.

"Should such a prohibition be recommended by the board and be accepted by the government, any prohibited price-fixing, market sharing or tender practice collusion would constitute a serious offence.

"I have instructed the board to give very high priority to this investigation.

"The board is currently awaiting comments from interested parties and, therefore, urgently appeal to all concerned to give their full cooperation to the board.

"When the board's report and recommendations have been received, appropriate action could be expected soon thereafter."

Closing gold prices

(In $ an ounce)
LONDON: 302,70-303,20
Fixing am: 302,45
Fixing pm: 302,70
ZURICH: 392,00-393,60
— Reuters

UK Govt to
HOUSE OF ASSEMBLY.

-South Africa's coal industry needed more competition, not more regulation, Mr Brian Goodall (FFP Edenvale) said yesterday during second-reading debate on the Coal Resources Bill. The bill would give the minister power to regulate prices, prescribe export conditions "as he may deem fit" and withdraw exemptions to conditions laid down in the bill without giving reasons.

"It could happen that we find ourselves in a situation in which we have no oil. But we have so much coal that we are exporting something like 40 million tons a year," Mr Goodall said.

The Competition Board had recommended relaxation of government control over the industry, and the bill had been opposed by the Chamber of Mines, Assicoem, FCI and initially by Sasol.

Mr John Malcomess (FFP Port Elizabeth Central) said the minister was doing his "level best" to put small entrepreneurs out of business by forcing them to comply with arrangements for transportation, storage and sale of coal - they could not afford.

Mr S P Barnard (CP Langlaagte) said the bill could lead to big businesses receiving protection they did not need. It was the small trader who needed protection.

The Minister of Mineral and Energy Affairs, Mr Danie Steyn, said he had met 87 small coal distributors and only three opposed the bill.

He said he was prepared to scrap regional regulations governing coal distribution provided suppliers met certain conditions - for instance if they gave the assurance they would provide supplies to all who needed them.

The bill was read a second time after a division, in which the FFP and the CP voted against the NRP and the NP.

South Africa is buying the cheapest oil available on the world market, Mr Steyn said while replying to second-reading debate on the State Oil Fund Amendment Bill.

"Oil is freely available and cheap." However, efforts to cut off the supply to the Republic had intensified and suppliers had warned that if South Africa disclosed where the oil was coming from, supplies would stop immediately.
Stop price fixing
— consumer body

By Jackie Unwin, Consumer Reporter

The Consumer Council has expressed its strong support for the Competition Board in its fight against price fixing, manipulation and formation of cartels.

The council yesterday urged an investigation into allegations of price manipulation and cartel forming following developments in the cement industry.

Dr Dawie de Villiers, Minister of Trade and Industries, issued a warning about price-fixing to the tyre, cement and fertiliser industries.

The director of the Consumer Council, Mr Jan Cronje, says the cement industry should be subjected to a greater degree of competition, even imports, if this will assist the collapse of monopolies.

"The Consumer Council is eager to assist the Competition Board — following the Government's request — in ending unhealthy monopolies," said Mr Cronje.

Dr de Villiers said last week that "Joint statements by competitors announcing uniform price increases have recently attracted wide attention. Conspicuous examples of such price increases were those in respect of tyres, fertilisers and cement. These announcements are often made by associations representing many, if not all, manufacturers of a particular product.

"Such joint price increases give rise to a good deal of justified objections. The question is quite rightly asked how such an apparent elimination by competitors of price competition could be tolerated within the context of a policy of effective competition.

"The Government views this development in a very serious light.

"I deem it necessary to again invite attention to the Competition Board's announcement in the Government Gazette of November 30 1984 that it was to embark upon a new and important investigation. Basically this investigation embraces agreements or arrangements establishing any form of:

- Fixing prices (or other conditions of sale) horizontally (ie between competitors) or vertically (eg between manufacturers and retailers).
- Market sharing.
- Collusion in respect of tender practices.

"The purpose of this investigation is to determine whether these agreements or arrangements, with or without exceptions, should be prohibited. Should such a prohibition be recommended by the board and be accepted by the Government, any prohibited price-fixing, market sharing or tender practice collusion would constitute a serious offence."
Cement, tyre majors admit price pacts

INDUSTRIES threatened with legal action for alleged price fixing are not worried.

The warning, first given in November by the Competition Board, has been repeated by the Minister of Trade and Industry, Dawse de Villiers.

The Competition Board is investigating alleged price agreements or arrangements, market sharing and collusion in tendering.

If the board’s findings are accepted, company managers could be charged. The penalties are a maximum fine of R100,000, or five years’ imprisonment, or both.

Examples

De Villiers singled out the tyre, fertilisers and cement as conspicuous examples of industries which have announced uniform price increases.

The tyre industry concedes that it operates a price cartel, and the largest cement producers agree that they collude on prices. Fertiliser manufacturers deny the allegations.

Mc Kinna Watson, executive director of the South African Tyre Manufacturers’ Conference, says: “De Villiers’ statement that we operate a price cartel is true—we do fix list prices.”

Tyre and tube prices were increased by all manufacturers by 5.1% on December 27. Mr Watson says the tyre industry has for many years fixed a common list price, but the practice has been accepted by the Government.

Portland Cement (PPC), concedes that the three major producers – PPC, Blue Circle and Anglo-Alpha – fix prices, but says they are usually announced individually.

The price of a pocket of cement on the Reef was increased by 12.6% this month to R4.24 from R3.74. Prices in other centres, however, differ because of varying transport costs from the factories.

The majors have also conspired to cut prices in some Natal areas to beat the threat of imported cement.

Mr. Hulman says, “Our main motivation for price collusion is to provide a climate suitable for us to recover costs in what is a capital intensive capacity.”

It takes up to four years to establish a cement manufacturing plant, which can cost over R500-million.

Price war

The cement industry will also present its case to the Competition Board soon.

The fertiliser industry denies that it gets together to fix prices. Both Fedma and ARCT’s Kynoch say that the accusation is unfair, with Kynoch pointing to a price war in the Cape.

On January 1, all the major producers, with the exception of Sasol, increased prices by an average of 20% and all offered a similar delivery rebate system. Sasol’s prices are, however, expected to follow those of other producers.

Monopoly

He says that raw-materials prices increase for all producers at the same time.

There’s a monopoly on the supply of raw materials, from rubber to nylon.

“Retail price maintenance was abolished in 1978, but manufacturers’ price maintenance was left alone.”

The tyre industry will make representations to the Competition Board before March 29.

Charles Hulman, commercial director of Pretoria

Johan van der Walt, chairman of Fedma, says there is a “sameness” in SA’s production of fertiliser, the price of raw materials increasing simultaneously for each producer. In some cases, raw materials are imported collectively to save freight charges. Each company uses similar plant, so price differences are minimal.

For about 40 years, the industry operated under a fixed pricing policy and was only freed in January last year.

Mr van der Walt says: “The rebate system is part of tradition and has always been offered to take into account the effects of interest rates.”

John Skeen, managing director of Kynoch, says: “Obviously our sales representatives walk around with a price list which is used as a reference and is the same as all the others. But what happens in the market place is a totally different story.”

Ridiculous

“Prices in the Cape are ridiculous There is a bit of a price war there and competition is a little too much.”

Another fertiliser producer says he welcomes an investigation by the Competition Board as the industry is undergoing a structural change.

He says, “I question the need for the early delivery rebate system.”
Recession rocks McCarthy

BY ELIZABETH ROUSE

THE McCarthy Group’s interim earnings are down 25%, the interim dividend is cut by 20% and prospects look worse for the second half.

Earnings a share for the six months to December 1984 are 26.7c compared with 35.6c in the same time in 1983 and the interim dividend has been decreased to 10c from 12.5c.

The depressed car and motorcycle market caused turnover to slip slightly by 6% to R417,968m from R443,376m, but margins resulted in a bigger fall of 16% in group operating profit to R12,58m from R14,42m.

Loans were kept within bounds, interest charges increased by only 11% to R3,3m (R2,96m) and the group scored by paying 22% less tax at R4,1m (R5,3m).

Results are worse than expected by chairman, Mr Brian McCarthy.

In his chairman’s review in October last year he estimated a decline of 18% in the car market and an 11% fall in the motorcycle market. At that stage no one could have foreseen the fast deterioration in the economy and the bite of finance charges.

The group’s vehicle business is predominately in passenger cars so it felt the full impact of the 23% fall — from 142,271 to 109,570 units — in car sales in the six months to December.

The total dealer market for cars declined by 20% in the last six months of 1984 and motorcycle sales were down by 35%.

However, the group’s interest in the highly successful Toyota franchise must have cushioned the blow somewhat.

The only good news in McCarthy’s interim report is that the group increased its share of both the car and motorcycle markets.

McCarthy now has to contend with the huge petrol price increase, perks tax, manufacturers’ price rises and an almost inevitable increase in sales tax. These adverse factors will not only result in lower sales but will lead to a change in buying patterns, with a swing to smaller cars.

Because of its multi-franchise structure McCarthy should weather the storm better than many of its competitors.

COMMENT: McCarthy shares have plunged from the past year’s high of 550c to 240c and have one of the highest yields in the motor sector. The low rating of the shares may prove unjustified when other car traders start reporting.

McCarthy shares, being more marketable than most motor shares, have come under pressure lately and may be reaching bottom.

McCarthy achieved its second-highest earnings of 81.4c in 1983 and raised its dividend total to 30c from 1983’s 22.5c. Given the prediction of even lower earnings in the six months to June and the need to keep cover to at least two, a cut in the dividend total to 20c-22.5c seems on the cards. At 240c that makes potential dividend yield 9.4%.

McCarthy shares, being more marketable than most motor shares and included in institutional portfolios, have come under pressure lately and may be reaching bottom. They should not fall below 200c in the worst of circumstances.
Manual on law for laymen

By Hanne de Waele

A manual to give the laymen easy access to basic legal skills is to be launched in Johannesburg tomorrow.

It has been compiled by the Legal Resources Centre, mainly for the use of community centres established to give people free basic legal advice.

"It will enable a person without a legal background to train himself in providing legal assistance in a few crucial legal areas," says Mr Paul Pretorius, who coordinated the compilation of the manual. Some of the subjects covered are consumer protection, input control, and the housing, family and labour laws.

Mr Mohamed Navsa, who put the manual together, said it took almost six years to complete, at a cost of about R50 000.

"Not only did we strive to bring the law closer to the man in the street but we also wanted to give him a tool to do something about his basic legal rights," said Mr Navsa. "We believe we have covered most of the basic problems normally experienced in townships."

The manual has more than 460 pages and will cost R40 a copy. About 2,000 issues will be printed initially.
Packaging costs to spiral

By Peter Farley
Investment Editor

Transvaal packaging customers are heading for a series of substantial price increases following the purchase of independent Marathon by Anglovaal-controlled Consol.

And while profit margins at the three majors — Nampak, Kohler and Consol — have been severely eroded in the past couple of years, some R235 million could now be added to their combined operating profits this year.

The price of corrugated packaging has drifted steadily down over the past 10 months, from a peak of nearly R1 500 a tonne in the first half of last year to between R1 100 and R1 200 at present.

This is despite a near 10 percent paper price increase last October and an inflation rate currently well in excess of 13 percent.

A recovery of these costs now appears inevitable. But customers also seem set for a “double-whammy” with another major paper price increase scheduled for April that is, this time, almost certain to be passed straight on in increased packaging prices.

Throughout the country corrugated packaging prices have been held down in the areas where the independents sprang up — notably Durban, the Eastern Cape and around Cape Town — only to be sharply marked up on the independents even folded or succumbed to overtures from one of the majors.

The Transvaal corrugated market is estimated to be around 150 000 tonnes a year, with Nampak holding a dominant 40-plus percent, Kohler a little over 30 percent and now Consol with slightly more than 20 percent.

Marathon survived, despite intense pressure and competition from the majors, for a little over a year. And despite threats to the contrary was beginning to achieve the volumes necessary for a bottom-line profit.

MD Mr Tony Crosby says that output was on target for just over 1 100 tonnes in February, with orders on hand suggesting almost 1 500 tonnes in March.

And he points out that though this was not a substantial market share, their lower overheads meant that they were able to sharply undercut the majors’ pricing structures.

This is evidenced, he said, by the fact that Consol increased the offer to Marathon’s parent SA Bais twice, before it was finally accepted. And he pointed out that this bidding was done completely blind, as Consol executives did not visit the operation until after a price had been accepted.

Hardly the sort of bang-out operation suggested by Consol management.

In the end the price of R10 million — which though it restrained SA Bais for five years only precludes Mr. Crosby for two years — is an expensive way of increasing market share.

But it is an extremely cheap means of vastly enriching overall margins.
Supermarket chain will keep selling cheaper petrol
New plan to beat fuel price

Own Correspondent

JOHANNESBURG — Pick 'n Pay is expected to announce today plans to offer discount food coupons at its 12 filling stations countrywide, a move which could cause the retail giant to run headlong into another dispute with government and major oil companies.

Oil industry sources said that the rationale behind the move was that Pick 'n Pay would be passing on to the consumer savings made on its petrol sales.

Pick 'n Pay would therefore be able to argue that consumer savings were in line with government's call for food price reductions following the petrol price decrease.

However, Pick 'n Pay chairman Raymond Ackerman would neither confirm nor deny the plan yesterday. He said a major statement could be expected today.

Price cuts

Pick 'n Pay and its major retail competitors, OK Bazaars and Checkers, have announced price cuts on various items following the petrol price decrease.

If Pick 'n Pay do go ahead with this scheme, it could herald another clash between itself and government, and possibly the oil companies.

Three oil companies last week cut off supplies to Pick 'n Pay filling stations after they had reduced the price of petrol three days ahead of schedule.

Mr. Gardner called for an objective inquiry into the selling of oil products and questioned the fact that companies, including Pick 'n Pay, which owned car and truck fleets, were able to get discounts from suppliers, while the man in the street could not buy discounted petrol.

Dr. Louw Alberts, Director-General of the Department of Mineral and Energy Affairs, said the relationship between the wholesaler and the retailer did not affect the man in the street, provided the retail price was fixed.

Soared

He believed the discount obtained by bulk buyers from suppliers was only about two-thirds of a cent per litre.

In Cape Town yesterday petrol sales soared after prices dropped by 10c for 93-octane petrol and 8c for 98-octane at one minute past midnight yesterday morning.

Mr. George Beckman, national chairman of the South African Motor Traders' Association and Cape Town service station owner, said his sales yesterday were 30 to 40 percent higher than usual on a Monday.

A Rondebosch service station owner said "customers were saying that petrol was sold out all over the place."

• The Boland Poultry Producers Association yesterday announced they would recommend a 4 cents per dozen drop in the egg price with immediate effect because of "a drop in production costs mainly as a result of the improved exchange rate and lower price of petrol."

The association hoped the lead would be taken up by other suppliers to the industry.
Gencor’s income drops 17pc

Mercury Correspondent

Johannesburg—Gencor’s income attributable to ordinary shareholders dropped 17 percent to R32c a share in the year to December from R38c a share the previous financial year.

An unchanged final dividend of 135c a share has been declared to maintain the total payout for 1984 at an unchanged 190c.

Gencor has calculated its earnings figures taking into account the convertible preference and debenture shares issued last year on the basis that these shares form part of the permanent capital as they must be converted to ordinary shares.

A calculation based on the income attributable to shareholders taken after extraordinary items and the payment of interest and dividends on the preference and debenture shares shows an earnings drop of 19 percent.

Income

Gencor’s source income—operating income, investment income and surplus on realisation of investments—rose by 24pc to R887.8m (R715.4m).

However, financing charges soared to R480.2m from the previous year’s R185.5m.

Gencor chairman Mr. Ted Pavitt told a Press conference in Johannesburg that while he was not happy with the results he felt the group as a whole did reasonably well in the exceptional circumstances that had to be coped with in 1984.

The point I should like to stress is that Tedex and Kanbym, like the problems at Kohier, Impala and Trans-Natal, largely represent extraordinary, one-off situations.

“We have taken them on the chin in 1984 and we are confident that the management concerned are doing what is necessary to prevent them from recurring,” he said.

The rand

Mr. Pavitt said that 1985 should not be worse than 1984 for Gencor and may be better.

He said the weakness of the rand did not fully benefit the group’s export sales in 1984 but he expected it to do for 1986 on Gencor’s major exports of gold, platinum, coal, pulp and paper, base metals and minerals.

“Sappi, which is a significant contributor to group profits, will start benefitting from its expansion programme in 1985 and is well placed to capitalise on the shortage of Kraft board in the US which is expected to persist from another two to three years.”

Mr. Pavitt also said Trans-Natal will be able to finance its planned expansion programme to a greater extent from retained earnings because of the favourable exchange rate and the group’s substantial increase in exports through Richards Bay.

The full effect on Gencor of Samancor’s substantial profit improvements will be felt during 1985 while the group will also get some R100m back from its investment in Beatrix which will also start to pay back other outstanding loans.

“In general, we believe that 1985 will mark the lowest point of the recession and that we will see a turnaround in the economy.”

Mr. Tom de Beer, Gencor executive director—finance—said the 1984 results made a complete disclosure of the group’s forex situation.

“This is the iceberg and not just the tip of the iceberg. We believe that the way we have handled the forex situation is the correct way although there is debate at present on the topic,” he said.

Results

The results show that, included in Gencor’s finance charges, were unrealised currency losses of R5.9m as well as a provision for the amortisation of unrealised currency differences of R39.6m.

Unrealised currency losses deferred for amortisation in future amounted to R7.1m of which, Mr. de Beer said, Gencor’s share would be R6.8m.

He said the effect on future earnings would be to lower earnings a share before tax by 23.2c in 1985, 22.2c in 1986, 15.5c in 1987, 50c in 1988 and 3.7c in 1989.
Messina has massive loss of R121.3bn

BY DAVID ROSS

Business Day/Companies

From 20/3/85 45

Morn support on pump and emergency data for the year to December. For the year to December, the group lost 121.3 billion. The loss was reported by executives on December 45.
Interim earnings fall to meagre R22m

Massive setback for Minorco

By DAVID ROSS

MINERALS & Resources Corporation (Minorco) has reported disastrous results for the six months to December.

Looking ahead to the June year-end, the directors expect a substantial reduction in net earnings.

However, they believe earnings from operations will permit dividends for the current year to be maintained at 22US cents. The interim dividend has been maintained at 6USc.

Anglo's Bermuda-registered investment company, with worldwide mineral and other interests, had net earnings at the interim stage of R22m, against R357m in the previous comparable period and R271m for the whole of the year to last June.

A major item in the interim earnings crash was an extraordinary write-off of R48.4m, representing the equity share of Charter Consolidated's losses. These arose from its investments in Johnson Matthey and Cape Industries (the asbestos company), and Engelhard Corporation's losses on closure of metal refinery operations.

In the corresponding prior period there was an extraordinary profit of R130.3m relating mainly to the sale of part of the holding in Philibro-Salomon.

Without either of the extraordinary items, earnings were 17% lower - R624m ($75.1m). These consisted of R33.7m, in earnings from operations and a R43.4m ($52.3m) share of undistributed equity-accounted earnings.

There were unchanged dividends from all the major companies in which Minorco has invested, with the exception of Engelhard Corp, which is involved in marketing of commodities worldwide and in investment banking. It also held 36% of Charter Cons.

They say, however, that Minorco's equity-accounted share of earnings for the full year may be less than those reported for the interim period. For the past year the share was R77.6m.

They say the expected drop will stem from results already reported by Minorco's North American investments. These followed on from the severe impact on low base-metal, energy and commodity prices, together with certain non-recurring items.

Another major impact upon Minorco's annual earnings will be that in the second half of the current year Philibro-Salomon will account for its share of a substantial after-tax special charge relating principally to the write-off of its oil interests in the Beaufort Sea.
Big maize price increase ahead

PRETORIA — The country will have to brace itself for a big increase in the price of maize products from the beginning of May.

At a meeting here yesterday, the National Maize Producers' Organization (Namos) recommended a price increase of 23 percent to R277 a ton.

The Maize Board's key recommendation to the National Marketing Council is expected to vary only marginally.

Economists said yesterday the maize price rise would help boost the country's inflation rate upwards to 20 percent by mid-year.

Namos economist Dr Kit le Clus said yesterday the price rise and its ripple effect on other basic foods would raise the inflation rate for lower-income groups by at least one percent.

The all-items index of the consumer price index would rise by about 0.5 percent.

Living costs of higher-income groups would be boosted by 0.31 percent.

Namos estimates that if the price is raised by 23 percent, the price of eggs will be affected by four percent, poultry by 3.2 percent, beef by 8.5 percent and dairy products by 2.1 percent.

At yesterday's meeting, Namos called for an "adequate" subsidy to keep consumer prices as low as possible.

It recommended that the subsidy be maintained at R252-million in the new financial year — slightly up on the R274-million in the 1984/85 financial year.

However, earlier this week, when Minister of Agriculture Mr Greyling Wentzel announced the inevitability of a bread price rise, he warned that the government was set on a course of phasing out subsidies.

If this was so, economists said, it looked as if the consumer would have to bear the full weight of any increase in the producer price of maize.
NZ to charge for visas
SOUTH AFRICANS will now have to
pay for visas to visit New Zealand,
the Immigration Minister, Mr Kerry
Burke, said yesterday. He also said
that New Zealand no longer recog-
nised Rhodesian passports.
CB finds wide range of cartels

By CHRIS CAINCROSS

But it was also submitted that many of the monopolies that fell under Government ambit - like the parastatals - should be included if the probe were to be comprehensive.

The board's eventual ability to effect change if, indeed, any is needed, will ultimately lie with the Minister of Trade and Industries, who has the final say on recommendations made and accepted.

Fuelled by Government's treatment of past CB recommendations, like those concerning the coal sector, there is scepticism as to how far the board will be allowed to go with this latest, and eagerly-awaited, study.

Dr Naude stressed that while all restrictive practices brought to the board's attention would be scrutinised, it was not the CB's intention to "injure any healthy tissue".

The avoidance of disruptions within the economy was vital from the point of view of policy, Dr Naude said.
Govt to block discount petrol

Row breaks over petrol price move

A FURIOUS row has erupted over government's bid to outlaw the sale of petrol at discount prices with Mineral and Energy Affairs Minister Dame Steyn being told to keep his hands off the free market.

A proposed amendment in the Petroleum Products Amendment Bill - the so-called "Pick 'n Pay" clause has been strongly attacked by opposition MPs, organised commerce and consumer spokesmen.

The clause empowers government to set the price of fuel at any outlet. If defined suppliers could be cut off.

The Bill effectively turns off the discount tap which Pick 'n Pay opened at its Boksburg hypermarket eight years ago.

Steyn can expect sharp criticism during his Budget vote next week on the role of his portfolio in the economy, particularly in view of his latest move to fix prices.

During this session, he has already introduced the Coal Resources Bill with a provision a similar provision to that of the Petroleum Bill.

"Pick 'n Pay" joint-MD Hugh Herman told Business Day that when the price of fuel went up almost 40% in January, the discount at the Boksburg hypermarket was increased from 1c to 4c/l.

Turnover at Boksburg - a self-service outlet - rocketed from 450 000 litres a month to about 1-million litres a month.

It had since stabilised at about 550 000 litres a month.

"The consumer has voted with his wheels," commented PFP energy spokesman Brian Goodall.

"The Minister is interfering with free market mechanisms by setting prices himself, without regard to supply and demand."

Herman said that, while he thought the Petroleum Products Act had probably always contained the Minister's right to stop discounting, the proposed amendment had not made the move explicit.

Representations to the Department of Mineral and Energy Affairs had met without success.

The claim had also made submissions to the Competition Board in its present inquiry into cartels.

An Assocom spokesman said his organisation was "strongly opposed" to the amendment, and informed government of its opposition when the amending Bill was first published.

Goodall disputed government's claim that discounting was a threat to employment.

"To suggest - as the Minister has done - that the jobs of 45 000 petrol attendants will be jeopardised if discounting is not stopped, is simply hysteria. The trend in retail is towards self-service. It should be a matter of consumer choice whether to go for self-service at a cheaper price or not.

National Association of Automobile Manufacturers (Naamsa) director Nico Vermuelen said Naamsa followed free market principles which allowed for price to be adjusted at the discretion of traders.

The Consumer Council's chief professional officer, Lou van der Merwe, said the council would welcome greater competition between petrol outlets provided this held long-term advantages for consumers.

A spokesman for the Automobile Association said, however, it served no purpose if one outlet in some part of the country sold petrol at lower prices.

"Our view is that an urgent investigation should be launched into the merits and demerits of fixing the retail price from control."

He stressed the AAC would back any discussion which was clearly to the advantage of the motoring public.

Meanwhile, South Africa's 20 000 motorists faced a price rise of 1c/l.

Petrol price untouchable despite the firmer rand

BY PAUL BELL
Political Correspondent

DESPITE an international oversupply of oil and declining prices South Africa's petrol price is not likely to be reduced in the near future.

There have been suggestions that Mineral and Energy Affairs Minister Dame Steyn might announce a decrease in petrol prices during his Budget.
Petrol price untouchable despite the firmer rand

By PAUL BELL
Political Correspondent

DESPITE an international oversupply of oil and declining prices South Africa’s petrol price is not likely to be reduced in the near future.

There have been suggestions that Mineral and Energy Affairs Minister Danie Steyn might announce a decrease in the price of petrol during his Budget vote next week.

It is understood, however, that Steyn would wish to see the exchange rate stabilise at about 52 US cents to the rand for at least three months before a price cut is considered.

The speculation follows an easing of world oil prices and an international oversupply of about 1.8 million barrels in the months since January when the poor rand/dollar exchange rate persuaded government to raise petrol prices by 40%.

That decision was taken on the basis of the prevailing exchange rate of 46.5 US cents to the rand.

PFP energy spokesman Brian Goodall has argued that the consumer should now be given the benefit of the recent improvement in the exchange rate, which has been hovering at just over 40.50.

But yesterday sources in the Department of Mineral and Energy Affairs poured cold water on suggestions of an imminent price cut.

Steyn warned earlier in the year that, if the rate did not improve, the price might have to go up by another 4c/l.

Instead, the relative improvement in the rand/dollar rate would simply permit government to prevent a further increase.

Departmental sources say government was just beyond breaking even on the petrol price, but other petroleum products were still heavily subsidised.

The exchange rate will have to improve beyond 50 US cents before petrol prices are cut.
TCOA opposes call for interdict

Coal traders in court fight over 'breach of deal'

THE Transvaal Coal Owners' Association (TCOA) has been accused of using its monopoly on coal supplies to prevent a wholesaler executing its orders.

Reef Coal, claimed in the Rand Supreme Court yesterday, the TCOA had breached an agreement to supply it with coal, but TCOA denies the existence of any such agreement.

TCOA is opposing Reef's urgent application for an interim interdict ordering it to accept and execute all its coal orders except impossible ones.

The hearing was postponed by Judge A J Heyns until Wednesday to allow TCOA time to reply to Reef's allegations.

TCOA has exclusive control over the marketing, distribution and sale of coal mined by its 21 members.

Until its closure in June, Highveld Coal Traders (HCT) operated as TCOA's wholesale distributor supplying coal mined by TCOA members to small and medium secondary industry and domestic markets. HCT had a 90% share of the wholesale coal market in the Transvaal.

When HCT stopped operating, Reef Coal decided to fill the gap, said director and shareholder Michael Roosch.

TCOA's support of the plan was essential, Roosch stated, as Reef needed its volumes and grades of coal to be able to supply to HCT's former customers.

TCOA's marketing GM Alan Howell allegedly confirmed that HCT's customers were "up for grabs" and on June 19 allegedly agreed to supply Reef with the necessary coal.

Customers were canvassed and orders were taken by Reef which allegedly placed them with TCOA TCOA, however, confirmed neither the agreement nor the orders.

Last week Reef was allegedly told TCOA had issued instructions that no coal was to be supplied to Reef and Reef allegedly learnt from two TCOA employees that TCOA wanted, on account of an old grievance — Reef customers to take their business elsewhere. TCOA denies these allegations.

TCOA was allegedly contacting alternative coal suppliers and instructing them to supply the customers for whom Reef had placed orders.

Unless an immediate arrangement was made to meet the coal needs of Reef's customers, they would be permanently lost, Roosch said. "Certainly the customers who placed orders with Reef are in urgent need of coal which TCOA is able to supply."

Roosch said, under contract to supply 500 tons of coal a week to Cha- motte Holdings, Naschem, Nufcor and Delta Manganese Company, and could face claims for damages by failing to do so.

TCOA denies the existence of the agreement saying there were only discussions.

"It was never at any stage communicated to Reef Coal that TCOA were prepared unconditionally to supply them with coal for wholesale orders," said a letter written by TCOA's attorneys.

Any loss or prejudice suffered by Reef were "entirely their concern and results from their own actions", the letter said.

Bill Wessels instructed by William Annandale & Goodman appeared for Reef, and John Metzburg instructed by Wessels Wessels for TCOA.
Nampo explains Triomf deal

THE maize price was kept artificially low for political reasons to the disadvantage of farmers, according to the National Maize Producers' Organisation (Nampo). Jutifying its purchase of a 50% interest in Maizechem, in its journal Maize, Nampo said maize farmers could reduce their mountain of debt and arrear interest payments only with profits earned from maize production.

Through the deal, Maizechem had acquired the Louis Luyt group shareholding in Lanchem, and this transaction would enable Nampo to gain control "in time" of Triomf Fertilizer. The decision was taken after careful consideration and in view of prevailing circumstances within the fertiliser industry, which could soon result in the survival of only two suppliers. This would not be conducive to free enterprise, and the organisation was convinced the transaction would greatly benefit members of Nampo and other users of fertiliser. Its involvement in the fertiliser industry— which supplies one of the most important agricultural inputs— would, likewise, be in the interests of the industry.

It had contacted other suppliers of fertiliser to discuss its objectives, and believed joint action by fertiliser manufacturers could save costs.
Price control of oil must stay, warns Total

TOTAL is concerned at the prospect of abolition of price control in the oil industry.

An editorial in the August edition of this house journal, Total in SA, warns that de-control of fuel prices would also have to encompass the abolition of other controls on the oil industry.

It says there is a climate of encouraging free competition and a moving away from forms of control.

This would immediately open up a "hornet's nest of related problems."

The principles of a free market with regard to the oil industry do not exist, because SA does not have access to world markets.

The future development of synfuel projects will be at risk in an environment of price instability, which would follow de-control of prices.

Geographic pricing inconsistencies would develop, against the national interest.

Cross-subsidisation would inevitably follow, with major retailers with diversified interests using petrol as a loss leader to the detriment of the average retailer.

The viability of the small businessman would be seriously challenged.

Concentration of power would increase, cancelling out any possible initial benefits.

The strategic nature of oil in South Africa and the absence of free access to world markets, coupled with the urgent necessity to develop our own indigenous production, have led to the comprehensive legislation, carefully developed over many years, as a safeguard in the national interest, says Total.

Chairman Alfonso Hough writes in a separate article in the magazine that the cost structure of fuels is strictly controlled by government and that this in turn simultaneously controls the profit margin on the oil companies as well as that of fuel retailers.

The rationale behind cost control is often not understood and often unfounded and ill-conceived criticism is directed at this form of control, Hough says.
Price fixing and collusion banned

The government has accepted recommendations of the Competition Board outlawing price fixing and collusion in market-sharining and tender practices. Trade and Industry Minister Dawie de Villiers announced in Pretoria yesterday.

The background to the decision is a comprehensive report by the board on malpractices in the economy.

A ministerial notice setting out the tough new measures to stamp out the malpractices will appear in a Government Gazette in Pretoria later today.

De Villiers said in essence that the implementation of the recommendations entailed a prohibition of certain practices, which would be put into operation on May 2 next year.

"These practices occur quite frequently in the economy, and each has a significantly restrictive effect on competition.

Price fixing rules are outlined

- Horizontal collusion on market-sharing: an agreement between competitors to divide the market between them territorially or quantitatively.
- Collusive tendering: This is where tenderers agree that one, or some, or all would not submit a tender, or where tenders which have been agreed on between the tenderers are submitted.

Exemption, De Villiers said, was given where collusion related to export goods or where it occurred between wholly-owned subsidiaries in company groups.
Many goods hit by ban on price-fixing

A WIDE range of businesses — from advertising and stockbroking to petrol to frozen food — will be affected by government's ban on price-fixing and other trade restrictive practices which comes into effect on May 2.

The new regulations are the result of a comprehensive inquiry by the Competition Board which appears to have been accepted by government in full.

The board found that these restrictive practices occur "fairly generally, in fact more than was supposed originally".

The board received allegations of collusion and price-fixing in more than 60 industries and commodities.

It does not necessarily agree with all allegations but the list starts with accountancy services and ends with frozen vegetables.

Some of the more prominent industries alleged to be involved in some form of restrictive practice are advertising, alcoholic beverages, building activities, electrical household appliances, estate agents, frozen food, freight forwarding services, short-term insurance services, legal services, prescription medicines, milk, newspapers, paint, petrol, stockbroking services and travel agency services.

The list excludes very many other price agreement situations.

Price-fixing ban hits hard

would be disruptive to the industry concerned.

The final exemption is for all export dealings outside the rand monetary area.

The board's report, strongly critical of collusion, calls on the State to adhere to the anti-collusive measures as well.

It says "While active steps are being taken to promote efficient competition, the State itself is, in various respects, responsible for serious distortions and restrictions of competition which sometimes give rise to further restrictions by businessmen in the relevant regulated industries."

The board alsocriticised tender arrangements.

Businessmen polled by Business Day

were reluctant to comment until the full text and regulations of the announcement had been studied.

Roger van Niekerk, a spokesman for the Free Market Foundation, said the measures were a step in the wrong direction. "Government should instead concentrate on removing barriers to entry (for prospective entrants into the various industries) and then the various evils described would not eventuate."

Marketing consultant Mike Perry says the effect of the measures goes far beyond getting "the bad boys of business" to toe the ethical line. They will entail substantial changes to marketing in SA.
BREAD PRICE

Cheaper options?

SA’s wheat, milling and baking industries are taking stock of the Davin Commission’s controversial recommendations to deregulate the industries and create a virtual free market.

At stake is the profitability of the R650m a year wheat producing industry, the near R1 billion a year wheat milling industry and retail bread sales worth more than R1 billion a year. But will deregulation lead to higher, or lower, bread prices? Opinions differ.

Cheaper bread prices could result from a punch-up between competing millers at one level and free competition between independent bakers on the other. Together they control a market of some 1.8 billion loaves a year. But some sources say there could be sharp price rises after deregulation as smaller retailers increase their profit margins from the present 2c a loaf. The new margin, they say, will be around 5c a loaf.

“I can foresee bread prices increasing by about 50% above the latest levels as soon as price control is abolished,” says Wheat Board (WB) GM Dennis van Aarde.

Six major milling groups, controlling 98.8% of SA’s milling industry and with a combined 89.1% stake in the baking market, would be substantially affected if government accepts the Davin recommendations.

These recommendations include:

- The abolition of price control on wheat flour and standard government bread from October 1 1986.
- The abolition of restrictive registration in the milling and baking industries from the same date, opening the door to free entry.
- Switching the bread subsidy from the end product to the WB in order to keep the price of wheat, flour and bread as low as possible, and
- Continued WB control over the quality of wheat sold and over the quality of certain standards of bread.

Van Aarde expects the new bread subsidy to be substantially below the current R200m a year. And he doubts if the WB could exercise effective quality control over a number of new bakers after deregulation.

Agriculture Minister Greyling Wentzel has already asked the WB and other parties for their comments on the Davin recommendations. Van Aarde says the WB will meet with its comments should reach Wentzel by the end of November.

Pick n Pay CE Raymond Ackerman, a commission member, is adamant that the virtually free market that would follow implementation of the recommendations would benefit consumers.

“Although some smaller retailers could up their prices after deregulation, other forces — in the form of major retail groups — will ensure that prices are kept low. Competition in the free market will ensure that consumers get the best deal,” he says.

PUBLISHING

Perils for print

There seems to be no relief in sight for SA’s embattled newspaper industry. The latest adspend figures show that the press contin-
BIFSA
Cracks in the cartel

The Building Industries Federation's (Bifsa) restrictions on tendering procedures — which have forced its members to toe the line over the years — are to be outlawed from May 2 next year.

In terms of the latest Competition Board recommendations which have been accepted by government, the building industries federation will thereafter be barred from enforcing certain rules. According to the SA Property Owners Association (Sapoa) these rules effectively give Bifsa the power to:

- Expel members for tendering in competition with non-members.
- Force members to use prescribed Bifsa tendering conditions.
- Insist that members embargo a particular project if Bifsa feels the developer is trying to breach its standard contract documentation, and
- Refuse to allow builder-members to use time-saving as an incentive to obtain contracts.

Recommendations

Once the recommendations come into force, builders who fail to comply will fall foul of the Maintenance and Promotion of Competition Act which provides for fines of up to R1 600 000 or imprisonment of up to five years.

But there is a provision for exemptions. And, although Bifsa executive director Lou Davis refuses to comment, there seems little doubt that his federation will seek to make use of it before May 2.

In terms of the recommendations, however, exemptions would be permitted on a temporary basis only Competition Board director Neve Veermeulen explains that since some practices have been in force for many years, it may be difficult to outlaw them overnight.

"It is not our intention to cause chaos in the market and we will consider well-motivated applications for exemption although there is no certainty that they will be granted," he says. "We will certainly not be over-generous in the granting of exemptions."

Sapoa, for one, will be seeking to ensure that the promise is kept. The association has long criticised Bifsa's rules as inflationary and contrary to free market principles.

Only last week, Sapoa delivered a strongly-worded memorandum to the Competition Board calling again for a clampdown on Bifsa's restrictions. Executive director Peter Erasmus tells the FM that Sapoa is particularly concerned by the rule which embargoes Bifsa members from dealing with certain developers. He considers this rule the "most pernicious practice currently employed in the industry."

As Sapoa explains it, "Bifsa, through its constituent members, the master builders associations has adopted the practice of threatening to embargo a particular tender should it feel that the standard contract documentation rate is being breached or that non-members are being invited to tender in competition with members.

"The threat of having no Bifsa members tendering or withdrawing tenders is so great that owners are forced to comply with these rules. This association is of the opinion that the practice constitutes a boycott in its worst form and should be stopped immediately."

Effectively, this means that non-members never get a chance to tender. New entrants to the market have no choice but to become members of Bifsa or fear of being locked out of the tendering process. And existing members must remain for the same reason.

Sapoa says that although the embargo claim may be denied, it can produce evidence to support its case. But it says there have been few recent cases because "as has been explained, the mere threat of embargoes has meant that they have actually not been put to very much use lately. Furthermore, the embargo threats are invariably conveyed by telephone which makes proof more difficult."

As for Bifsa's insistence on standard documentation, Sapoa says it is not against the idea in principle. However, it sees it as essential to allow variations which could be incorporated in an addendum to make alterations readily distinguishable at all parties.

And Bifsa's view on it all? None. As usual, it is not talking.

DUTCH EMBASSY

Who pays?

The Dutch government opened a legal Pandora's box when it refused to hand a portion of its former Pretoria embassy back to landlords Nedbank after the lease expired on September 30. Apart from the thorny questions of international law that still need to be settled, it landed Nedbank in a situation in which it could have been sued by tenants who were supposed to move in on October 1.

In terms of the original lease the Dutch government rented the first and second floors for its embassy. When the lease expired, it vacated the first floor and a portion of the second floor — but not the portion occupied by political fugitive Klaus de Jonge. De Jonge, of course, is wanted by the SAP for questioning on a number of security-related charges.

Despite numerous requests, the Dutch government has consistently refused to vacate because, by going, it would have left De Jonge without a diplomatic haven.

Nedbank then had a problem. The new tenants could not continue operating in their old premises which they were obliged to hand back to their former landlords on September 30.

Had Nedbank not found a short-term solution to the problem that met with their approval the new tenants could have found themselves in the street and would, no doubt, have had more than adequate grounds to claim substantial damages from the bank.

Goodwill prevailed on both sides, however. An interim agreement was negotiated and the new tenants are now housed in temporary premises on the first floor.

At one stage it was thought they would be
for businesses closing down only part of their operations. But the Income Tax Act is not crystal clear on the scrapping allowance, neither has reported case law produced a set of hard cases.

Indeed, the scope of the scrapping allowance is widely misunderstood, says Ernst & Whinney’s Kay O’Connor: “Businessmen — and many accountants — believe that before a scrapping allowance can be claimed the asset concerned should be physically deteriorated, in scrapheap condition, and that the allowance is only claimable if the asset is disposed of as part of a going concern.

“But there is no rule of law to support any of these beliefs.”

The scrapping allowance is computed as the difference between the cost to the taxpayer of the asset, reduced by any (initial and/or wear and tear) allowance previously granted and the amount or value of any advantage received by the taxpayer from the asset’s sale or other disposal.

O’Connor notes that a test developed in ITC 631 has been followed where the requirements are the decision “to scrap the asset” and “to use it no longer.” The court said that where both factors exist, a scrapping and subsequent disposal, or perhaps valuation, determines the amount that may be allowed.

O’Connor says ITC 631’s principle, supported in subsequent cases, is that the taxpayer, in good faith, regards the goods as useless or unsalvageable for further use. It matters not that the goods may still be usable in another business.

Another clear principle which has emerged is that a decision to scrap may be taken in advance of implementation of that decision.

Reported cases illustrate the practical obstacles of successfully claiming the scrapping allowance. O’Connor says the dividing line chosen by the courts appears to be whether the part of the business disposed of was an adjunct of the taxpayer’s main operations, or a material element in itself right.

In the case of a restaurant closure, the court concluded that certain losses were not deductible. The taxpayer operated a cafe and a restaurant in adjoining premises. Under strain from economic conditions, the restaurant was closed, resulting in a loss on disposal of the fixtures and fittings. The court said the disposal was not an act performed in the “ordinary course of business.” It was, rather, a direct result of the taxpayer’s decision to discontinue his restaurant business.

The restaurant was a separate branch of the business, the closure represented the surrender of a valuable asset, the liquor licence. This was a radical change in the scope of the business.

In another case where the taxpayer was successful, the court concluded that the business disposed of was carried on in conjunction with the taxpayer’s main business. The taxpayer carried on the same business in two separate locations, one was terminated when the relevant lease was cancelled. Part of the furniture and equipment was transferred to the remaining operations, the balance was offered to employees for no consideration.

O’Connor says several conclusions can be drawn from these cases:

Firstly, the situation where a distinctly separate and independent business is disposed of or closed down. Here it may be extremely difficult for the taxpayer to show that the disposal of assets was more closely connected to day-to-day operations than to the decision to dispose of the business.

In other words, says O’Connor, the taxpayer may not have decided to scrap the assets, rather, the decision was to sell.

Secondly, it may be that an ancillary or subsidiary activity is shut down. Such a disposal is looked at as part and parcel of the normal business operations, an example is discontinuance of one of a number of product lines.

COMPETITION POLICY

Big words, no action

 Pretoria’s planned May 1986 ban on price-fixing in what is left of the private sector, creates further jobs for bureaucrats and adds another prong to government interventionism, while doing nothing to get to the core of the problem.

A huge slice of the economy will be left unaffected since public monopolies such as Escom cannot, by definition, be involved in price-fixing.

The proposed notice, accompanied by a lengthy memorandum from Stief Naudé of the Competition Board, is littered with loopholes and exceptions. It ignores the real stimulus of competition deregulation.

Practical examples of terminating potential healthy competition by over-regulation abound.

For example, a backyard furniture maker in Natal closed his business after a visit from a health inspector. He was told to install facilities costing over R 100 000 if he planned to continue business. Without going bankrupt in the free market sense, he had to shut down. A potential threat to established furniture manufacturers and lower prices for the consumer, was excised from the economy.

Jobs were lost.

The proposed rules are classic chicken-and-egg, as no deleterious price-fixing can exist without government support. Recognising that price-fixing is undesirable, Pretoria proposes rules to end it with a wicker of exceptions. The sceptic may well ask what came first — price-fixing or government support of price-fixing?

Legal and accounting services, for example, are governed by legal edict — rules drawn up by professionals and rubber-stamped by government. These activities are included in the 64-category list of alleged price-fixing. Yet in the same breath, professions are granted a partial exemption from horizontal price collusion.

The proposed measures sacrifice rule uniformity to the interests of pressure groups. Exemptions are given not only to qualified professionals, but also to wholly-owned subsidiaries of common holding companies and “infant” industries. There is also a blanket exemption for applications on “special” grounds.

Any vested interest which cannot find a hole in these rules would have to be on fragile ground indeed. A gap of atom-bomb size is

BUILDERS SHORING UP

The already battered building industry must brace itself for even worse conditions, judging by the latest building survey conducted by the Bureau for Economic Research (BER), which anticipates further unemployment and bankruptcies in the sector.

Demand for work is expected to remain low, while costs will rise. The price of building materials and labour is expected to increase by 10% this year, but stiff competition in tendering — and higher productivity — will hold the annual increase in the Building Cost Index below 7%.

In the first half of this year the value of building plans passed, an important lending indicator, was 19.9% lower than for the same period last year. The residential market was affected the most, with a decline of 38.7% in plans passed. It fared even worse in the latest quarter to September — down 55% compared to the first quarter of 1985.

Overall, says the report, the statistics suggest “a potential drop in real terms of about 25% in fixed investment in housing by the private sector during the next 12 months — down to levels that were recorded in 1983. The BER house price index was 3.2% lower for the first five months of this year than for the corresponding period in 1984. BER expects house prices to start increasing towards the end of the year. The statistics for building plans passed tend to lead those for buildings completed by between six and 12 months.

Financial Mail October 11, 1985
available from this provision, for instance " this notice shall not apply (to price-fixing) in existence prior to the commencement of this notice likely to cause disruption to the industry concerned."

Just how long such "disruption" may last is a moot point. But as the board notes, price-fixing affects many economic activities "it is clear that these practices are found to exist in a large number of industries and a wide range of commodities."

The State "is bound" by the proposed rules "as far as the State is concerned in the manufacture and distribution of commodities." The types of price-fixing named — from resale price maintenance to collusive tendering — presuppose the absence of a monopoly. This implicity exempts all State and parastatal concerns and 21 agricultural control boards from the rules' ambit.

The proposed rules have scant chance of working in practice. It is argued by some, for example, that professional bodies' power to control fees and prices by legal edict are the worst monopolies and closed shops in the country.

The restrictive practices of the professions — lawyers, accountants, doctors and stockbrokers — include barriers to entry, minimum fees or commissions, and the sole right to undertake certain work. These restrictive trade practices are increasingly followed by other interest groups: travel agents, estate agents and valuers. Last year certain dog parlours called for regulation of their trade.

Professional bodies promote the interests of (relatively few) members at the expense of the general public and other and existing would-be practitioners. Some even consider professional monopolies as a form of guile socialism, a factor that helped keep the world in the dark ages for so long.

Some researchers of US anti-trust laws — similar to SA's proposed new rules — conclude that such attempts to increase competition actually decrease it. Businessmen, for example, have been fined for pricing above market prices (gouging), at market prices (collusion), and below market prices (predatory pricing).

The research also concludes that government should go to the cause and not the symptoms of monopolies. By deregulating, barriers of entry are dismembered and entrepreneurs, such as the defunct Natal furniture-maker, can grow and prosper.

To quote US academic, Dominey Armentano: "The only principled and practical way to end monopoly power is to end it at source. Government regulation, entry control, subsidiisation, and antitrust, are all manifestations of a governmental interventionist power that has been employed by private firms to private advantage and to the detriment of society."

BENEFIT ILLUSTRATIONS

Limiting loopholes

Life assurees are past masters at finding loopholes. Their dodges round the sixty schedule to the Income Tax Act are almost legendary. And even the industry's own agreements face continual testing by eager marketers, including the Benefit Illustrations Agreement.

This was established by the Life Offices' Association (LOA) in 1983 to bring some order to the methods used by companies for projecting future returns on their products. But apparently certain assureds have been finding ways round the maximum qualitative limits by attaching smoothed bonus returns to market-linked products and calling them conventional policies.

The original agreement laid down two sets of rules, one for market-related policies and one for conventional products.

The difference between the two is basically one of performance reward. Under market-related types the policyholder usually receives an investment return on his premiums related to the actual rates achieved by the assurer. His return will fluctuate with market values.

The conventional product provides a guaranteed bonus, regardless of investment performance of the underlying portfolios, plus discretionary bonuses during the term of the policy.

Life offices have to register their products at the LOA, classified either as market-related or conventional. This is supposed to prevent offices from changing the definition of their products in circumstances convenient to their marketing aims.

The agreement calls for two projections based on net rates, that is those stripped of all taxes, charges and deductions, including management fees, shareholders' dividends and commissions.

The first illustrative benefit is based on an assumed gross investment return of 10% a year brought to a net figure after the above deductions. The second illustrative benefit is based on the last five years' actual net investment returns, dampened by a special formula, with a maximum figure of 15% a year.

This is then grossed up to include the above costs. A third figure may be used to show past performance without any dampening.

Conventional policy quotes, on the other hand, must include the projected value based on current vesting bonus rates plus a second value based on the vesting bonuses plus nonvesting bonuses. It amounts to whatever rate the actuaries feel the company can continue to return in future years.

National Mutual started the ball rolling last year when it raised the projected rate on its Fidelis retirement annuity contract to 16%. The product itself had been running since 1978, but it was only this development that started other life assureds, trapped with their maximum 15% quotes on market-linked products, jumping around and pointing fingers at National Mutual for "contravening" the rules.

But Geoff Tomlinson, GM at National Mutual, says the Fidelis contract was difficult to classify since it neither conformed to a straightforward conventional contract nor a market-linked contract. In the end the LOA agreed to register it as a conventional product so the company was doing nothing wrong. Though Fidelis provided a market-related performance the return was paid on a smoothed bonus concept.

"More recently we have been offering a

FM INVESTMENT CONFERENCE

You could say that staging an FM investment conference without Gerhard de Kock is like serving gin without tonic. But with the two-day conference at the Carlton Hotel this year need have no fears — tonic is on the menu.

Indeed, the Reserve Bank Governor will start the main event at 9.30 am on Thursday November 14. His 35-minute talk will deal with "Monetary Policy and Economic Recovery in 1986." It's a broad topic but, after all that De Kock has been through this year, it needs to be.

His travels around the world in search of a solution to the debt crisis have been well chronicled, but he should be able to provide a few new insights into the economic state of the nation.
Breweries in froth over beer plan by supermarket

Staff Reporter

BEER will go on sale for the first time in five Cape supermarkets next week - but South African Breweries has taken legal advice which indicates the move could be illegal.

Pick'n Pay said it had found a legal loophole allowing it to sell beer with alcohol content under two percent. It will be selling a new brand, Windhoek Light, brewed by South West Breweries, with an alcohol content of between 1,4 and 1,9 percent.

The beer is already on sale in their supermarkets in the Transvaal.

Mr Alan Baxter, chief buyer for the Western Cape, said yesterday that six-packs and cases of 340ml dummies and cans would be on sale in Cape branches with wine licences - Constantia, Gardens, Kempton Park, Goodwood and Mitchell's Plain.

The cases would sell for less than R12, against bottle store prices of about R13, and six-packs for about R2,15.

COMPETITIVE

"I believe our price is very competitive but we are not giving it away. We will still be making a nice profit."

Mr Garry May, SAB public affairs manager, said: "Our interpretation of the legal aspect is that it contravenes the legislation as it stands."

He said the Foodstuffs, Cosmetics and Disinfectants Act published in August clearly said no beverage produced from cereals with an alcohol content exceeding 0,5 percent would be allowed to be distributed by supermarkets.

Pick'n Pay based its decision on the Liquor Act, which prohibits supermarkets from selling liquor with an alcohol content above two percent.
Legal bodies ask to meet Le Grange

Political Staff

A MEETING with the Minister of Law and Order, Mr Louis le Grange, has been requested by the Association of Law Societies and the Cape Bar Council to discuss recent events in the Western Cape.

In a statement, the Cape Bar Council said, "The conduct of the police in quelling disturbances and maintaining order must necessarily affect the administration of justice and the attitude of the public to the legal process."

"While the council is mindful of the problems encountered by the police in carrying out their duties, the persistent allegations of police misconduct or over-reaction on their part in dealing with the disturbances are, therefore, of serious concern to all members of the legal profession."

At the meeting, the council hoped to explore steps which could "avert the tragic, spiral of violence and counter-violence of recent weeks."
Traders commend Mr. Heard

Staff Reporter

THE Western Cape Traders' Association (WCTA) and the Chamber of Muslim Meat Traders (Comutra) yesterday issued a joint statement commending the editor of the Cape Times, Mr. A.H. Heard, for publishing an interview with ANC leader Mr. Oliver Tambo.

The statement said the interview was "educational and elucidating", adding "However, we are perturbed at the impending State action against Mr. Heard."

"Comutra and the WCTA therefore urge oppressed people of the land to support those who align themselves with us by buying the paper which is in keeping with the times."

Our Paris correspondent reports that the restrictions on the South African press and the Tambo interview drew wide comment in France this week.

The influential Le Monde, as well as the daily papers Liberation and Humanité carried articles explaining why Mr. Heard deliberately defied censorship laws to bring the ANC views to public attention.

The possible prosecution of Mr. Heard was also widely reported in the British media yesterday.
Assocom drafts debt collection proposals

Commerce calls for overhaul of HP law

ORGANISED commerce is to make representations to government early next month for an overhaul of legislation governing instalment sales.

The aim is to make it easier for businesses to recover the costs incurred in collecting outstanding debts.

Section 19(6) of the Credit Agreements Act confines a creditor — in terms of an instalment sale — to recovering only what is owed and to repossessing the goods concerned.

No court order can be made for any balance out of income outstanding or for the likely costs incurred in the recovery of goods.

Businessmen say the legislation penalises a creditor by not allowing him to use the most suitable way to recover the full amount owing.

They say the legislation adversely affects debtor morality and leads to an increase in costs which must ultimately be borne by those who do not default on their obligations.

"The situation merely encourages early repossession of goods and no uncontrolled arrears," said a Cape businessman.

The Association of Chambers of Commerce (Assocom) has the responsibility of drawing up recommendations for amending the legislation.

These are due to be presented to government in about 10 days.

The recommendations are expected to be received favourably.

At Assocom's Cape regional congress held in Worcester in June, Director-General of Commerce and Industry Sarel du Plessis indicated that government would be prepared to consider amending legislation if the necessary submissions were made.
PRETORIA. — Official notification of the Competition Board's intended investigation into the Argus group's acquisition of the Durban morning newspaper, the Natal Mercury, was published in the Government Gazette yesterday.

Anybody may submit representations on the matter to the board within the next 30 days.

The announcement recently that Argus Printing and Publishing would acquire the newspaper interests of Robinson and Company led to a controversy over newspaper monopolies. The Minister of Trade and Industry, Dr Dawie de Villiers, said he had instructed the Board to investigate the matter.

The Argus group owns the Durban afternoon newspaper, the Daily News.

According to yesterday's notice, the board is to ascertain whether an "acquisition has been, is being or is proposed to be made; and the nature and extent of the controlling interest held and acquired, being acquired or proposed to be acquired." — Sapa
Consumer Price Index
leaps 16.9 percent in a year

Mercury
Correspondent

JOHANNESBURG—The Consumer Price Index for all income groups leaped by 16.9 percent from November, 1984, to November this year.

Even in the month from October to November, 1985, the index increased by 1.3 percent.

Figures released by Central Statistical Services indicate the increase in the past month was due mainly to rises in the price of meat, fats and oils, fruit, vegetables, furniture and household appliances.

Meat went up by 3.4 percent, fruit by 2.5 percent, furniture by 3.5 percent and motor vehicles by 4.7 percent.

Statistics show that over the past year the higher income group was hardest hit by CPI increases. The figure for that group rose by 17.7 percent. In the middle income group this figure stood at 17 percent and in the lower income group 14.4 percent.

Indices for urban areas show that the biggest annual increases occurred in Kimberley (16.5 percent), Pietermaritzburg (18.9 percent), Pretoria (18.0 percent) and the Vaal Triangle (18.1 percent).

The statistical news release emphasises that the CPIs for different urban areas do not permit inter-urban comparisons of price levels. They do not indicate whether it is more expensive to live in one city or another.

The release says they indicate for each urban area, independently of any of the other urban areas, the price changes which have taken place from time to time.
Govt asked to step in in petrol price saga

Own Correspondent

PORT ELIZABETH. — The Progressive Federal Party spokesman on energy and mineral affairs, Mr John Malcomess, called yesterday on the State President, Mr PW Botha, to intervene in the petrol price dispute between Pick 'n Pay and major oil companies.

Petrol supplies to Pick 'n Pay have been cut on the instructions of the government and by Saturday the discount chain's 12 outlets had begun to run dry. Mr Malcomess said he strongly objected to the action of the large oil companies in cutting supplies of petrol to Pick 'n Pay, pointing out that the man in the street was being penalized.

Their only reason is that Pick 'n Pay is selling petrol to the public at a discounted price. The main villain is of course the government (which is) forcing the private sector to sell at its price and no lower."

Mr Malcomess said the Motor Industries Federation should also share the blame 'for encouraging the government to take this action in order to protect their own vested interest.'

'I am calling on the State President to intervene and if he will not take action then I accuse him of contravening a national goal as set out in the Constitution Act of South Africa. The goal concerned is 'to further private initiative and effective competition'."

Mr Malcomess said Meanwhile, director of Pick 'n Pay Mr Sean Summers said yesterday that there had been "total chaos" at the Boksburg service station on Friday and Saturday with queues of up to 60 cars. On Friday 56 000 litres were pumped, one-third more than usual.

Today Pick 'n Pay is to announce the price of petrol at its Boksburg outlet, where it has in the past discounted petrol by 4c/l. The government ordered it to stop doing so from midnight on Friday and it is uncertain how it will get around to discounting on the cut petrol price.

'Not the end'

"It's not the end of the petrol saga," Mr Summers said yesterday, but he declined to disclose what the company intended to do until today's announcement. Mr Summers said the oil companies would resume their supplies to Pick 'n Pay from today when the new petrol price goes into operation at all service stations.

Executive director for Pick 'n Pay Mr Alan Gardiner said he suspected the government behaviour regarding discounting petrol was tough, unreasonable and disgusting.

In the past Pick 'n Pay had had no reaction from the government when it sold old stocks of petrol at a discounted price before scheduled price cuts or rises.

"There is no precedent for the government's harsh action," he said.

Pick 'n Pay defied the government by dropping its petrol price by 8c/l and 10c/l four days before the specified date. At the Boksburg hypermarket where it usually discounts by 4c/l it dropped its price by 12c/l and 14c/l respectively.
**New petrol-coupon scheme in trouble**

By RENEE MOODIE

PICK ‘N PAY yesterday announced a move to give a 4-cent coupon, redeemable on other purchases at their stores, for every litre of petrol bought at their service stations.

But the move seemed set to be blocked by the government.

Mr Theuns Burger, deputy director of the Department of Mineral and Energy Affairs, said yesterday afternoon the new system was considered a petrol discount and fell under a ban on petrol sales to outlets not selling at the official price.

**‘Savings’**

Pick ‘n Pay announced yesterday that customers at their 12 service stations across the country would receive a 4-cent coupon for every litre of petrol bought, and they could redeem these coupons at any Pick ‘n Pay store on any item except petrol.

Savings could amount to R2.50 to R5 a tank of petrol.

Mr Burger said the government directive issued on Friday was still in force and it was now up to the oil companies to decide on any action.

The directive signed by Mr Danie Steyn, Minister of Mineral and Energy affairs, said that in terms of the powers vested in him by the Petroleum Products Act he prohibited the supply of petrol to any outlet at which petrol was offered for sale or supplied to customers.

- "at any price other than the price agreed upon, in respect of the area concerned, between the department, the wholesale petrol suppliers and the organized petrol outlets industry, and"
- "under an arrangement in terms of which any refund or any other consideration of whatsoever nature is made or offered to consumers in respect of such sale, or"
- "other than against a monetary consideration."

The directive was read to Mr Raymond Ackerman, chairman and joint managing director of Pick ‘n Pay, who said his company had launched the new system after “poring” over its agreements with the oil companies, and after carefully consulting the Trade Coupons Act.

**‘Agreements’**

"The coupon system does not break any of our agreements and is in line with the Trade Coupons Act," he said.

"It seems to me that the minister is not only superseding carefully negotiated, long-standing commercial agreements, which fully comply with the Petroleum Act, but that he is also superseding the Trade Coupons Act, issued by another department, and which allows coupons or discounts to be given on one item for another item."

He said Pick ‘n Pay was still receiving petrol from its suppliers and added that the chain would continue with the discount system for the time being.
Discounting

In terms of the scheme introduced to coincide with fuel price cuts this week, Pick'n Pay is offering a 4c coupon for every litre of petrol bought, redeemable on any merchandise except fuel.

The department views this as a form of petrol discounting.

Mr Gardner claimed that the Government was waging a vendetta against his group because many petrol stations "are giving away everything from half-sheep to free car washes and free service to their customers".

He also charged that petrol companies themselves were engaged in "backroom practices" involving discounts to customers.

"Why single out Pick'n Pay which gives food coupons?"

"If the Minister has the power under his directive issued on Friday, why is the Government victimising only Pick'n Pay?"

The joint managing director of Pick'n Pay, Mr Hugh Herman, said that his company was not looking for confrontation with the Minister, but believed it was a relevant matter and would therefore not back down.

"We are willing to sit and negotiate with him."

"We have taken advice from our lawyers and senior counsel and my company is not in contravention of the Petroleum Act or the Trade Practices Act."

Opening the annual meeting of the Queenstown Chamber of Commerce last night Mr Raymond Ackerman, the managing director of Pick'n Pay, said that the argument that strategic considerations justified Government control of fuel prices did not apply in the present situation of world oil glut and falling prices.

"There may have been reason to protect oil 10 years ago but that is no longer a strategic interest," Mr Ackerman said. — Political Staff and Sapa.

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Mr John Malcomess, the Progressive Federal Party's spokesman on energy, today challenged the Government's prepping-up of the petrol price by preventing Pick'n Pay from discounting petrol.

He also demanded that the price of petrol be reduced because of the increase in the value of the rand and the continued softening of international oil prices.

Pick'n Pay today claimed that it was being victimised by the Government over its petrol coupon scheme as a head-on confrontation loomed between the company and the Minister of Mineral and Energy Affairs, Mr Dame Steyn.

**Deadline**

The company has given Mr Steyn a deadline of midday today to reply to a letter protesting against a department directive to oil companies on Friday to stop supplying Pick'n Pay with petrol.

If no reply was received the company would apply tomorrow for an urgent interdict against the Department of Mineral and Energy Affairs, the national manager, Mr Alan Gardner.

Mr Malcomess called on President PW Botha to intervene in the discounting controversy.

"If he is in favour of deregulation and private enterprise he cannot sit back and allow the Government to force up prices, and still retain his credibility," he said.

"So quiet?"

"Why also are organisations such as Assocom, the Afrikaner Handelsinstituut and the Chamber of Industries so quiet?"

He also asked why the Automobile Association had supported the amending legislation that had given the Government the power to force the petrol companies to stop supplying the supermarket chain.

A spokesman for the Department of Mineral and Energy Affairs confirmed that the department had served notice on the petrol companies to stop supplying fuel and that it was now up to the supermarket company to follow whatever course it wanted.

He confirmed that the current price was set on an exchange rate of 47 US cents to the rand and not to the current exchange rate of more than 39 cents.
PETROL supplies to rebel discounters Pick 'n Pay were stopped yesterday for the second time in a week — and the company says it will seek an urgent interdict to counter this if the government does not respond favourably to a letter it has sent to the Minister of Mineral and Energy Affairs, Mr Dane Steyn.

The retail chain's two major suppliers, Shell SA and Trek Petroleum, as well as BP SA, which supplies petrol to only one station, all confirmed yesterday that deliveries to Pick 'n Pay's 12 service stations had been halted in compliance with last week's government directive ordering suppliers not to deliver fuel to outlets that discounted petrol.

The notice was issued by Mr Steyn when Pick 'n Pay began selling petrol at a discount price several days before Monday's official price drop.

Petrol supplies were cut off on Friday and resumed on Monday when Pick 'n Pay again sold petrol at the discounted price.

Joint MD Mr Hugh Herman delivered the letter to Mr Steyn yesterday afternoon.

Mr Herman said the directive had been issued three days before Pick 'n Pay introduced the discount coupon system, and therefore could not apply to the coupon system.

Company 'not discounting petrol'

He added that Pick 'n Pay was not discounting petrol. It was sold at the normal price, but Pick 'n Pay gave a 4c discount coupon for every litre sold. This was exchangeable at its supermarkets.

Pick 'n Pay believed Mr Steyn had acted beyond his powers with regard to the coupon scheme. The Petroleum Products Act dealt with the supply and procurement of fuel, while the issue of discount coupons fell under the Trade Practices Act.

He said these matters had been pointed out to Mr Steyn in the letter.

Mr Herman said he hoped Mr Steyn would reply by today. If the response was negative Pick 'n Pay would seek an urgent court interdict compelling the oil companies to recommence deliveries.

Mr Theuns Burger, deputy director of the Department of Mineral and Energy Affairs (DMEA), said it had issued the directive because it felt it had no alternative.

He said Pick 'n Pay's argument that the DMEA was encroaching on commercial agreements was a matter of opinion.
Petrol dispute goes to court

THE petrol discount/coupon controversy will be taken to the Supreme Court today as Pick 'n Pay seeks an urgent interdict to set aside a government notice which prevents oil companies from supplying petrol to outlets selling petrol at a discount.

Pick 'n Pay decided to take this step after receiving an unfavourable reply from the Minister of Mineral and Energy Affairs, Mr Danie Steyn, to a letter to him in which they protested against the notice.

The Pick 'n Pay letter, delivered to the minister on Wednesday by joint MD Mr Hugh Herman, questioned several aspects of the notice.

Mr Steyn had replied saying the notice was still in force and was aimed at preventing the direct or indirect discounting of petrol.

MP pleased

A spokesman for the Department of Mineral and Energy Affairs (DMEA) confirmed that a reply had been sent to Pick 'n Pay but would not comment on the content of the letter.

Reacting on the issue yesterday the PFU's spokesman on energy, Mr John Malcomess, said he was "pleased" that Pick 'n Pay had decided to take the government to court in the light of its intransigence in the petrol discounting controversy.

He repeated his challenge to President P W Botha to take a personal hand in the mushrooming controversy, particularly in view of "the President's stated commitment to deregulation and free enterprise."

However, Mr Botha yesterday refused to be drawn into the row, saying the issue should be dealt with by Mr Steyn and the oil companies.

Mr Malcomess also questioned the "deafening silence" of commerce, industry and other political parties in Parliament in the face of direct government intervention to artificially prop up fuel prices.

He challenged Assocom, the Afrikaner Handelsinsitutent, the Chambers of Industry, the Automobile Association, the Labour Party and the National People's Party to demonstrate their support for "the man in the street" and publicly object to the government's stand.

The government notice was issued on Friday last week after Pick 'n Pay began selling petrol at a discount price several days before Monday's official price drop.

Petrol supplies were resumed on Monday, but cut off again on Wednesday when a discount coupon system announced by Pick 'n Pay was held by the DMEA to be a form of discounting petrol.

Mr Herman yesterday said: "Direct or indirect discounting of petrol is precisely what we are not doing. We are offering coupons, redeemable on other purchases, for litres of petrol purchased. We are still selling petrol at the prescribed price."

He said the interdict was being sought on the basis that the directive was issued on Friday last week, while the coupon scheme was only announced on Tuesday and on the basis that Mr Steyn was acting beyond his powers.

Petrol supplies from Shell SA, Trek Petroleum and BP SA, were still cut off yesterday.

The managing director of Total South Africa, Mr Bernard Lafitte, said in a press statement yesterday that allegations that the oil companies in South Africa were being protected by the government to the detriment of the consumer, were untrue.

Fixed margin

The oil industry enjoyed a fixed margin, which was less than that of the oil pipeline costs, the levy for the National Road Fund and the amount being collected for GST.

Mr Lafitte said that about one-third of the cost of petrol went towards taxes and levies which were unrelated to the actual cost of fuel.

He said the oil industry was only allowed to make a certain profit on its assets before taxation and if the industry did not make the allowed profit there was no mechanism to make up the difference. - Staff Reporter, Political Staff and Own Correspondent.

79 000 sign petrol petition

Staff Reporter

A PETITION bearing more than 79 000 signatures of people concerned about the high price of fuel was presented to the government yesterday.

A pensioner and a housewife from Johannesburg — with no help from any organization — raised the signatures over two months since January 7.

Mr. Jack Huber said yesterday: "When the price of petrol went up in January, I felt I had to do something. So Mrs. Jill Perkiss and I — simply as two concerned citizens — went on a drive to get public support.

"The result has been this incredible mass of signatures, which I have presented to the Minister of Transport Affairs, Mr. Hendrik Schoeman."

"Yesterday morning Mr. Huber had a meeting with Mr. Schoeman, "who was astounded by our support and promised to take the matter to his colleagues."

The petition reads: "We, the undersigned, object in the strongest terms possible to continual increases in the fuel price. The government should help to combat inflation by using the massive profits of the oil pipeline to reduce the cost of petrol."

Mr. Huber said the petition had first been published in a Johannesburg newspaper, "and then got splash treatment in all the major Transvaal papers."

"And although the price of fuel went down recently, our objections still hold good."

"We were inundated by calls for petition forms from as far afield as Somerset West One man alone brought in more than 1100 signatures."

"I think it high time the government understood the plight of the man in the street. I made it clear to Mr. Schoeman that this has been purely an effort of the people, and cannot be ignored."

Mr. Huber said that Mr. Schoeman had said he would make a public statement on the matter once it had been fully discussed.
Jubilation as Pick 'n Pay beats Govt in petrol battle

By Jackie Unwin

Consumer groups and motorists have welcomed the Supreme Court ruling that Pick 'n Pay can continue with its petrol-coupon scheme.

A jubilant Mr Raymond Ackerman, joint managing director of the supermarket chain, described it as a "victory for the man in the street and a blow against inflation".

Yesterday a Supreme Court order overturned a Government directive to oil companies to cut supplies to the supermarket chain after the introduction of a 4c redeemable coupon scheme by the chain. The coupon can be used to purchase any item, apart from petrol, at Pick 'n Pay stores.

The Supreme Court in Cape Town ruled that the Minister of Mineral and Energy Affairs, Mr Danie Steyn, had acted beyond the scope of his powers in stopping petrol supplies to Pick 'n Pay.

Mr Justice Rose-Innes ordered that the Ministerial directive of February 23 to three major oil companies be set aside immediately and ordered the Minister to pay costs.

Counsel for the Minister gave notice of intention to appeal.

Pick 'n Pay immediately began distributing its coupons at all its petrol stations throughout the country.

Mr Ackerman said: "It is fantastic. It is victory for the consumer, who feels squeezed between big business and big government. In most Western nations, the consumer feels totally powerless. From this point of view, we are really thrilled."

"The move is also fighting inflation because petrol is one of the big determinants. Although we are not cutting prices at the pump, people will receive a discount on food, which will help people at a time when they desperately need it.

CONGRATULATIONS

"From a personal point of view, I have been fighting like mad against monopolies, collusion and cartels for 20 years. In fact, it was my reason for going into retailing. I feel it is the vindication of years of fighting."

"The phone just hasn't stopped ringing and people have been pouring in with messages of congratulation."

Yesterday was a double celebration at the Boksburg hypermarket — which had been discounting petrol for 10 years before being stopped — for it also celebrated its 11th birthday.

Some motorists received birthday cake as well as their 4c coupons when they pulled up at the pumps.

"It's the best birthday present we could have had," said general manager Mr Mike van de Merwe.

Motorists at Boksburg yesterday were delighted. Comments were:

"I'm very happy that Pick 'n Pay has had to resort, because the law, to a system whereby people are given coupons rather than just being given a cash discount on their petrol."

"I am very glad I hope many more petrol stations do the same," said Mr Adam Esterhuizen of Impala Park.

Mr Brian Goodall, PFP spokesman on mineral and energy affairs, said: "It is a pity that Pick 'n Pay has had to resort, because of the law, to a system whereby people are given coupons rather than just being given a cash discount on their petrol."

Mrs Betty Hirzel, chairman of the Consumer Union, said: "Anything towards the free market system and making competition work is for us.

Mrs Joy Hurwitz, president of the Housewives' League, said: "I am pleased that Pick 'n Pay has won its case."

Mr Sarel Steyn, managing director of supplier Trek, said he was unable to comment at this stage as he had received no formal advice.
rt’s petrol ruling:
price war looms

A petrol price war could follow the Cape Town Supreme Court decision allowing Pick ’n Pay to sell discount fuel.

Members of the Motor Industries Federation are upset over the supermarket chain’s redeemable petrol coupon system being allowed to continue, says Mr S Druckman, chairman of the Southern Transvaal division.

The 4c-a-litre coupons are redeemable on purchases at Pick ’n Pay stores.

“There could be reaction, with petrol stations making special offers to compete with the supermarket chain,” says Mr Druckman.

“It’s early days I don’t think this will develop at this stage. People will be low for a while. There may be an appeal. This is why I don’t feel there will be a tremendous reaction right at the moment.”

But, he added, a battle “could easily happen in the future”.

The MIF is bitterly opposed to the discounting of petrol and self-service garages.

The managing director of the oil division of Shell, Mr John Drake, said the court decision could result in “retaliation from other sides”.

But it would be up to individual dealers and the big pumpers of petrol to decide if they were going to compete for sales. This would depend on factors such as locations.

“It depends on how effective the voucher scheme is. It has had a lot of publicity, but it may not be effective,” he said.

He felt dealers would wait for a decision on any appeal by the Government.

The Star’s Political Staff report that existing legislation might be changed to prevent petrol coupon schemes.

This was predicted by an opposition spokesman today, but a Department of Mineral and Energy Affairs official said it could be considered “as a last resort”.

The department is to study the court decision before deciding on appeal.

It objects to the discounting of petrol because of the effect it could have on petrol stations in certain areas and on work opportunities for pump attendants.

Progressive Federal Party MP Mr Brian Goodall said today that it was a pity the Government could not accept that the public wanted price competition.
Pick 'n Pay's sales of petrol in SA 'treble'

Staff Reporter

PETROL sales at Pick 'n Pay's 12 service stations country-wide were yesterday up to three times higher than normal as the retail chain resumed its food coupon system—with, however, mixed reaction from independent garage owners.

Mr Alan Gardiner, executive director of Pick 'n Pay, said yesterday that when the coupon system was first introduced, sales had trebled compared with petrol sold at the normal price.

Late yesterday afternoon he said there were queues at every pump at the Brackenfell hypermarket service station.

"We have a long-standing intention to expand service stations to other Pick 'n Pay centres, as well as opening garages on free-standing sites. So there is a possibility there will be more Pick 'n Pay garages, but we are waiting until the coupon scheme is well established," he said.

Mr George Beckman, national chairman of the South African Motor Traders' Association, said most members of his association felt the situation was an unfair trading practice. He called on garage owners to act responsibly and not to start a price war with Pick 'n Pay by starting similar schemes.

"We should wait for the government to make its move," he said.

A survey of independent garage owners showed that most people in the vicinity of the hypermarket were upset at what they called a "gimmick" on the part of Pick 'n Pay, while opinions in other areas varied.

Mr Frank Weetman, owner of a Kuils River garage, said his profit margin was 5.2 cents. "How can I afford to give 4c away?" he asked.

Mr H Osman, manager of a Mitchells Plain garage, said he felt it was unfair, as the small dealer could not join the bandwagon. "I can't offer anything to the community I serve, and they are losing out if they remain loyal to me," he said.
Petrol coupon battle looms

Own Correspondent
JOHANNESBURG. - South Africa's retailing giants are gearing themselves up for a petrol discount coupon war with Pick 'n Pay.

Retailers' Clicks, Checkers and Dions yesterday confirmed that preliminary planning was under way with a view to launching similar coupon schemes to that of Pick 'n Pay at its 12 petrol outlets at the end of February.

OK Bazaars and Spar are also believed to have expressed interest.

Investigations into various petrol coupon schemes started as soon as Pick 'n Pay won its landmark Supreme Court action last week against the government's executive banning of the practice in terms of the Petroleum Products Act.

Finalized

Independent garages also wanting to offer discount coupons soon contacted chairman Mr. Raymond Ackerman.

Mr. Ackerman said his company was prepared to assist independent garages wanting to reduce profits and increase turnover. But he said Pick 'n Pay would wait for the matter to be finalized before taking negotiations any further.

Meanwhile, dissatisfied garage owners near Pick 'n Pay's popular Boksburg filling station say the company's move to provide discount vouchers for supermarket products to people buying petrol is unfair to independent operators without a retailing empire to back them up.

A spokesperson for the Boksburg Pick 'n Pay said it would welcome competition from supermarket chains or independent operators.

Enticements

Mr. Tony Corrolo of Belaphill Motors said he had noticed a drop-off of about 1,000 litres a day in the past week.

He had introduced a 24-hour service to counter Pick 'n Pay competition, but would consider taking customer enticements further if the competition "prevents me from making a living".

Motor Industries Federation spokesman, asked if Pick 'n Pay's move could set a precedent for new petrol marketing strategies, said an MIF committee was looking into the issue.

Some garages on the Reef have introduced redeemable vouchers for workshop or garage services and for raffles.
Financial Staff
THE Competition Board is investigating restrictive practices in the professions.

Among the organisations with which it already has held discussions and reached agreements are the South African Council for Professional Engineers, the South African Council for Architects and the South African Council for Quantity Surveyors.

It says in its annual report that it is also holding discussions with the General Council of the Bar of South Africa and the Institute of Estate Agents.

Stating its policy towards professional bodies, the board says that it accepts that in a profession restrictions can be desirable and even essential and that circumstances can vary from one profession to another.

However, from a competition policy point of view the question is whether or not the restrictions can be justified in the public interest.

As these restrictions invariably serve the interests of all or some of its members, resistance from some members against essential adjustments is predictable.

However, the board expresses its appreciation for the open and responsible manner in which official representatives of the professions dealt with so far have approached the matter.

It says there is an appreciation that artificial restrictions that served no other purpose than to benefit an interest group at the expense of the community can no longer continue.

The board says that where restrictions such as on entry, work reservation, fixed or minimum fees and prohibition of advertising are contained in legislation these can be adjusted only by changes in the relevant Act.

In such instances the board acts as the Government's adviser and recommends the relevant amendments.

These recommendations are never made without prior in-depth discussions with the relevant professions whose members are given ample opportunity to state their views.
Price of cars to rise

By BOB KENNOHAN

Business Editor

CARMAKERS' problems of falling sales will soon by compounded by further price rises.

Two more increases of between 4% and 5% will have to be introduced between now and year-end for manufacturers to recover their costs, industry sources said today.

The news comes a day after it was announced that manufacturers executives are to meet Government Ministers in Cape Town 'within the next few days' to discuss the plight of the industry amid fears of further retrenchments.

Mr. Ronny Kruger, public affairs manager of Volkswaggen in Liebenberg, said today: 'With the present economic recession, low volumes and the low value of the rand against foreign currencies, further price increases are inevitable in order for manufacturers to recover the higher cost of manufacturing.'

The first increase is likely to be introduced next month and the second before the end of the year, so adding a further 8% to 10% to the 35% rises already introduced over the past 18 months.

Disturbing news for the industry is that despite these increases, there is still little turnaround in manufacturers' financial position.

Manufacturers point to dropping foreign exchange rates as having been the major factor in their increasing costs, with the introduction of 'perks' tax and too short hire purchase payments exacerbating the situation.

Mr. Kruger said that although the value of the rand against the German mark had halved in the past 18 months and local component costs had increased, the price rises on cars had not been as much.
THE distribution of coal is to be de-regulated as far as possible, the Minister of Mineral and Energy Affairs, Mr Danie Steyn, said yesterday.

The move follows an earlier announcement abolishing price control at both the wholesale and retail levels.

Mr Steyn said that the recommendations as far as de-regulation were concerned were applicable where coal was sold directly to consumers by coal merchants.

Certain exceptions would be made.

Mr Steyn said it was important that awareness should be taken of the fact that coal should be readily available at all times at market related prices and that coal distribution had to be disciplined.

The government would play a monitoring role in this regard, he added.
The Argus Correspondent

PRETORIA. — A special Government Gazette today will clamp an outright ban on all petrol coupon discount schemes.

But Pick’n Pay, who run the most prominent of the schemes, intend to contest the ban.

The notice comes after the Government tried, and failed, to have the schemes banned in the Supreme Court in March.

Discount petrol schemes are being run by an increasing number of petrol outlets

A spokesman for the Department of Mineral and Energy Affairs, Mr Theuns Burger, today said the proclamation was "wide-ranging and would stamp out the practice of giving motorists discount coupons for other commodities — a roundabout way of discounting"

Mr Richard Friesch, general manager of Pick’n Pay auto centres, said they had not yet seen the Gazette.

However, he said: "The Government has played this close to the chest. We don't see how they could take any action against us whatever happens today we will contest it."

Another method

Since the Government stopped the store's direct petrol discounting to self-service customers at its Boksburg Hypermarket this year — bringing in the so-called "Pick’n Pay Act" — the chain has found another method of providing discounts for customers.

People who buy petrol at Pick’n Pay garages receive coupons which entitle them to discounts on items bought at the chain’s supermarkets.

The Government tried in March to strangle this scheme by prohibiting oil companies from supplying the chain — but Pick’n Pay had the ruling set aside in the Cape Town Supreme Court.

Opposed

Since then one petrol outlet in central Johannesburg and three in Pretoria have started similar schemes — and Checkers and OK Bazaars indicated they might follow suit.

The authorities favour uniform price-fixing and the oil companies are also understood to be against deregulation of the price.

The spokesman for the Department of Mineral and Energy Affairs said in terms of today's notice, made in terms of Section 2(1)(d) of the Petroleum Products Act, no person entitled to sell petrol could:

- Supply or offer petrol other than by way of sale "for a wholly monetary consideration and at the prescribed price," or
- Offer as a condition of or as a result of any sale of petrol any benefit to the consumer.

The term "benefit" has a wide definition in terms of the proclamation.

Pick’n Pay chief Mr Raymond Ackermann said the clampdown was the "worst thing which could happen to the consumer, who is facing rising prices everywhere."

The ban will probably stop all discounting schemes, including those which offer motorists "lucky draw" prizes or free holidays for patronising certain garages.

- The board of Pick’n Pay is meeting in Cape Town today and intends to discuss the contents of the Gazette.
Discount petrol ban under fire

Own Correspondent

JOHANNESBURG

Strong criticism from industry and consumer organizations greeted the government's gazetted ban yesterday on petrol discounting.

"It gives the lie to Pretoria's lip-service support of free enterprise," was the snap reaction of one opposition MP.

Pick n Pay executives were planning a counter-move in a day-long emergency board meeting in Cape Town despite the edict ruling out further court action.

The PFP spokesman on energy affairs, Mr Brian Goodall, described the ban as deplorable. "Pretoria should not be above the law," he said.

The Automobile Association said government should have delayed any ban on discounting while an investigation into the petrol price was underway.

The deputy director of the Department of Mineral and Energy Affairs, Mr Theuns Burger, said the main reason behind the ban was to protect small businesses threatened by large retailers.
Chain to continue banned petrol scheme

Staff Reporter

PICK 'N PAY garages countrywide will continue their discount petrol scheme in defiance of a government ban on all petrol discounts

Mr Alan Gardiner, Pick and Pay executive director, said yesterday that the discount scheme would continue. The company was consulting lawyers on the ban and may seek the advice of senior counsel.

Mr Gardiner said there had been a huge consumer 'uproar' condemning the ban.

"The government has really put its foot in it this time.

"The government has upset too many ordinary South Africans with this ridiculous and pathetic action that it really is a great shame," Mr Gardiner added.

Pick 'n Pay started discounting petrol in November last year when under its self-service scheme motorists paid four cents less than the standard price on a litre of petrol.

The government then prohibited this but Mr Raymond Ackerman said he would defy this ban. A government directive was then sent to petrol companies in March this year, to stop them selling petrol to outlets not selling at the prescribed price.

Pick 'n Pay continued discounting petrol until its tanks ran dry.

Another scheme was started in March when motorists received a four-cent coupon for every litre of petrol bought. These were redeemable on goods bought at Pick 'n Pay.

Petrol deliveries to the food-chain's garages were once again stopped by suppliers in March.

Pick 'n Pay then sought an urgent Supreme Court interdict in the same month to set aside the government notice which prevented oil companies from supplying petrol to outlets selling petrol at a discount.

The company won a court victory in March which enabled it to immediately reinstate the petrol-coupon scheme.
Petrol discount ban: Pick’n Pay steers for court

The Argus Correspondent

JOHANNESBURG — Pick’n Pay is to go to the Supreme Court for the second time in a bid to prevent the banning of its discount petrol coupon scheme.

Mr Alan Gardner, company director, said “We believe the regulations in the special Government Gazette issued this week banning our scheme are invalid.

“On that basis, we are going to take the matter to the Supreme Court.

“It would be reasonable in the meantime if we were allowed to continue with our voucher scheme.

“I am sure that the Department of Mineral and Energy Affairs will allow us at least time to test the validity of the scheme in the Supreme Court.

He said the case should come to court within a few days.

A spokesman for the Department of Mineral and Energy Affairs, Mr Theuns Burger, said “It has been reported by the media that Pick’n Pay is to institute legal proceedings, but we have no official knowledge of that.

“It is Pick’n Pay’s prerogative to do so and we will have to take it from there.”

The question of allowing the claim to continue the coupon scheme “depends on how soon legal proceedings are instituted and on the type of proceedings — whether an interdict from the judge is requested”.

He added “Time is running out. If the company does not institute legal proceedings soon then the department will take action. I cannot comment on the type of action. We have various options.

Second time

“If Pick’n Pay does not take action today and still carries on with its petrol-coupon activities, then it will be quite clear it is flouting the law.”

If legal proceedings are instituted it will be the second time this year the company has sought an interdict against the Government.

The first time was when a court set aside a ministerial directive to oil companies to stop supplying petrol to discount outlets.
Petrol coupon controversy heading for courts again

By ANDRE KOOPMAN

The discount petrol coupon controversy will be taken up in the Supreme Court for a second time this year in an ongoing fuel battle between Pick 'n Pay and the government.

An executive director of Pick 'n Pay, Mr Alan Gardiner, yesterday said the food chain had decided to seek an urgent interdict in the Supreme Court to set aside a government notice effectively prohibiting petrol coupon discount schemes.

Mr Gardiner, who described the move as "ridiculous and patethe," said the chain believed the regulations to be "invalid."

He said it would be "reasonable" for the company's garages to continue selling petrol in the meantime.

May prejudice legal action

The director-general of the Department of Mineral and Energy Affairs, Dr Louw Alberts, yesterday said he was not prepared to comment since this might prejudice any legal action.

If the matter comes to court it will be the second time this year that Pick 'n Pay has sought an interdict against the government.

The Minister of Mineral and Energy Affairs, Mr Danie Steyn, issued a directive in March this year forbidding the supply of petrol to outlets which sold petrol "other than against a monetary consideration."

At the time Pick 'n Pay had been issuing 4c coupons for every litre of petrol bought. These were redeemable on goods bought at Pick 'n Pay stores.

The chain then sought, and was granted, an interdict setting this aside when the judge ruled that the minister had acted "beyond his powers."

Fix the price of petrol

At the end of last month the minister once again gazetted an order in terms of which petrol could not be sold by outlets "other than by way of sale for a wholly monetary consideration and at the price so prescribed" or "give or offer any benefit to the consumer."

A spokesman for the Department of Mineral and Energy Affairs said at the time that the only purpose of the directive was to "fix the price of petrol."

The latest ministerial order is the third attempt by the department to stop discounts on petrol.

In November last year the minister prohibited Pick 'n Pay from selling petrol at 4c less than the standard price. The company initially defied this order and said it would continue selling petrol until "its tanks run dry."
to dash out 4c/litre discount coupons redeemable in its shops, will be the hardest hit.

The group increased pump sales from less than 3 Ml/a month to about 7 Ml/a month at its 12 petrol outlets since the court ruling.

"And we're still making more profit on petrol sales than we did previously," says P 'n P's Alan Gardner.

Meanwhile, P 'n P continues with the coupon scheme while it awaits legal advice.

The Department of Mineral and Energy Affairs (DMEA) says it has been carefully monitoring the situation since the court ruling, and "in the interests of wholesalers and small businesses it decided to stop the practice."

DMEA deputy director Theo van der Berg says he hopes all retailers will comply with the new law. "The DMEA saw the coupon scheme was creating problems for smaller retailers, which employ around 45 000 people. The discounting scheme was found to conflict with government's policy to promote small business."

Van der Berg says discounting also distorted the market for wholesalers because those which supplied discounter were increasing market share at the expense of those which did not. "This could cause a full price war at wholesale level, and reduce the viability of certain oil companies in SA," he says.

He points out that the ban is restricted to "the present," and he says the DMEA constantly studies price control and petrol pricing with a view to making appropriate changes.

Nevertheless, the action has been slammed by many consumer organisations, including Assicoom. It says market-related forces should determine prices and strategies in the sale of fuel. Also, it questions the broad terms of the prohibition which not only control price but also outlaw previously legitimate marketing devices.
Pick 'n Pay goes to court again

Supreme Court Reporter

PICK 'N PAY has taken the Minister of Mineral and Energy Affairs to court again, alleging that the minister has exceeded his power by forbidding petrol sellers to offer "any benefit" to buyers.

The hearing has been postponed by agreement until Wednesday to allow the minister time to file answering affidavits, but Pick 'n Pay's case is set out in papers already before the court.

An affidavit from director Mr Hugh Herman sets out the history of the chain store's battle to maintain a scheme in terms of which people buying petrol receive coupons discounting Pick 'n Pay goods other than petrol.

A crisis was reached when petrol supplies to Pick 'n Pay were cut off after a letter from the minister forbade the supply of petrol to outlets where "any refund or any other consideration" was offered to consumers.

Pick 'n Pay took the minister to court on March 6 and on March 19 the court ruled that the section of the Petroleum Products Act relied on by the minister did not give him the power to act as he had done.

On June 2 the minister published a notice in terms of another section of the Act, forbidding petrol sellers from offering "any benefit" to buyers.

Pick 'n Pay argues that while the minister is empowered to regulate business practices which he thinks are "calculated to influence" the price of petrol, this does not empower him to forbid their coupon scheme which, they contend, has no bearing on the price of petrol.

Mr Justice H Herman presided, Mr S Aaron, SC, with Mr L Weinkove and instructed by Sonnenberg, Hoffmann and Galombik, appeared for Pick 'n Pay. Mr P B Hodes, SC, with Mr D van Reenen and instructed by the State Attorney's Office appeared for the minister.
Petrol sales: Store loses court action

Supreme Court Reporter

THE Supreme Court "hosted Pick 'n Pay by its own petard" yesterday, quoting the chain's own advertising campaign in ruling that its petrol sales coupon scheme did influence the price of petrol.

Pick 'n Pay had applied for a court order against the Minister of Mineral and Energy Affairs, arguing that he had exceeded his powers by forbidding petrol sellers to offer "any benefit" to buyers.

Pick 'n Pay argued that while the minister was empowered to regulate business practices he thought would influence the price of petrol, he had exceeded his powers because their coupon scheme had no bearing on the petrol price.

"Dismissing the application, with costs, Mr Justice Berman said the truth of the matter was that the coupon scheme was "primarily calculated and intended to influence the volume of sales". At the same time it was an exercise in public relations."

The judge said the consumer who bought petrol under Pick 'n Pay's coupon scheme did not pay the fixed price of petrol and separately obtained goods at a discount.

"Rather, to use the minister's language, his pecuniary position has been diminished by the fixed price of the petrol he has purchased less the monetary value of the benefit he received.

"To go further and host Pick 'n Pay by its own petard by way of reference to the eye-catching statement in its own advertising campaign, the customer saves 4 cents on every litre, the obvious connotation being that the customer is paying 4 cents less per litre at the Pick 'n Pay outlet."

Appeal

Finding that the consumer therefore paid less than the prescribed price of petrol at Pick 'n Pay outlets, Mr Justice Berman ruled that their coupon scheme did affect the price of petrol.

He granted Pick 'n Pay leave to appeal to the Appellate Division on the grounds that another court might come to a different decision.

Mr S Aaron, SC, with Mr L Weinkove and instructed by Sonnenberg Hoffman and Golombik, appeared for Pick 'n Pay. MF P B Hodes, SC, with Mr Diven Reenen and instructed by the State Attorney's Office, appeared for the minister.
Youths get bail

A KNYSNA magistrate's refusal of bail to two youths accused of sabotage was overturned on appeal by the Supreme Court yesterday.

The two Knysna youths, aged 16 and 17, are accused of cutting two telephone cables carrying 50 lines between them outside Knysna on February 19. They were arrested on February 22 and 28 respectively and have since been in custody.

A bail application was heard in the Knysna Magistrate's Court on April 8, 9 and 10. The State opposed bail because the case was still being investigated, there was general unrest in the area and the accused might become involved in similar offences or endanger the public safety.

In the Supreme Court yesterday Miss Justice L van den Heever and Mr Justice P W E Baker said they had read the papers and were disposed to grant bail.

The State asked for a short recess for consultation with the Attorney-General's office and bail was subsequently fixed at R500 in chambers.

Mr John Whitehead, instructed by Y. Ebrahim and Co, appeared for the two youths. Mr A. D. B. Stephen appeared for the State.
Soweto costs you more...

SOWETO residents fork out more for sewage disposal and garbage removal than many of their affluent white counterparts in plush Johannesburg suburbs, a Consumer Corner investigation can reveal.

Tariffs for these services in Soweto constitute about 30 percent of the monthly rents, which are now the centre of controversy between residents and the Soweto City Council.

Whenever the council made proposals to increase rents, it argued that it was not increasing rents, but service charges in order to meet the workers' rising wage demands.

Residents in Soweto pay R7.93 a month for sewerage disposal and R4 a month for refuse collection.

Our investigation found that the average resident of an elite Randburg suburb pays R2.12 a month for sewerage disposal — about three times less than his Soweto counterpart.

For refuse collection, Randburg residents pay only R1.75 a month — R2.25 less than what Soweto people pay.

A spokesman for the Randburg Town Council said these amounts came into effect at the beginning of July when the council decided to increase tariffs. The Soweto City Council has not yet increased its rates for some time.

In Krugersdorp, Consumer Corner found residents paid more for refuse removal. But when the amounts are added together, Soweto tariffs are about R3 a month higher.

A spokesperson for the Krugersdorp municipality said residents paid an average of R6 a month for garbage collection and R48.75 a year for sewerage disposal — about R3 a month.

Affluent

However, the Johannesburg City Council, which has suburbs such as Lower Houghton, Northcliff and other affluent suburbs under its jurisdiction, charges people living on property not exceeding 500 square metres R39 half-yearly for refuse removal.

When the figure is broken down, it shows that they pay only R2.50 more than Soweto residents.

But, according to our information, the biggest site in Soweto is about 321 square metres. The average is about 178 square metres.

Mrs Ellen Kuzwayo, president of the Black Consumer Union, said it was disgusting and frustrating that Soweto people did not get the services they were paying for.

"There are heaps and heaps of filth everywhere in Soweto, but we are expected to sit pretty and say everything is all right. We are being exploited everywhere at our workplaces and at our homes. It is disgusting," Mrs Kuzwayo said.

She said conditions under which people in the so-called "free state" lived were extremely bad that their rates should not even be compared with those of whites, let alone coloured people.

A breakdown of the services Soweto residents pay for includes:

- Refuse collection (R4);
- Sewerage (R7.93);
- Administration (R5.45);
- Maintenance of roads (74 cents);
- Maintenance of electricity reticulation and street lighting (46 cents);
- School levy (38 cents);
- Water reticulation (12 cents);
- Maintenance of clinics (50 cents), and
- Planning (30 cents).
Mrs Marlene Davidson at her koeksister stall with helpers Tarryn Davidson, Shandelle van Loggerenberg and Shaun and Ursula Davidson.

**Woman barred from selling koeksisters**

Dispatch Reporter

EAST LONDON — A divorcee who sells koeksisters in Oxford Street to boost the family income has been ordered by the municipality to stop trading as she does not have a licence.

Mrs Marlene Davidson said the order from the chief health inspector, Mr Raymond Kriel, came shortly after the success of her operation was featured in the Daily Dispatch's Industrial Review.

"This is a real blow to me and I don't know how I am going to support my three children on the small maintenance I receive from my ex-husband. I also get a small social welfare grant," said Mrs Davidson who sells at least 1 500 koeksisters a week from her table in an alcove at a men's outfitters.

She said she desperately needed the R120 a week profit she made "otherwise we are going to starve."

Mr Kriel said yesterday he had taken action as Mrs Davidson was selling foodstuffs outside the confines of the law.

"The ordinance states that she is not allowed to sell in the street and that the kitchen in which the foodstuff is prepared must be passed by us."

Mr Kriel said he had invited Mrs Davidson to see him tomorrow when he would try to sort something out for her.

"We will try to regularise her position and then she will be able to make koeksisters to her heart's content but she will only be able sell to home industries outlets," he said.

But the home industries idea does not appeal to Mrs Davidson who is hoping "to go legal" when the kitchen at her Evans Street home in Milner Estate has been completed.

"I telephoned the home industries people but they say they have women who make their koeksisters for them. Even if they did buy from me, it would only be a few because they do not sell many.

"The position of my table enables me to sell a lot of koeksisters. People don't go into the shops to buy mine is really a passing trade and I feel I am providing a service," she said.

The city councillor for the ward in which Milner Estate falls, Mr Phillip Rohrbart, said he sympathised with Mrs Davidson in the light of the recession and he would do all in his power to see that her position is regularised within the framework of existing laws.
Board set to break up 50 cartels

Own Correspondent

Johannesburg — As part of its ongoing crackdown on illegal trade practices, the Competition Board expects to break up more than 50 cartels by the new year.

Sources close to the board have supplied a short-list of industries almost certain to be affected by board action.

The list includes short-term insurers, stockbroking services, Fedhass, coal, advertising, newspapers, building activities, cement and timber.

The sources say a list of 62 industries alleged to be involved in illegal trade practices, published last year in the Government Gazette, gives a reasonably accurate view of affected industries.

Economists predict price wars by early 1987 as companies try to grab markets in free competition.

The board would not comment on companies and industries involved in the shake-up.

Board chairman Stef Naude says fewer than 10 permanent exemptions have been granted from the more than 90 applications received since the board began reviewing applications from industry groups in May.

Exempted groups include Spar, Bonus, Plus, Family Circle, and advocates.

Exemptions are granted only if they serve the public interest or because of dangerous uncertainty or disruption in the economy.

Although Naude would not specify industry groups, he said "a few of the largest and best "a few of the largest and best cartel "cartels" have been given a one or two-year transition period to phase out illegal practices. Most smaller cartels have been given three to six months to bring their industries in line with the prohibition announced in May.

In cases where the board is of the opinion an industry has been engaged in collusion on prices, market sharing or tender practices, the decision is confidential between the industry and the board.

Naude said the consumer would not benefit from broken cartels until early in 1987, when most industries' transition periods expire.

The cartel crackdown was welcomed by the director of the SA Co-ordinating Consumer Council, Jan Cronje. He expects board action in the milk, tyre, cement and coal industries, among others.

The penalties for operating illegal cartels are fines of R2 000 to R100 000 or prison terms up to five years.
CONSUMERS in South Africa are being short-changed concerning their rights while their counterparts in the United Kingdom, Australia and the United States are getting a far better deal, Professor D J McQuoid-Mason said in Johannesburg yesterday.

Prof McQuoid-Mason, who is the head of the Adjectival and Clinical Law at the University of Natal, was addressing a major seminar organised by one of the leading South African chambers.

The seminar, under the theme “Consumer Law — The Need for Reform”, was organised as part of the retailer’s coveted Awards for Consumer Journalism.

Act with the scope and powers of the English Fair Trading Act and the Australian Trade Practices Act.

“All is (also) a need for a high-powered executive consumer administrator who will have the authority to exercise control in respect of breaches of consumer laws,” Prof McQuoid-Mason said.

In his speech, Prof McQuoid-Mason outlined a number of areas where there was a need for consumer safety, protection, honesty, fair agreements, privacy and hearing.

The areas include:
- Product Liability: Prof McQuoid-Mason said that once a consumer in this country was injured by an unsafe product, the matter was governed by common law.
- As South Africa has become more industrialised, it seems that the time is ripe for the imposition of strict liability on manufacturers in this country,” he said.
- Right to Honesty: There is very little protection for consumers against dishonesty in the marketplace, which does not constitute a criminal act like fraud.
- Bait and Switch: This is a deceptive sales practice which involves an offer to sell a product at what sounds like a very good price, almost too good to be true. Once the consumer is in the store, the product turns out to be less appealing. He is then referred to higher priced items.

“Laws

“The time has come for a radical reassessment of consumer protection law in South Africa. There is a need for an expanded and all-embracing Trade Practices.
PRICES - CONTROLS & CONTRAVENTIONS

1987 - 1989
Beef prices could be 50% higher in 1987 — report

By DAWN BARKHUIZEN

BEef prices in the first five months of 1987 could be 50% higher than last year, according to a report released by the University of the Orange Free State.

This, said Professor Kobus Laubscher of the university's Agricultural Economics Department, would follow a slight decrease — the seasonal drop — which should last until March.

But even this seasonal drop was not as low as in 1986 and January's prices were, on average, 14% higher than last year, he found.

Port Elizabeth's prices, however, showed a 20% increase over last January.

The steepest increase, up to 50%, was expected in super-grade beef, with the most dramatic increase expected around May, according to the report.

This week prime beef prices in Port Elizabeth were already over R4. a kg — 50% higher than last January's prices.
A SARIMA spokesman said this week that legislative barriers to the entry of new insurance companies worked against an environment of genuine free enterprise if existing registered insurers used their privileged position to enforce rate increases through cartel arrangements.

He said insurers had a duty to allow free competition, given their advantageous position “In fact, we feel it is in their interests to guard their protected position jealously by avoiding any suspicion of cartel arrangements, let alone any proof.”

Those corporations with large insurance portfolios, and often with assets exceeding their insurers, are compelled to spread their business throughout the market. Because, in terms of reinsurance treaties, insurers will not underwrite more than a certain amount of risk.

The copying of policy and premium documents to all co-insurers for these large placements ensures adequate policing of the “market agreement” by its members as the rates and terms set by any “new” lead insurer were notified to all co-insurers.

Mr Theo Vels, GM of Mutual & Federal, denied there was “an agreement” between insurers, although he said there was a “loose understanding” that a holding insurer would be consulted when one of its corporate accounts was being taken over.

Co-operation

He said the lack of market co-operation and undue competitiveness in rating in the past five to seven years had had a detrimental effect on underwriting profits and had led to diminishing reinsurance support. The industry, in acknowledging the need to sort out its books, had accepted the need for greater co-operation among members in rate setting, in order to get sensible returns for reinsurers.

Mr Brian Wilkinson, GM of SA Eagle, admitted that a “co-operation agreement” existed between the major short-term insurers “to avoid a repeat of the AA Mutual collapse.”

Spokesmen for the Competition Board and the insurance Association could not be reached for comment.
Government issues "cartel" warning

By CHRIS CAIRNCROSS

GOVERNMENT has found it necessary to re-issue a stern warning to businessmen that they will face stiff penalties, including possible imprisonment, if they persist in making use of collusive practices and cartels.

In a statement released in Parliament yesterday, Economic Affairs and Technology Minister Dane Steyn indicated that the gloves have now been taken off and the authorities intend to take harsh action against anyone transgressing the laws laid down in May last year.

The "alarming incidence of collusion in the economy" which resulted in a clampdown being imposed has apparently continued.

According to Steyn, the stage has been reached where businessmen who continue with these practices and have not been given official exemption will have to bear the consequences.

These amount to a maximum fine of R100 000 and/or imprisonment of five years.

He said the past official practice of informing businesses and companies that they were contravening the law is to be abandoned — and more direct action is now in store.

The prohibition relates essentially to the five well-known restrictive practices of resale price maintenance, price collusion, collusion on conditions of supply, collusion on market sharing and collusive tendering.

Steyn said these five practices were selected because of their general occurrence in the economy, their serious restrictive effect on competition and because they cannot easily be justified in the public interest.

He said that 91 applications for exemption for the prohibition have been received, but exemptions had only been granted to members of the Newspaper Press Union, the advocate profession, the Association of Ship's Agents and Brokers and the International Air Transport Association (IATA).

Steyn said that temporary exemptions have been granted in 44 cases, mainly to enable the parties concerned to phase out their relevant practices.

Periods of exemption have varied from three months to three years.

Steyn said that a final decision on what to do over conditions in the building industry — which has applied for exemptions — will be reached by the middle of the year.
Insurance merger: Competition probe

The Competition Board is to investigate growing concentration in the finance sector after announcements that the Old Mutual and Colonial Mutual plan to merge.

The board's chairman, Dr S J Naude, said smaller life assurance companies were finding it increasingly difficult to compete effectively.

"Part of the reason for the merger is that Colonial Mutual has various reasons for wanting to sever its links with Australia, where the company was founded in 1873."

The Old Mutual and Colonial Mutual are the oldest mutual life assurance companies in South Africa. Old Mutual has the largest premium income in the country and Colonial Mutual is the 12th largest assurer.

Old Mutual said in its take-over announcement yesterday that Colonial Mutual policy-holders would become Old Mutual policy-holders and Colonial Mutual's assets and liabilities would be taken over.

Old Mutual will accommodate all Colonial Mutual staff. — Sapa.
ECONOMY

Price collusion: Board to act against offenders

The Argus Correspondent

DURBAN — The Competition Board was aware that some price collusion was going on surreptitiously and it would act against offenders, its chairman Dr. Stef Naude has warned.

He said the board, which recently had made great strides in promoting competition, was being kept informed of price collusion "by customers" and it would not hesitate to act.

He said the board now had the necessary legal teeth to promote effective competition in areas not entrenched in statutes where law was involved, it made recommendations to the Government — and five Bills were currently before Parliament.

Dr Naude said the Government did not deny that in the past it had been responsible for restriction of competition.

However, the board was investigating areas where competition was being impeded and advising the Government on where this now was in conflict with policy.

It also was involved in special investigations into "problem areas" for deregulation.

However, it was not directly involved in looking into the controversial area of marketing boards because the National Marketing Council had been instructed to investigate the 22 marketing boards.

At present it was looking into black taxis, food stuffs, licensing, industrial centres and the professions.

In the board's view professional minimum tariff structures had more to do with protection of professionals themselves than with the much-claimed role of guaranteeing standards to the public.

The economic power concentration in the South African economy was under investigation. While it was true that there were a number of competing financial institutions, the backboard role of a handful of powerful mining houses and industrial giants probably was unparalleled anywhere else.

The board's previous investigations had showed the economy had been riddled with cartels which limited competition, he said.

Subsequent to its outlawing of five restrictive practices (such as retail price maintenance and price collusion) in May last year, he said the board had received 91 applications for exemptions.

It had bent over backwards to help businessmen but had been careful not to make these permanent. Only nine permanent exemptions had been allowed.

The only one of significant size was that of the Spar organisation.

The board's licensing investigation showed there were about 80 activities requiring licensing procedures. Only eight or nine were justified.

The problem was it had to deal with four legislatures in each of the provinces in seeking reform.

The board now was looking up a set of model regulations. It was possible that, if they were accepted, licensing could completely disappear and be replaced with a registration system.
Board no political instrument for removal of competition Act applicable to newspapers—Naudé

BY AUDREY D’ANGELO
Financial Editor

It is vital for the Competition Board to retain its credibility and not to be seen as a political instrument or susceptible to the influence of any vested interest, its chairman, Sef Naudé, told members of the Newspaper Press Union (NPU) yesterday.

He said at the NPU conference in Cape Town that the Maintenance and Promotion of Competition Act, 1979, “and hence any competition policy, are fully applicable to newspapers.

In contrast to the relevant laws of several other countries, our Act contains no provisions specifically designed for newspapers.

General policy

“This means that in terms of general policy the aim is to promote effective competition by taking action where justified, against any restrictive practice, monopoly situation, or acquisition in the newspaper industry,” Naudé said.

He also said that the principle, resale price maintenance, horizontal collusion on prices, horizontal collusion on conditions of supply, horizontal collusion on market sharing, and collusive tenders were illegal.

However, he went on, it was always important to understand the basics of any industry to which competition policy was being applied.

“This is probably exceptionally true in regard to the newspaper business, which is often regarded as a special case because of the importance of ‘many and diverse voices stating facts and expressing opinions’.

Characteristics

The fact was that the newspaper industry had unique structural and behavioural characteristics which distinguished it from other industries, Naudé continued.

“A newspaper does not make its profits from selling newspapers. The price of a newspaper rarely covers the local cost of production.

“Advertising is the main source of revenue, and advertising rates are tied to circulation. Hence there is an interdependence of circulation and advertising rates. This will tend to keep the price of each newspaper low enough to attract as many readers as possible.

“The newspaper industry lacks a basic similarity of interest between manufacturer and dealer, which usually exists in the common goal of maximizing sales and revenue. The number of subscribers is more important to a newspaper than its sales revenue.”

Naudé added “Proposed newspaper acquisitions which have not been proceeded with after confidential consultations with the board, can clearly not be disclosed.

Naudé said publishers of newspapers and magazines had been granted a special exemption allowing resale price maintenance, which operated vertically but horizontal collusion—agreement between themselves to charge a certain price — would not be allowed.

Discussing the franchise agreement under which newspapers keep to their authorized hours, Naudé said this was a market sharing arrangement but it seemed to him that since it was linked only to hours and days, the prohibition was not applicable.

“But this, of course, is not necessarily the end of the story,” he warned.

“If it is a practice restricting competition, it is still illegal — and the crucial question will then be whether peculiarities of the industry or other circumstances justify it in the public interest.”

SA imported no newsprint for 3 years

SA imported no newsprint for 3 years

POLITICAL STAFF

SOUTH AFRICA imported no newsprint for the past three years, the Minister of Economic Affairs and Technology, Danie Steyn, said yesterday.

In a written reply to a question tabled in the House last week by the Conservative Party MP for Witbank, Wynand van Wyk, the minister, said there were only two local manufacturers of newsprint, Sappi (Ltd) and Mondi Paper Company (Ltd).

Both supplied newsprint direct to members of the Newspaper Press Union — as well as supplying a small volume used for other purposes than the printing of newspapers.
In the Director of Trade and Industry view, the focus is on economic stability. They are particularly concerned with the balance of trade and the country's ability to compete in the global market. The Director emphasizes the importance of fostering a business-friendly environment to attract foreign investment and promote exports. They advocate for policies that support innovation and encourage domestic industries to become more competitive.

The Director of Trade and Industry also plays a significant role in negotiations with international trade partners. They are responsible for representing the country's interests in trade agreements and ensuring that policies are in line with international standards. The Director works closely with the Ministry of Finance and the Central Bank to develop strategies that balance economic growth with fiscal responsibility.

Overall, the Director of Trade and Industry is a key figure in shaping the country's economic landscape, working to ensure that trade policies are effective in advancing the country's economic goals.
First request for prosecution under new law

Competition Board calls for cartel probe

Own Correspondent

JOHANNESBURG — The Competition Board has asked police to investigate several companies suspected of market collusion and operating illegal cartels.

It is the first time the board has sought a prosecution under recent anti-cartel legislation. At least two of the companies under investigation are believed to be subsidiaries of major industrial groups.

Amendments

Chairman Stef Naude says the board has lost patience with companies continuing to resist the Maintenance and Promotion of Competition Act. "We have tried to be reasonable but now we are going to hit these people hard."

Act amendments gazetted in May last year outlawed five activities setting of minimum or recommended re-sale prices, and collusive agreements among competitors on pricing, conditions of supply, market-sharing and-tendering.

Since then, the Competition Board has granted dozens of temporary exemptions and a handful of permanent exemptions from certain of the regulations. But, says Naude, companies are still breaking the law. Economic Affairs and Technology Minister Dane Steyn warned recently that government patience was wearing thin.

"We know collusion and other illegal activities are going on surreptitiously," says Naude. "We have bent over backwards to help but it should not be taken as a sign of weakness. Now we've had enough."

Naude, who leaves the Competition Board early next year to succeed Sarel du Plessis as director-general of Trade and Industry, says police have been asked to look at several alleged contraventions.

"The commercial branch is involved in two investigations now and there are likely to be more," he says. A commercial branch spokesman said he could not confirm or deny Naude's comments.

Naude will not identify the companies being investigated but sources say two are subsidiaries of major industrial groups.

If convicted, directors of companies breaking the law are liable to a R100,000 fine or five years' jail.

"They can't hide behind the company. Under this law, it is the directors who will be hit," says Naude. "They are personally drawn into the net."

Professions

Meanwhile, the government has begun its campaign to end monopolies and cartels in the professions. It has just gazetted regulations affecting town and regional planners. According to Naude, they will be followed soon by architects, quantity surveyors, valuers and surveyors.

In line with last year's Competition Act amendments, the changes seek to end four main practices: restricted entry to a profession; work reservation; lack of price competition; and restrictive ethical codes.
Warning on milk price control

Political Correspondent

CAPE TOWN — The government yesterday threatened to reinstate price control over fresh milk following recent sharp hikes by distributors in various areas, including the Western Cape.

The Minister of Agriculture, Mr. Greyling Wentzel, expressed his "alarm" at recent increases, pointing out that fresh milk was a basic foodstuff and should therefore be "affordable to the general public".

Mr. Wentzel said he had instructed the National Marketing Council and the Dairy Board "to advise me without delay" as to whether the latest hikes were justified.

He said he would then decide on the possible reinstatement of price control.

Mr. Wentzel pointed out that he had warned last year that he reserved the right to reintroduce controls over the maximum price of fresh milk in the larger urban areas "should it become evident that distributors are introducing exorbitant increases".

VISIT
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Those Rambo surgeons: who too often strike at innocents

SOUTH AFRICA'S border raids, carried out by cross-border raiders who swept into Botswana last week, are designed to eliminate African National Congress guerrillas. All they hit were innocent civilians and an ordinary house, according to the Gaborone government.

The office of President Quett Masire this week said the March 26 raid was a "cold-blooded murder of innocent people in their sleep" and there was no evidence that the victims were linked to the ANC.

The victims they named were three Botswana women and one South African who had lived in Botswana since 1979. The South African was Charles Mokoea. The Botswana women were a Lobatse teacher, Thafo Keitsane, an unemployed woman, Martha Monolo Madisa.

This directly contradicts South African claims about the raid.

"The Citizen," quoting "a top intelligence source," said one victim was a Solomon Molefe, a regional commander of the ANC's military wing, Umkhonto we Sizwe, whose operating name was Paul Naledi.

No reason for the attack was provided. Shortly after the attack, Minister of Defence Magnus Malan said it could be stated without doubt that it had prevented the killing of innocent people at a later stage.

"Terrorists originating from Zimbabwe and Zambia used Botswana as a transit zone. The action was like a surgeon's incision against the ANC with minimum force to achieve maximum advantage,

There are two reasons for taking seriously the Botswanan claims about the failures of the South African Defence Force raid. One is that SADF credibility on these issues is tenuous. Newspaper columns over the years have been littered with misleading claims, evasions and sometimes naked untruths about issues such as SADF support for Renamo and South Africa's presence in Angola.

The second is that the Botswana version fits the pattern of such raids. Although these are portrayed in most of the local media as evidence of the SADF's gung-ho efficiency, many of the more than 150 victims of such attacks have been innocent civilians and the targets ordinary homes or factories. If the SADF is aiming for ANC operatives, as they claim, most of the evidence suggests they have seldom found their targets.

According to the journal SA Barchester, the Botswana raid was the seventh time the SADF has admitted a role in a cross-border raid. Some of these were:

-On December 9, 1982, troops raided Masino, Lesotho, killing 42 people, 30 of whom were alleged ANC members while the rest were Lesotho civilians, including women and children. The ANC, however, denies the homes attacked were ANC headquarters, as the SADF claimed. Lesotho accused South Africa of murdering women, children and refugees.

-On May 23, 1983, SA Air Force planes bombed what the SADF claimed were ANC houses in the Matapane suburb of Matola. Six people, including two women and two children, were killed. The SADF said its planes destroyed six ANC bases, "terrorizing" and destroyed a Mozambican missile site. However, foreign journalists touring the area reported that the targets were in a junkyard, a day-care centre and ordinary suburban homes.

-On October 17, 1983, five Mozambicans were injured when a South African Air Force truck attacked an apartment block close to President Samora Machel's residence. The SADF said the building housed offices from which the ANC was planning a series of attacks in South Africa. The SADF said the flat was infiltrated by a group of ANC members who were planning the attacks, but the attack also left a woman and child injured.

The raid occurred on June 14, 1985, killing 12 people and wounding six. The SADF claimed four of the dead were ANC operatives. Gaborone reports said not one of those killed had ever been a member of the ANC military and only five had any dealings with the ANC in some cases only extremely tentative links.

The SADF launched a triple-pronged raid on May 19, 1986 on Zambian, Botswana and Zimbabwe. The Weekly Mail reported at the time that there was "little evidence that more than minor military damage was done to the ANC."

The last attack was one of the most clearly documented. The raiders managed to kill one Zambian and a Namibian refugee, to wound several Zambians and wipe out a bar, a shop and a UN High Commission for Refugees building. In central Harare, the raiders managed to destroy a small ANC diplomatic office and a house in Ashdown Park.

In Gaborone, the raiders managed to attack the Botswana Defence Force. The ANC, it appeared, was left untouched.

What lies behind this pattern? Why do the SADF raids seem unable to find many ANC guerrillas in neighbouring states?

One explanation, sometimes preferred by the ANC, is that this simply reflects military and intelligence incompetence.
Draft HBP Bill draws fire

Designed to give consumers 'teeth'

By ALAN FINE

JOHANNESBURG — A new draft Bill now in limited circulation gives the Minister of Economic Affairs and Technology the power to fix prices, dissolve businesses and declare various business practices unlawful.

The Control of Harmful Business Practices (HBP) Bill is designed to give substance to government's promise to give consumer organizations 'teeth', and has drawn fire from large sections of organized business.

Businessmen contravening orders made in terms of the bill would be liable to a R200,000 fine and/or five years imprisonment.

The FCI said the bill appeared to go against government commitments on deregulation.

The bill aims to establish a business practices committee empowered to investigate any HBP and make recommendations to the minister on various courses of action.

The bill defines an HBP as any agreement, trading method, advertising, act or omission or situation arising out of the activities of any person or group which has or is likely to injure relations between businesses and consumers, unreasonably prejudices any consumer, or deceives any consumer.

It is proposed that the bill replace the Trade Practices Act.

In terms of the bill, the minister will be entitled, after a committee investigation and recommendation, to ask the Price Controller to fix a maximum price for a commodity, or he may decree the price an individual seller may charge for a product.

He may suspend any price increase or order the discontinuance of any alleged HBP while it is being investigated.

The minister would be empowered to declare an HBP unlawful and require any person responsible for an HBP to take whatever action he deems necessary, including taking steps to dissolve a company or business.

Persons contravening any order in terms of the legislation would be guilty of an offence and liable to a fine of up to R200,000 and/or five years imprisonment.

A special court may be established to hear appeals against the minister's decisions.

FCI director Steve Anderson said while the organization may accept the need for a "watch-dog" body to look after the interests of consumers it was not convinced the draft bill was desirable or necessary.

He said the FCI had said in submissions that, in the light of stated government policy to reduce expenditure and deregulate the economy, the bill would add to costs and its provisions were over-regulatory.

An Assocom spokesman said he was somewhat concerned at the intention of the proposed legislation.

One businessman said the definitions were so vague as to permit almost any normal commercial activity to be deemed an HBP.

In contrast, though, AHI's Hennie Klerk said his organization supported the general tenor of the Bill.

However, the quality of the committee would be crucial, and it should not comprise bureaucrats or big corporate names.

The committee would comprise four to six members with special knowledge of consumer affairs, economics, business, law or public affairs appointed by the minister, and one member nominated by the Minister of Finance.

The committee will be entitled to summon witnesses for interrogation and order them to produce documents.
Bill targets harmful business deals

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The minister would be empowered to declare a harmful practice unlawful and to require any person responsible for a practice to take whatever action he deems necessary, including taking steps to dissolve a company or business.

The Federated Chamber of Industries said the bill appeared to go against government commitments on deregulation.

The director of the FCI, Mr. Steve Anderson, said that, while the organisation may accept the need for a "watch-dog" body to look after the interests of consumers, it was not convinced that the draft bill was desirable or necessary.

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In contrast, AHIP's Mr. Henne Klerk said his organisation supported the general tenor of the bill.
Business practices
Bill under fire

By Sven Lünsche

Organised business has criticised
the draft Control of Harmful Business Practices (HBP) Bill, which could empower the Department of Trade and Industry to fix prices, dissolve businesses and declare various practices unlawful.

The Bill, already in limited circulation, is in line with the Government's intention of giving more muscle to consumer bodies.

Assocom said last night that although it believed in the protection of the consumer, legislative steps to achieve this should not damage business confidence.

Assocom said the draft Bill was still in a formative stage, but that the proposed use of price control was contrary to recent price and wage control policies.

"We believe that legislative steps to protect the consumer should not be of such a nature as to damage business confidence.

"We regard the proposed power to summarily restrict or even close down a business as drastic. The association has emphasised the need for an appropriate appeal mechanism," it said.

"The Bill appears to contradict the Government's recently stated intentions on deregulation and could severely curtail the freedom of the economy," said Henne Viljoen, president of the Witwatersrand Chamber of Commerce and Industry (WCCI).

He said the current Trade Practices Act; the Competition Board and various other mechanisms afforded adequate protection.

"The new Bill will place every business under threat and could harm consumer interests in the long term.

"The WCCI has always held that a free market economy is the most effective means of protecting the long term interests of the consumer and not, as we interpret this bill, through empowering the Minister of Economic Affairs and Technology to fix and control prices," Mr Viljoen said.

The Transvaal branch of the Federated Chamber of Industries said it felt the provisions of the Bill were neither necessary nor desirable.

It said that in its submission to the Department of Trade and Industry on the proposed legislation, it had noted: "Although there is an accepted need for some sort of watchdog to protect consumer interests, another body apart from the existing Competition Board is unwarranted."

"In the light of Government policy to reduce expenditure and to deregulate the economy, this Bill could be considered contradictory to this policy, as it is both over-regulatory and costly.

"The WCCI questions the necessity for such wide powers on intervention into business affairs, which the Bill grants the Minister, and whether the costs involved in implementing the Bill are warranted."
Price-control Bill worries big business

by DICK USHER
Weekend Argus Reporter

BIG business is deeply concerned about the possible introduction of price-control measures in proposed legislation.

Both the Federated Chamber of Industries (FCI) and the Association of Chambers of Commerce (Assocom) have reacted strongly to the proposed Control of Harmful Business Practices Bill and to remarks made by President Botha this week that the business sector had failed to co-operate in the fight against inflation.

Assocom said it had been "supportive of the principle of consumer protection and the Economic Advisory council's anti-inflation plan.

"There also appears to be uncertainty in the business community as to the precise purpose of the proposed Bill," said the association in a statement.

The president of FCI, Dr Hugo Snyckers, said the chamber had read Mr Botha's parliamentary statement with concern.

"The chamber has already expressed support for the initiatives taken to combat inflation and it agrees with the role that competition plays in this.

"We have deep concern, however, over the extremely wide-ranging and arbitrary powers conferred on the Minister of Economic Affairs in the first draft of the Bill, on the vagueness of many definitions and certain other aspects," said Dr Snyckers.

Beyond these official statements, it is understood that the proposed Bill is viewed with alarm in business circles as it could be an instrument for price control.

According to Mr Michael Boyes, president of the Cape Town Chamber of Commerce, it gives the Minister the power to fix prices, dissolve businesses and declare certain business practices unlawful.

"In his recent Budget speech, the Minister of Finance again reiterated that price control was not an acceptable option.

"We cannot understand how the Government can propose a new instrument for price control," he said.

Assocom and the FCI have been consulted on the Bill.

In an earlier statement, Assocom said although it believed in the protection of the consumer, legislative steps to achieve this should not damage business confidence.

The proposed use of price control ran counter to the philosophy of deregulation, it said.
De Kock denies challenging PW

JOHANNESBURG — Public statements by the State President and by the Governor of the Reserve Bank indicate a fundamental difference of opinion between the men on mandatory wage and price controls.

Dr Gerhard de Kock denied late last night that he had sought in any way to challenge the State President when he criticised wage and price controls in a speech to the Cape Town Afrikaanse Sakekamer on Friday.

He said he was not aware of any change in government policy on wages and prices and had not addressed himself at all to the State President's comments.

However, Dr De Kock's comments stood in sharp contrast to remarks made by President P W Botha only one day earlier.

In a sweeping attack on business on Thursday, President Botha said that as the private sector would evidently not give its "quid pro quo" in the fight against inflation, the government would have to submit legislation to compel its co-operation.

Excessive price increases would be investigated by a business practices committee and "action would be possible."

On Friday, Dr De Kock repeated earlier statements that direct controls over wages and prices would create more problems than they would solve.

Direct interference with prices and wages have also been rejected by the President's own Economic Advisory Council (EAC).

The rejection of direct controls was strongly supported by private sector economists and business leaders, while Assecom is seeking urgent meetings with cabinet members to clarify Mr Botha's remarks.

However, Department of Finance sources said the government had not intended of imposing direct controls over wages and prices to combat inflation, despite Mr Botha's remarks last week.

No official comment could be obtained yesterday.

In his Friday speech, Dr De Kock said that present monetary and fiscal policies made a gradual reduction of South Africa's inflation rate well within reach.

If money supply growth was kept to within the 12 per cent to 16 per cent target range and the government stuck to its Budget, the inflation rate would probably show a further gradual decline.

"And if the announced monetary and fiscal policies are not effectively applied, more direct controls over prices and wages would not be the answer," Dr De Kock said. — DDC
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EAST LONDON — Conservative Party member of parliament and economic affairs speaker for the party, Mr Clive Derby-Lewis, will be speaking at the Beaconstrand Schoon Hall tomorrow evening.

Mr Derby-Lewis, founder member of the CP and the party's press liaison officer, said he would show "the way which the government incorrectly spends its money" in his address.

Another major issue would be what the CP will do about move residential areas "when they come into power".

Mr Derby-Lewis, has accused South African Airways of inefficiency and who said he "predicted an incident like the Helderkruin affair". When he arrived here a delayed SAA flight last night, and would also raise this issue. DDR.
Consumers to pay more for maize

JOHANNESBURG — Consumers are to pay more for white maize following a Maize Board (MB) announcement at the weekend that the price of the commodity was to rise by 3.8 per cent.

The chairman of the Maize Board, Mr Hennie de Jager said “The new selling prices are proof that the maize industry has heeded the State President’s appeal to agriculture, trade and industry to exert the necessary financial discipline regarding price increases.”

He said the board had continued with its consumer oriented approach in its price deliberations and had taken a realistic view of the current and expected changes in local and international market factors.

It was understood that the government’s undertaking to cover part of the expected export costs enabled the MB to keep the increase in the selling price at a minimum and had also helped in reducing the gap between producer prices and selling prices.

Since the season began, the average selling price for yellow maize has been lowered by six per cent from last season.

“The board has expressed its confidence that this price benefit will be passed on to the end-consumer,” the MB said in a statement.

After taking into account the supplementary payment on their previous crop, producers will receive R1.4 a ton more for white maize and R1.1 a ton more for yellow maize for the new crop — DDC
State against control of pay and prices

By David Braun,
Political Correspondent

The Government remained opposed to a freeze on wages and prices to bring down inflation, the State President, Mr PW Botha, said last night.

Speaking during the President’s Budget vote in the House of Delegates, Mr Botha said certain newspapers owned by him and the Governor of the Reserve Bank, Dr Gerhard de Kock, had apologized for deducting that there was a difference of opinion between them in this regard.

He had never spoken in terms of a total price control during his Budget debate in the House of Assembly last month.

“I referred to excessive price increases,” Mr Botha said.

The Government did not intend applying price control. It was an expensive system and it did not work properly.
PW rules out freeze on prices and wages

By DALE LAUTENBACH
Parliamentary Staff

THE Government was opposed to price and wage control and had no intention of implementing such measures, President Botha told the House of Delegates.

Speaking yesterday during debate on his budget vote, Mr Botha said his proposal to introduce legislation for the establishment of a business practice commission had been misinterpreted by some as a move towards total price control.

"I never spoke in terms of a total price control, I referred to excessive price increases," said Mr Botha.

The Government already had the legislative power to introduce price control but it did not intend using that expensive and ineffective measure, he said.

The Government remained committed to private enterprise and competition in a system which acted to protect the consumer against excessive price increases as opposed to a system of wage and price controls.

In certain instances it was necessary for the Government to make moves which furthered business competition and thereby strengthened the role of the consumer.

**Competition**

The role of a business practice commission would be to foster competition, said Mr Botha.

He expressed again his disappointment in the private sector’s lack of response to his appeal for discipline in salary and wage increases and price increases.

He warned there was “strong public reaction to what is perceived to be unnecessary price increases.”

Certain “mischief-makers” in the Press had reported that Mr Botha and the head of the Reserve Bank, Dr Gerhard de Kock, were at loggerheads.

This was nonsense, said Mr Botha, quoting from a letter Dr de Kock had sent him following the reports in which the Reserve Bank head said the importance of President Botha’s economic address at the opening of Parliament this year “could not be over-emphasised.”
Bureaucratic Bill to bash business

The Control of Harmful Practices Bill, now in limited circulation for comment, has been attacked as an unsatisfactory attempt to impose bureaucratic controls over business. Neil Jacobsohn examines the provisions of the draft legislation.

The Bill is intended to prevent "malicious abuse" of the powers of government by providing for the establishment of a committee to investigate and report on any practice which is likely to be detrimental to the public interest. The committee is to consist of not more than five members appointed by the Minister of Economic Affairs after consultation with the Minister of Finance. The committee is to have the power to require any person or body to produce any document, book, or object, and to take any evidence or make any record of any communication or conversation.

The Bill also provides for the imposition of fines and imprisonment for persons who refuse to comply with the requirements of the committee. It is hoped that this will deter any persons from attempting to obstruct the operation of the committee.

The Bill is seen as a means of ensuring that the government does not abuse its powers, and of providing a mechanism for the public to complain about any improper practices.

And, of course, failure to comply is an offence.

The committee is free to investigate any voluntary practice it considers may be harmful in terms of the Bill's definition. The Minister may also order an investigation — or prohibit one, if he deems it "not in the public interest".

Notice of any investigation must be given to the committee, and the person or body involved, and the committee must report its findings to the government and to the public. The report must be made available to the public after a period of three months.

What of the right of appeal? Provision is made for a special court to be constituted "as the State President may consider necessary." It will consist of a Supreme Court judge and two members, one the holder of a degree in economics, the other a person who, in the State President's opinion, has wide experience in "industrial, commercial or financial matters.

This court may confirm or set aside findings and award costs. A decision, however, on the question of the constitutionality of the Bill, or the provisions of the Bill, shall be that of the majority — and shall not be subject to appeal or review by any court of law.
Govt curbs 'imminent' as credit spree continues

By Michael Chester

Three million South Africans a year are seeking new credit facilities in a spending spree that has boosted retail sales to record levels, says Information Trust Corporation (ITC), which monitors the credit records of businesses and consumers.

But there is widespread speculation that new government measures to curb credit buying may be imminent.

And it is accompanied by warnings that there has been a marked increase in the number of cheques that are bouncing.

Mr Paul Edwards, managing director of ITC, said yesterday that more than a million consumers now had black marks on their credit records — one in every four or five whose credit performance was tracked by computer.

He said that the rush to find new lines of credit that started before the Christmas shopping season was carrying on at speed and was 26 percent higher than a year ago.

Measures to curb the spending spree may have become necessary, Mr Edwards said, but he warned: "If the Government pulls the reins on spending too violently the whole economic recovery will be brought to a sudden standstill."

See Page 8.

Saan deal

By Shirley W

Businessman Mr Joe Berardo, African Associated Newspapers, a day after the Johannesbor...
CONSUMERISM

Information or deprivation

Most people think that business is ripping them off with unjustified price rises. Sometimes they are correct. But that doesn't mean that Pretoria has to step in with draconian laws to command and control. Buyers need more information about existing redress for consumers — and this is where the Consumer Council could find its proper role.

Might versus right — that is the popular perception in SA of business and the consumer. Purchasers across the education and income spectrums very clearly see a Them and Us situation in which it is big business which rides roughshod over the helpless consumer.

That perception has had real effects. Together with hundreds of documented instances of bad business practices and a new militancy among consumers in this country — which is fair enough — it has prompted the recent drafting of the controversial Harmful Business Practices (HBP) Bill, touted by government as SA's answer to consumer protection.

But as always, real life is not quite that simple. It never is.

Consumerism is a complex and emotional issue in which debate usually generates more heat than light. It is also a growing issue worldwide. March 15 has even been declared World Consumers' Day.

The concept of consumer protection has been developing steadily since the end of World War 2, when inflationary pressures threatened economies around the globe and governments patronisingly started talking about looking after "the little man".

Japan was the first country to launch an actual movement — the Housewives' Association — in 1955. Since then the idea has spread to other Eastern and most Western countries, helped along by an understanding among politicians that it can't do them any harm to be seen as guardians of the nation's housewives and families.

US President John F Kennedy raised consumerism to new heights in 1963, when he issued a special message outlining four basic consumer rights to seek safety, know reality, be able to select, and be allowed to present an opinion. The more than two decades since then have been a blossoming of consumer protection internationally, both legislated and organised — until there is scarcely a democratic country without some consumer statute or lobby. The results have been dubious.

In rapidly growing economies, where jobs are plentiful, there is little or no consumer regulation. And in some of those countries that have the longest history of this type of law, it is being seriously rethought, if not scrapped.

Now, belatedly, SA has got into the act, but not without bluster, confusion and confrontation. Even before passing into law, the HBP Bill has set businessmen at the throats of both government and consumer bodies, government against the private sector; and consumer associations against free enterprise.

All three claim strong cases.

Consumers themselves, both black and white, are adamant that they are ripped off by business. A random survey by the FM of 200 shoppers in central Johannesburg produced unanimity on the subject. A selection of quotes:

"Every time I go to the supermarket, even if it's only two or three days in between, prices on the shelves have gone up. There's no excuse for that".

"The last time I was dissatisfied with a service, the man told me to sue him and then he laughed because he knew I couldn't afford it."

"I've complained about bad products or bad service before now, but it's only the minority of stores that take any notice. Most of them don't bother because they know they don't have to. They've got the consumer over a barrel."

"Businessmen talk on the TV and in the papers about raising costs. They don't bother to explain them — they just expect us to believe them. I don't."

And the litany of complaints goes on.

Consumer associations back that feeling. There is a plethora of such associations, most of them voluntary and many of them under the umbrella of the SA Co-ordinating Consumer Council.

The council receives a small amount of money annually from government, enough to maintain four offices and 30 full-time staff (including a director) but not enough to check or test product claims or to fight test cases in court.

Says a council spokesman: "We are basically a complaints office, and we've got our hands full just coping with that. But we have no real teeth."

"When we encounter real horror stories — and there are plenty of them around, believe me — there's often little or nothing we can do about them."

"This Bill is 15 years overdue. Business in SA has been asking for it for a long time because of the shoddy way consumers have been treated."

In the council's financial year to end-March it dealt with more than 15 000 complaints at its head office in Pretoria and its regional offices in Bellville, Bloemfontein and Durban. The four biggest areas of complaint during the 1987-1988 year, in descending order, were repairs of household electrical goods, used cars, home improvements and houses built on unstable ground.

Says the spokesman: "People don't complain too much about prices. They generally complain about services and workmanship and quality, and usually only when they are driven to it by frustration."

"But they're beginning to wake up to prices now.

"We would like to do much more than we do, but we simply don't have the money. We've been screening that little television series recently, but we had to go out and beg for sponsors because we couldn't do it on our own. Then we had to fight for a decent time slot on TV."

"We'd like to do more of this educational awareness type of thing because it pays dividends. Since screening this programme on TV, our complaints have almost doubled. But we can't afford it."

The council was consulted by government on the drafting of the Bill, and under the provisions of the leg-
lation will certainly play a major role in enforcing it. But it is not particularly highly regarded in the business community, and less so by the FM. Most businessmen regard it as "self-serving," "petty" and "bogged down by dog-pooders who know nothing about business but have enough spare time on their hands to interfere with it."

They see the involvement of such people in the watchdog committee mooted by the HBP Bill as one of its main drawbacks. Of 50 businessmen polled by the FM, only four gave qualified support to the Bill — and even they pointed out that it "needs extensive redrafting."

Said one: "The idea is good enough, but the execution is dismal. The thing is wide open to abuse by competitors who want to have a go at bigger businesses, it is wide open for the minister to have a bash at any businessman who displeases him, and I don't think it's going to do much good in a court of law because it is so vague. I also resent the fact that there is no provision for business representation on the committee."

He was one of the few even prepared to consider that the consumer might have a case for protection. The overwhelmingly majority said there was "more than enough" existing legislation.

Nor did the businessmen approach — who covered all sectors from manufacturing to supply, distribution, retail and the provision of services — consider that there was a case to answer on prices.

Said a manufacturer: "I set my prices according to the materials supplied to me and my labour and production costs. I do not make scoop profits. In fact, I have very tight margins."

Said a supplier: "I make a fair profit, and that's it. It's not unreasonable. My prices are set according to my overheads, most of which are labour and transportation, and I've got nothing to do with it when those rocket. That's the unions and the government."

Said a distributor: "We're always getting the blame for pushing up prices and ripping off the consumer. That's nonsense. We operate on very tight margins and we're very competitive or we wouldn't survive."

A retailer: "People see the prices and blame us for arbitrarily setting them at high levels. We're not responsible for the costs all the way down the line. Because of the competition we've got, we actually operate on very small margins of profit."

Government has made its position very clear, both in parliament and through the Department of Trade and Industry (DTI) Nationalist MP Brian Edwards (Petersburg South) was voicing these feelings in the House of Assembly earlier this month.

During the budget debate "Some change in legislation had to be considered, for there are many who are fuelling inflation through excessive profit-taking and, behind the scenes, cartels are operating to the detriment of consumers."

That sort of statement befits a profound ignorance of how a market economy functions.

New DTI Director General Steff Naudé goes further: "There is evidence of unaccept- able exploitation of particularly those whose bargaining powers or practical access to legal remedies — if they exist — is almost non-existent."

"It is not the State's function to prevent people from making fools of themselves. The State cannot prevent all exploitation and shape a perfect world. But it has an obligation to provide an effective, but responsible and balanced, system for consumer protection."

The result is the unbalanced HBP Bill — which, according to government sources, is destined to be pushed through parliament in its existing form.

The truth about consumers in SA is more prosaic than the picture painted by any of the protagonists. It is that for too long, this country has had a quiescent consumer society which, through ignorance or apathy, has allowed its common law rights to slide into disuse. This is something the enthusiastic advocates of the new Bill would do well to remember.

What government could have done — since it was obviously intent on making political capital out of rising consumer dissatisfaction — was to have followed the lead of countries like Britain where those common law rights have been crystallized into a simple, usable statute. That has been followed up with easily understandable booklets for public information.

Instead, SA has produced yet another blunderbuss which scatters its shots far and wide. The HBP Bill lumps investors together with consumers, it provides almost limitless powers to the minister, it complicates rather than simplifies (the Americans would call it 'bureaucratizing'), it regulates further at a time when the State President is espousing deregulation, and it presents yet another disincentive to both small and large businessmen already hamstrung by rules and taxes.

There is something else that could have been done for consumerism in SA without any legislation at all: the existing infrastructure of the Consumer Council could have been used to produce a worthwhile body with its own teeth in existing law.

And so it must be asked why can't the council not reorganise itself into a properly functioning body, relying on voluntary fees from both individuals and other associations?

That would give it the money it so badly needs to provide expert support to the ill-educated consumer.

With money behind it — and the backing virtually guaranteed by anyone prepared to pay a fee for membership — it could have hired professionals who know the consumer game, and started playing it the way it's done in places like the UK and the US — implementing quality checks, exposing dishonesty and organising effective lobbies and campaigns.

All of this would have given the undoubtedly hard-pressed consumer a better deal than he currently has under common law or through the Small Claims courts (which are, anyway, still limited to the major centres). It would also have served notice to those businessmen who are indulging in sharp practice that they are likely to be exposed.

And it could all have been achieved without the hostility generated so far by the Harmful Business Practices Bill, the extent and vacuity of which could result in clandestine price controls.

But the biggest mistake of all was government's deliberate attempts to link consumer protection to an anti-inflationary policy and thereby attempt erroneously to shift the blame for rising prices from itself to business.

Inflation is caused by too much money chasing too few goods and services. And the quantity of money in circulation is entirely at the behest of government. It has nothing to do with business.

Monopolies and cartels have a once-off impact on prices and make markets less efficient. They change consumption patterns as some commodities become more expensive — the de-
At least it will bottle up price rises, as has happened wherever price controls have been tried.

If it is used to curb "excess" profits or "profiteering" (whatever that might be) there will be further declines in investments and therefore in supply. The vast majority of profits generated by business undertakings do not go to shareholders — they get a competitive return on their capital — but are reinvested to provide more capacity for growth or, through technological advance, more productive means of growth.

As this Bill fails to get to grips with consumerism — and woefully underestimates the sophistication and intelligence of all consumers — it won't eradicate sharp practice, either.

It is not excessive regulation but the free flow of information, and the ability to have their interest heard, that is the consumer's best defence against what he believes to be exploitation.

Consumerism is not a choice between prosperity and honesty. It's between knowledge or deprivation.
Milk price control coming?

The Minister of Agriculture, Mr Greyling Wentzel, has announced that he is considering the re-introduction of price control on fresh milk.

Why?

Because the retail price has gone up sharply in some outlets.

Why? Why has it gone up so sharply? And why, when price control was lifted in 1983, have some of the biggest rises only come in recent months?

Answer: Because there is so little competition to produce and market it any cheaper and because competition is getting scarcer still.

The Dairy Board and the Department of Health have systematically been stifling competition in both the production of milk (by means of dairy minimal standards and penal levies which discriminate against producer distributors and small, independent dairies).

A whole series of court cases is pending following the refusal of several small dairies to pay discriminatory levies imposed upon them by a board (loaded with people who are not devoid of vested interests) bent on driving them out of business.

If the Minister does reintroduce price control it will be a shameful admission that his advisers don’t understand simple economics or (worse still) that they do understand economics but have no concern for justice.

Quote: “Monopolists, by keeping the market constantly understocked, by never fully supplying the effective demand, sell their commodities much above the natural price and raise their emoluments, whether they exist in wages or profit, greatly above their natural value.” — Adam Smith, The Wealth Of Nations, 1776

With acknowledgments to Effective Farming
Fines for harmful business practices

ENTREPRENEURS who contravene government directives on harmful business practices will face fines of R200 000 or five years in jail, or both, according to the wide-ranging Harmful Business Practices Bill tabled in Parliament yesterday.

The Bill is intended to protect consumers against harmful business practices.

It provides for the appointment of a Business Practices Committee by the Minister of Economic Affairs and Technology and the Minister of Finance.

The committee will be empowered to summon and question any person believed to have information about an investigation. The Minister of Economic Affairs and Technology may, on the recommendation of the committee, prescribe any action to prevent any harmful business practice.
Staff Reporter

BUSINESSMEN who fixed prices should be sent to jail says supermarket chief, Mr Raymond Ackerman

Speaking in an interview in the June issue of the news magazine Inside South Africa, Mr Ackerman said that though price fixing was illegal, he knew from daily experience that it occurred.

"The government should be absolutely ruthless with business people who are unscrupulous — monopolies, cartels, everything that is stopping the consumer from getting a square deal," he said.

"I'd hit them really hard. I wouldn't just play around. I'd send a few top guys to jail if they fixed prices," Mr Ackerman also accused some food suppliers — including the millers and the frozen food companies — of contributing to inflation by wanting too much profit.

Some companies notched up profit increases of "70 or even 90%", he alleged.

"I'm a great one for reasonable profits, but I really blame them very seriously. I think these enormous profits are largely responsible for the attacks on the whole of the business community.”

Speaking to the Cape Times, Mr Ackerman said the Competition Board was "not tough enough" and made reference to what he said was the State's involvement in petrol, television import, milling and liquor "cartels.

"The government should immediately deregulate these areas and then get tough with sellers," he said.

Describing Mr Ackerman's statements as "fair comment", Mrs Lyn Morris, national president of the Housewife's League, last night accused the government of double standards.

She said while consumers had to adapt to the prevailing economic climate, they were powerless to fight inflation when the government exercised "poor financial discipline" by merely printing more money when it overstepped its budget.

Referring to Mr Ackerman's allegations, a supply industry spokesman said: "We cannot be drawn into isolated statements such as these, which by themselves do not make any sense at all"
The legacy of kubus

Government's already Draconian interventionist powers vs-a-vs business are about to take a giant leap forward. As the FM predicted, the Harmful Business Practices Bill has been tabled in parliament and should be processed into law within the next few months.

The reaction to the final — and publicly exposed — draft of the Bill instilled more confusion than reaction, perhaps, than any other Bill in living memory. Certain press reports notwithstanding, the tabled Bill is little changed from that draft — though it is certainly an improvement on earlier versions which go back two or three years. But it still excludes what we see as the essential role of open courts in such matters, still uses definitions that are vague and embarrassing, and in effect gives too much discretion to government to decide exactly what is a "harmful business practice." So we remain committed to rejecting the package as wrong-headed, potentially damaging to the economy and contrary to the spirit of free enterprise.

The definitions leave no doubt that businessmen may yet be fined R20 000-R200 000 — or jailed for two to five years —

Those who wish to clamp down on business on the spurious grounds that the consumer needs "protection" have cause for joy: the Harmful Business Practices Bill has been tabled and it has changed little from the version leaked a few weeks ago. Extraordinarily enough, the major impulse appears to "protect" people against kubus-type schemes — already illegal and defunct.

for bureaucratically determined "contraventions." It is, of course, diametrically opposed to Pretoria's official policy of deregulation.

It has to be admitted that the marketing of the Bill, particularly by new Department of Trade and Industry DG Stefaudé, was highly successful from government's viewpoint. The Bill — it was stressed throughout the campaign for its enactment — by ending harmful business practices, however defined, would "protect" consumers. And by ending "cartels" and other anti-free enterprise practices, including "profiteering," it would be anti-inflationary.

What balderdash! Harmful business practices and consumerism have nothing to do with inflation, which is caused exclusively by government. Secondly, the FM's main criticism of the thinking behind the Bill — that it did not show why existing common and criminal law is insufficient to tackle abuses — has been ignored.

Indeed, it is painful to read in the memorandum to the Bill "With the emergence of the various milk culture related schemes during 1984, it became apparent that such schemes could not be controlled properly." That is the sole case history cited in the memorandum the fraudulent flogging of rotten milk powder to the gullible.

That phrase, "not controlled properly," is vital in understanding the thinking behind the Bill. For all milk culture related schemes have been defunct for years, existing law was used to "control" them.

Fundamental objections to the Bill remain. The definition of a "harmful business practice" is, once again, any activity which, directly or indirectly, has or is likely to have the effect of:

- Harming the "relations between bust-
Bashing Business? Not PW

THE ECONOMY

Weekly Mail, May 20 to May 26, 1998

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nesses and consumers,”

☐ Unreasonably “prejudicing any consumer”

☐ “Deceiving any consumer”

Meanwhile, unfortunately, the confusion between what is in any case illegal and what benefits consumerism continues The Consumer Council (a government body), in a statement representing the South African Co-Ordinating Consumer Council, the South African National Consumer Union, the Housewives League and the Consumer Foundation, “unanimously agrees” that President P W Botha “should be congratulated for the planned legislation”

Further, “resistance against (the Bill) was unfair and unfounded Consumer organisations believe that the planned legislation is an urgent necessity The milk culture schemes again rear their ugly head “It has become most essential that consumers be protected against schemes such as the milk culture, television repairmen exercising suspect trade practices by which consumers are blatantly exploited and mail orders accepted for goods not in stock”

Not to belabour the point, all these schemes are fraudulent We have a centuries-old, highly developed Roman Dutch common and criminal law system to deal with them One might as well ask is “business” responsible for keeping 11 unburied corpses in a Cape Town basement? The Consumer Council continued “The organisations see the draft legislation as a well-balanced system with the necessary safety measures to restrict consumer exploitation at all levels An honest, trustworthy dealer has nothing to fear from the planned legislation which will be to his advantage”

What then of government itself — the source of most restrictive, if not harmful, business practices? To quote no less an authority than the Competition Board “In almost every area of over-regulation, there are vested interests Especially where the over-regulation protects undertakings in the private sector against competition, they react vehemently against deregulation proposals This is predictable If competition is introduced in an industry where it has been smothered, changes inevitably take place The vested interests cannot be expected to welcome this”

Yes indeed Ask the captains of industries constructed behind protectionist walls, or the farmers, or the agricultural control boards To quote Hartford economist Dominick Armentano “Government regulation, entry control, subsidisation and (attempts to end harmful business practices) are all manifestations of a governmental interventionist power that has been employed by private firms, to private advantage, and to the detriment of society”

But now the Harmful Business Practices Bill will be trotted through parliament with the (at best) innocent support of consumerist lobbies And Pretoria will have a new instrument of interventionism at a time when there is abundant evidence to support the supply-side argument — that deregulation, privatisation, cutting taxes and shrinking the bureaucracy are what we really need now For example to date, government’s action in terms of the 1986 Temporary Removal of Restraints on Economic Activities Act has been isolated to a minuscule 30 businesses in a building complex at Kew, Johannesburg There is a further misconception about the Bill — that it contains adequate safety measures The Consumer Council’s statement that the law has “the necessary safety measures to restrict consumer exploitation at all levels” is inaccurate and naive Nowhere does the Bill allow for the involvement of the common law or criminal courts One possible exception is the extremely limited administrative review process in which mal fides has to be proved.

The FM, in rejecting the Harmful Business Practices Bill, can cite many judicially decided cases which show how day-to-day “harmful business practices” are “controlled” using existing law Even in the hi-tech crime environment of the Eighties, it is swift police action — more than any cumbersome watchdog body or other, unaware of the details of what is occurring — which can best and most effectively nip malpractices in the bud It is precisely in this area that sharp practice and outright fraud will have to be brought to the attention of the appropriate authorities And we have to accept that with today’s modernised, sophisticated, electronic markets and greatly improved modes of communication, new forms of fraud are inevitable The Bill seeks to protect us not so much from these, as from crooked methods as old, if not older, than those of the touts who sell the Brooklyn Bridge to unwary newcomers And the point about sound police action is that the malefactors can be brought to court, tried, the evidence aired and their methods exposed for future scrutiny of areas we may know little about today

Unfortunately, the proponents of the Bill appear to show disrespect for our judicial system and, along with that, ignorance of modern economics They blur distinctions between

☐ Private persuasion and government coercion,

☐ Efficiency as a barrier to entry and pernicious legal barriers

Given that over-regulation is at the root of SA’s harmful business practices, it is inexplicable why those supporting the Bill want bureaucracy to expand How much better it would be to see the near-defunct policy of deregulation being employed to cut down on the 4,000-plus existing statutes that affect businessmen Pressed through parliament with the same gusto as the Harmful Business Practices Bill, such action would be cause for serious celebration But it would also mean less government interventionist power — which seems to be the last thing government wants.
COMPETITION BOARD

No nonsense

The Competition Board (CB) needs a firm hand at the helm. New chairman Pierre Brooks promises to remove fears that it is rudderless and drifting (Business April 29).

Unisa professor Brooks (54) has been appointed on a five-year secondment. He says, "The CB will know a captain is on board ship again, although I will have to listen to the other board members very carefully as I have no experience of the practical implementation of CB policy."

The appointment ends weeks of speculation on the CB's future, since former chairman Stef Naudé was elevated to Director General of Trade and Industry. His appointment was announced last year and he took up his new job several weeks ago.

The silence since then — both on the naming of a successor and on what the CB has been doing this year — led to suggestions that all wasn't well with the board.

Brooks explains the announcement delay, saying he was on a three-month sabbatical in Britain and the US. Once he officially becomes chairman on June 1, he intends to make the board visible once more.

He says his appointment doesn't signal a dramatic change in the CB, even though he is an English-speaking, with no previous government experience.

"If I weren't in sympathy with the legislation and the activities of the board, I wouldn't have taken the job. In time, I will be hoping to make my own contribution to the team, but for the moment there is no change in policy."

Nor does he envisage a diminishing role for the CB in the face of deregulation, privatisation and conflicting new legislation. Such as the Harmful Business Practices Bill. All Western countries have an equivalent body, he notes.

"I believe in a free market, but there are people who subvert the market mechanism for their own gain. It is particularly important if we are going to develop small business that big businessmen shouldn't erect barriers to entry."

He says monopoly isn't inherently bad, just the abuse of that monopoly.

In common with Naude, he believes there should be a punitive element in competition legislation, although he stresses there is provision for a long consultative process before such measures are carried out.

Brooks has a strong legal background for the job. He is head of the Department of Mercantile Law at Unisa, and teaches competition law, transnational law and corporate law. He has been a frequent contributor to government's standing advisory committee on company law.

He says he was surprised to be approached for the post, but felt it would be a step up career-wise as well as a "great challenge."

"I hope that under my chairmanship, the CB continues to be an effective pro-competition vehicle in SA."

A perennial criticism of the CB has been that it has weapons in its arsenal which it rarely uses. Brooks ought to seek to change that. But, faced with firmly entrenched vested interests in the economy, that's easier said than done.

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CAPE TOWN — Prices of milk and cheese are unlikely to increase before the end of the year.

Dairy Board general manager Mr Edu Roux said yesterday that the Western Cape’s "cheese mountain" of accumulated stocks would probably allow producers to meet demand until early next year.

"While the price of cheese was not controlled, that of milk was determined by the board. Because farmers are paid considerably more than the determined floor price of milk, there is no increase in the milk price in the pipeline," said Mr Roux.

One of the general managers of Cape Dairy Co-operative, Mr Louis du Plessis, said cheese imports, coupled with a seasonal increase in production at the beginning of the year, meant producers could meet the demand for the next year. — Sapa.
"No change in milk price"

PRICE controls on fresh milk — dropped five years ago — will not be reintroduced "at this stage", Agriculture Minister, Greyling Wentzel, said yesterday. (Page 0x0 to 1792x2456)

He said in a statement made available to Sapa yesterday morning the National Marketing Council, in collaboration with the Dairy Board, had completed its investigation "into the possible restoration of control over the consumer prices of fresh milk." Findings of the investigation were that fresh milk price increases as a whole were smaller than in the preceding five years. “Healthy competition” had also developed in the fresh milk distribution trade, and the Dairy Board’s decision to abolish control over the selling prices of milk and to allow distributors unrestricted access “has consequently yielded good results.”

The investigation also revealed the consumer price of fresh milk had not risen out of proportion "to that of most other food items since the abolition of price control in 1983." 1

Sapa
Business tops on new consumer council

THE Harmful Business Practices Act which came into force last Friday gives the minister of economic affairs and technology wide powers to act in consumers' interests against businesses engaging in unlawful or deceitful activities. Whether consumers will gain real protection will depend on whether he chooses to use them — and on the Business Practices Committee, appointed this week in terms of the Act.

The committee, chaired by Wits University law professor Louise Tager, has powers to carry out investigations, enquires or inspections into possible harmful business practices on the basis of complaints from consumer bodies or individuals. At this stage there are no details of businesses or practices the Business Practices Committee will target, since investigations are not public until the minister issues a notice. But, says Tager, there are already numerous cases and complaints.

There are few consumer representatives on the seven-member committee. Apart from Consumer Council director Jan Cronje, it consists mainly of businessmen.

The minister can act only on the basis of the committee's recommendations. He has powers similar to those of an interdict: he can order a business practice found harmful by the committee to cease immediately. He has the power to take all necessary steps to prevent a business engaging in such practices from continuing. He can also issue general regulations.

A "harmful business practice" is defined in the Act as one which "directly or indirectly has or is likely to have the effect of harming relations between business and consumers or of unreasonably prejudicing or deceiving any consumer."

The committee appointed this week to monitor harmful business practices is dominated by business, reports HILARY JOFFE

When it was first published in April, the Bill was seen by many as one aimed at "bashing business."

Tager says the committee envisages it will be defining as harmful those business practices which are criminal or unlawful — not regular business activities. Businesses investigated by the committee are also likely to have the right to reply and negotiate.

"This is not a business control mechanism: the thrust of the Act is to protect consumer interests," she says. It's up to the public to draw attention to harmful business practices, although the committee will not investigate every complaint.

South Africa has not previously had legislation protecting consumers, Tager says. The Consumer Council investigates complaints but has no power. Common law rights are inadequate and vague and depend on enforcement through the courts. Other countries such as Britain, Canada and Sweden have agencies which protect consumer interests.

Among committee members are two with farming connections: David Broodryk is managing director of the Western Province Co-operative while Jacob de Villiers is chairman of the Institute of Agricultural Communication, director of a number of farming co-operatives and a former vice-president of the South African Agricultural Union.

VM Ridgeway, a former Doocentric president, is in the furniture business while Marthinus Jonker, from a motor industry background, is the director of a number of companies. He is also a director of Armscor.

The final member of the committee is lawyer Evert van Eeden, a full-time member of the Competition Board. According to Tager, it's not necessary to have consumer representatives because the work of the committee will be to respond to complaints from consumers and to judge which of them concern practices which would not normally be condoned in business circles.
Consumer apathy powers car prices

CHRISS MOERDYK

Many of South Africa's motor manufacturers have responded to the Consumer Council's announcement that it is investigating the reason for rocketing car prices, by diving into a mountain of production cost statistics.

The idea it seems, is to clobber the consumer with sufficient data on how much it costs to build a car that the motorist will end up thanking his lucky stars he's able to get mobile for so little.

It won't work of course, because a lot of motorists are going to continue asking a lot of questions about why prices should be so high when so many manufacturers are making such colossal profits.

Questions like these tend, however, to put motor manufacturers into uncomfortable positions. Uncomfortable because of a natural reticence to become arrogant when answering questions from consumers.

But what they would probably like to say is that South Africa is, after all, supposed to be a free enterprise society. Which means that manufacturers and retailers can ask whatever price they like. Like it or not, that's free enterprise for you.

However, what the manufacturers would really like to tell consumers is that if they are so hell-bent on finding out why car prices are so high they should look in their own backyards. And they have a point.

What? The consumer responsible for pushing up car prices? Rediculous.

Not really. History alone certainly makes this argument plausible. Take Nissan for example. About five or six years ago, Nissan offered the cheapest cars in the country and came to within a hair's breath of going bust. No-one, it seemed, wanted the cheapest car.

Now, Nissan is doing very nicely with vastly increased sales and a more than cozy chunk of the market. They don't sell the cheapest cars anymore.

So, what if Toyota magnanimously decided, for example, to use some of that profit it has made to give the consumer a better deal? What would happen if it decided to lop R10,000 off the price of its top of the range Cressida?

Any number of marketers believe that for a while the cars would be snapped up. But once the discount euphoria had worn off — and it wouldn't take more than a few months or so — the consumer would forget the original intention and start wondering why Cressida's were so cheap. Must be something radically wrong with them, they'd think. Then happen go out and buy a more expensive Nissan.

But surely, one might ask, consumers can't be that stupid? Well, perhaps not stupid, but South Africa consumers certainly have a reputation for apathy. For simply accepting prices and price increases without complaint.

Somehow one gets the impression that consumers believe that digging their heels in is unpatriotic. That boycotting a brand because of its price, labels one as some kind of communist.

Strangely enough though, even in South Africa, consumers have the right not to buy a product for any reason they care to think of.

Even corporate buyers who acquire the bulk of top-of-the-range sales, are apathetic to price hikes. Possibly more so, because of tax advantages and sophisticated leasing schemes that tend to ease that pain in the pocket.

But, in mitigation of the consumer, perhaps they have become so indoctrinated by government pricing controls and price fixing by myriad private sector cartels, that they genuinely believe they have no option but to pay up.

This being the case, maybe the Consumer Council would do better to answer all those complaints it has been getting about car prices — not by sowing into the motor industry head on — but by telling consumers that the best method of getting car prices down would simply be to stop buying cars for a while.

Just long enough, however, for the manufacturers to be able to meet the challenge but not long enough for half of them to go broke.
Warning for consumers

By Caroline Mehlen (245)

Consumer disputes should be settled out of court whenever possible, according to Mr Jan Cronje, director of the Consumer Council.

Writing in the latest SA Consumer Magazine, Mr Cronje says the courts are inundated with work, the litigation process is cumbersome and legal costs are high.

"Methods such as negotiation, reconciliation and arbitration should be applied wherever possible in solving problems.

There are some encouraging signs that this is happening. There has been a marked increase in the number of organisations which approached the Consumer Council for advice and information, and who advocate closer co-operation between the business sector and consumers.

"Many businesses are now employing complaints officers to deal with consumer problems and provide assistance.

"Many self-regulating bodies have been established amongst business enterprises with mutual interests."

The Consumer Council approved self-regulations, but these bodies still had to prove their credibility by gaining the consumer's trust, he said.
JOHANNESBURG —
The buying practices of the large grocery retailers could warrant an investigation by the Competition Board, chairman Mr Pierre Brooks said yesterday.

The board would consider allegations made by Checkers managing director Mr Clive Weil of corruption between suppliers and retailers within the next two weeks, he said.

"The conduct of retailers, not the industry structure, would attract the attention of the board."

Mr Brooks was uncertain whether the Competition Board, which concerns itself primarily with monopoly situations, had authority to police exorbitant purchasing power.

Spar chairman Mr D.M. Bullock yesterday denied any allegations of unfair or harmful business practices and denied the "strong-arm" ties with suppliers.

Harmful Business Practices Committee chairman Mr Louise Tako said the committee would investigate Mr Weil's claims only if consumers were likely to be harmed.
Concern about dealers' abuse of Credit Act

The Consumer Council has expressed its concern about the manner in which certain dealers abuse the Credit Agreements Act by repossessing goods without a legal court order.

Director Mr Jan Cronje advises consumers to contact the police immediately to deal with such situations. — Sapa.
SA's consumer laws are 'underdeveloped'

By Kaizer Nyatsumba

The Harmful Business Practices Act which was passed on July 1 this year did not eliminate the need for further legislative changes in consumer law, the dean of the Law School at the University of Natal, Professor David McQuoid Mason, said yesterday.

Addressing the Checkers 1998 Consumer Journalism Awards Seminar in Johannesburg, Professor Mason said the four-month-old Act did not obviate the need for further legislative changes because the implementation of the Act was left to a committee, and the focus of the law was on business practices and not on "undesirable traders".

South Africa, said Professor Mason, abound with "numerous examples" of harmful business practices, including door-to-door sales, referral sales, fake contests, "bait and switch" tactics, television repairs, home improvements, unfair contracts, the sale of skin lighteners, misleading advertising and promotional schemes and debt collection practices.

Legislation concerning the protection of consumers against harmful business practices in this country was "very underdeveloped" compared with that in the United Kingdom, the United States and Australia, Professor Mason said.

"It is clear, however, that unless the legislation has teeth such as the power to grant civil remedies, impose criminal sanctions and to obtain interdicts and court orders to prevent harmful business practices, such legislation is very often not worth the paper it is written on.

"Furthermore, it is not sufficient to rely upon traditional law enforcement agencies, such as the Commercial Branch of the police, because these agencies are usually understaffed," Professor Mason said.

The chairman of the Business Practices Committee, Professor Louise Tager, said she believed the Act had enough teeth to deal with most problems, although the scope of her committee's investigations might be limited by the legislation.
THE Harmful Business Practices Act, passed recently by Parliament, does not obviate the need for further legislative changes in consumer law, Professor D J McQuoid-Mason, Dean and Professor of Law at the University of Natal, said this week.

Addressing a seminar at the 1988 Checkers Consumer Journalism Awards at a Johannesburg hotel, Prof McQuoid-Mason, an expert in consumer affairs, said the Harmful Business Practices Act did not regulate or control any business outright.

He said unless there were specific provisions to deal with individual "rogue" traders, general provisions that merely deal with trade practices in a broad sense would never work in South Africa.

**Power**

"Even then, until such time that a full-time executive officer is given the power to deal with unscrupulous traders at a personal level, South Africa is likely to continue to be plagued by harmful business practices," he said.

He said it was not true that consumers could sufficiently be protected by private consumer bodies, business self-regulation, or even consumer awareness.

**Position**

"Unless a person in a position of a Director General of Fair Trading has the authority to obtain individual assurance from unscrupulous traders that they will not continue in their actions, there is little likelihood of their actions being prevented.

"Without provisions similar to those embodied in the English Fair Trading Act, it is unlikely that the Harmful Business Practices Act will be any more effective than the..."
 Probe starts on troubled SA med-aids

Own Correspondent

JOHANNESBURG. — The Competition Board is to investigate the activities of South Africa's troubled medical aid system.

Competition Board chairman Mr Pierre Brookes said the inquiry would be made on the basis of previous investigations and continuing complaints about "anomalies" in an increasingly monopolistic pharmacy network.

The investigation also comes in the wake of controversy surrounding the decision of several private hospital groups, led by Clinic Holdings and Afrox, to contract out of medical aid schemes.

The National Association of Private Hospitals (NAPH) had accused the Representative Association of Medical Schemes (Rams) of consistently lagging behind real costs and being blind to the increasing cost of running private hospitals.

According to NAPH chairman Mr Dick Williamson, the "unsatisfactory" Rams increases of 12% had left private hospitals in a "worsening financial situation".

Today's Government Gazette said the board was undertaking the investigation in terms of the provisions of Section 8(1)(a) of the Maintenance and Promotion of the Competition Act of 1979.

A statement by the board said the investigation would include negotiation between medical schemes and the renderers of health services, the role of the scale of benefits, restrictions on certain medical schemes to render health services and the role of medical schemes compared with those of state and semi-state institutions.

Reacting to the decision, managing director of Medicaid Administrators Mr Jeff Slome said: "The investigation would be welcome if it provided any relaxation in legislation governing aid schemes."

The Medical Association of SA (Masa) welcomed the move, saying they accepted that the investigation was intended to bring cost-effective private health care within the financial reach of as many people as possible.
Liquor trade fighting restrictions

By MEG BRITS

FEDHASA, the hotel and liquor trade association, is so concerned about restrictive practices in the liquor industry that it has approached the government.

It has proposed a three-tier decision-making process for the industry which would involve the founding of an SA Liquor Institute and an SA Liquor Council

Mr Ken Heneke, chairman of Fedhasa's national liquor affairs committee, said antiquated legislation had led to practices in the industry which were generally regarded as restrictive to fair competition and were not in the public interest.

He said that traditionally, the liquor trade had been subject to strict regulation, which meant the industry was divorced from market forces.

The proposed first tier of the decision-making process would probably comprise representatives of the Cape Wine and Spirit Institute (CWSI), the KWV, SAB, Fedhasa, the Wine and Spirit Importers Association and Uk-hamba, the black bottle store owners' association, Mr Heneke said.
Former Angolans to live in SA

Elite battalion to be moved from Namibia

By Craig Kotze

One of the South African Defence Force's elite units, 32 Battalion, is leaving its base in Namibia's Oka-vango region and is moving to the northern Cape, where it will perform counter-insurgency and border protection functions.

The new home of the famed battalion will be Pommie, a dinenung village about 200 km north of Vryburg. Members will start moving this month and the move is expected to take about three months, said a statement issued by Army headquarters in Pretoria.

The families of the battalion members, who are mainly Portuguese-speaking, will accompany them.

The battalion was originally formed in the aftermath of the 1976 Angolan war from leaderless members of the old FNLA movement.

Placed under South African officers, it was officially designated a unit of the South African Army and adopted its present name in October 1976. It soon became one of the army's best fighting units and took part in almost all major incursions into Angola, including Operations Protea, Askari and the more recent operations 'Modular', and 'Hopper' last year.

During operations, it inflicted thousands of casualties on SWAPO, and MPLA forces.

Its motto is "Forged in Battle".

Five members of the battalion have been awarded the Honorary Cross, South Africa's equivalent of the Victoria Cross. Another five members have received the Chief of the Defence Force Commendation Medal, while 329 have received the Bronze Medal for outstanding service.

24-hour day for all but two industries

By Kaizer Nyatumba

Once the Business Bill becomes law all but two industries can operate on a 24-hour a day basis, a spokesman for the Office for Privatisation and De-regulation, Mr Frikkie Ondelaal, said yesterday.

Mr Ondelaal said in an interview that the Business Bill, which proposes to abolish all restrictions on trading hours except on Sundays and the four religious holidays, will enable businesses, including the motor car industry, to open and close whenever they please without restriction. The Bill does not apply to the liquor industry, however.

The Bill will effectively abolish business licensing, he said. The only categories of industries which will still need licences will be catering involving cooked food, and entertainment.

Mr. Ondelaal said garages would be able to open...
Sunday trading sections to be removed from Bill

CAPE TOWN — Government has decided to remove all references to Sunday trading from a draft deregulation Bill following heated protests from church groups.

Administration and Privatisation Minister Dawie de Villiers said yesterday all references to trading on Sundays and religious holidays would be removed from the draft Business Bill, as the controversy over the issue was threatening to undermine larger and more important objects of the Bill.

De Villiers said the main aim of the Bill was to remove restrictions on economic participation and simplify business licensing requirements.

Attention had also been given in the Bill to developing a more effective control mechanism in respect of Sunday trading.

"It was never the intention to permit an increase or decrease in the nature of the existing system of Sunday trading, but merely to enable the Administrators to arrange Sunday trading in an orderly fashion and to create legal certainty,” he said.

De Villiers said the working group dealing with the Bill had reported to him that there had been considerable misunderstanding over the references to Sunday trading.

"The misunderstanding and confusion is unfortunately assuming such proportions that the working group is of the opinion that it may endanger the larger and important objects of the draft Bill.”

As it had never been the intention to effect changes to Sunday trading, the minister had accepted a proposal from the working group to remove all those clauses referring to Sunday trading from the Bill.

"The possible simplification and rationalisation of obsolete stipulations of the Act, in respect of trading on Sundays and the bringing about of a more effective method to control it, can be discussed and treated separately at a later stage,” he said.

Sapa reports Administration and Privatisation Department officials pointed out that the main thrust of the Bill was deregulation, not opening trade on Sundays.

However, piles of letters had been received objecting to the Sunday trading stipulations.

De Villiers said the measure was mainly intended to remove unnecessary restrictions on economic participation and entry by simplifying SA’s business licensing dispensation.
Govt opts to keep curbs on Sunday trade

Political Correspondent:
CAPE TOWN — The Government has dropped draft legislation to ease restrictions on Sunday trading after strong objections from the public.

Dr Dawie de Vilhers, Minister for Administration and Privatisation, announced in a statement yesterday all references to trading on Sundays and religious holidays had been dropped from the draft Business Bill.

The draft Bill if passed would dramatically slash restrictions on trading hours and licences.

In the original version of the draft Bill published last month for comment, a host of Sunday trading ordinances, many archaic, were scrapped and provincial administrators were given the power to determine Sunday trading regulations.
Many firms hold monopoly in South Africa. A SUBSTANTIAL number of companies in South Africa are in a monopoly situation or have a dominant position in a given market — which is not conducive to competition on a grand scale.

This is the opinion of the Minister of Privatisation and Administration, Dr Dawie de Villiers, expressed in a notice in the Government Gazette today.

Dr De Villiers says that many sectors of the economy are characterised by high degrees of economic concentration and corporate conglomeration.

As a result, he says, a substantial number are in a monopoly or market dominant situation, or horizontally or vertically integrated with other companies with one of the major conglomerate groups operating in the country.

This is not conducive to competition on a grand scale, he says, though a dramatic dismantling of this structure would not serve the public interest.
Trading licences to go

Most businesses will no longer require trading licences and will be able to determine their own trading hours in terms of a draft proclamation which will appear in the Government Gazette tomorrow.

These measures will come into effect on January 1, due to a special interim measure, and will become law a year later when the Draft Businesses Bill is enacted.

The proclamation, expected to benefit small businesses and street traders most, is being gazetted to speed up government's deregulation process.

The only exceptions to the move are those businesses involved in the preparation of food, which will still require trading licences. In addition, restrictions on Sunday trading will remain in place.

Privatisation Minister Dawie de Villiers said in a statement yesterday that the Draft Businesses Bill, published in April, could "at the earliest" be put into operation only in 1991.

He was thus recommending to the President that as an interim measure a proclamation based on the Temporary Removal of Restrictions on Economic Activities Act be promulgated in terms of the Temporary Removal of Restrictions on Economic Activities Act.

De Villiers said that while the proposed proclamation suspended the requirement of a trading licence for most businesses, they would still have to comply with other applicable rules and licensing laws.

Looser controls on trading hours would promote greater flexibility, but he did not anticipate excessive changes in practice.

He said that while some protection afforded by controls would be forfeited, savings in time and costs justified this loss.

"Individuals will have to place less reliance on official control for their protection. A greater responsibility is, therefore, placed on all those involved to respect the interests of others," he said.

Competition Board chairman Pierre Brooks said that once comment on the draft proclamation had been received, the necessary adjustments would be made and it would be submitted to the President for his signature.

It would then be promulgated, and he anticipated that the procedure would be finalised by the end of October. The measures would then come into effect on January 1, 1991.

Brooks added that the draft proclamation was also intended as an indication to the licensing authorities to "get their house in order."

"Businesses big and small have welcomed the move."

Asscom economist Bill Lacey said small businesses would benefit the most from the implementation of the measures. However, they still faced other requirements, and the measures were "only one peal from the onion skin."

"Nevertheless, Asscom welcomed the announcement as an important step in the deregulation process, although it still remained committed to the complete deregulation of shop hours."

Licences

Pick 'n Pay chairman Raymond Ackerman said he welcomed any freeing of licences, particularly for the small trader, who was a crucial part of SA's future and who should be encouraged.

"But I would like to see legislation changed to cut the price of petrol and allow us to bake our own bread," he said.

African Council of Hawkers and Informal Businesses president Lawrence Mavudla described the move as a step in the right direction.

"However, the ball is now in the local authorities' court. The government is doing one thing, but the local authorities are doing another in continuing with their harassment of hawkers," he said.

He added that the proclamation came at a time when more jobs were needed to fight unemployment.

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He added that the proclamation came at a time when more jobs were needed to fight unemployment.
Red-tape control of weekday and Saturday shopping hours are to be scrapped, as will many trading licence restrictions.

Promises to cut through the tangle of bureaucratic controls on retail trade were made yesterday by Minister for Administration and Privatisation Dr Dawie de Villiers.

A proclamation suspending the last controls over the retail trade on business hours on all days except Sundays is to be printed in draft form in the Government Gazette tomorrow.

Cut delays

It will accelerate action on the Draft Businesses Bill published in April.

Dr de Villiers said the Bill, with certain adjustments, may be submitted to Parliament next year.

To cut delays, he intends to recommend to the State President that an interim proclamation be promulgated.

The draft Bill will stay on course, but the proclamation will appear in draft for general information and comment tomorrow.

Dr de Villiers said it was only the trade licence rules that are being dispensed with. Where legislation required another type of licence apart from a trading licence - such as a liquor store - the position remained unchanged.

On Saturday hours, Dr de Villiers said: "Although this will promote greater flexibility, it is not anticipated it will introduce excessive changes in practice.

"A drastic reduction of administrative work will be achieved, while costs and time will also be saved by both local authorities and businesses."

Enquiries can be directed to Dr P E J Brooks, chairman of the Competition Board, in Pretoria.

Mr Theo Rudman, executive director of the Self-Employment Institute, said the scrapping of trade licences would be welcomed by thousands of hawkers and street vendors.

"It should end years of harassment that has been at the root of friction between black street traders and the authorities," Mr Rudman said.

"Encouraging"

"Scraping the licences will also allow the thousands of small businesses set up in the black townships to come in from the cold. It lifts a cloud that has hung over black enterprise and acted as a brake on progress."

"It's most encouraging that the Government is beginning to show real recognition of the powerful role the informal sector can play in black economic advancement and in quickening the pace of the whole economy"
SA's shopkeepers are adamant that restrictions on Sunday trading should be scrapped, and at least one retailer has threatened to defy the laws which enforce those curbs.

All welcome the suspension of trading licences and the flexibility to determine their weekly trading hours in terms of a draft proclamation gazetted today, but are disappointed that Sunday trading restrictions remain in place.

Don MD Janne Els said yesterday freer trading from Monday to Saturday would not affect his company much "at this point in time".

He said many of the discount chain's outlets—particularly those in shopping centres—closed at 6pm during the week and at 8pm on Fridays.

However, he would like to see Sunday trading restrictions lifted totally, and his company had decided to open its stores on Sundays in December "regardless of the law."

"Aside from the fact that everyone does it, we normally lose three important trading days in December, all of which fall on a Sunday," he said.

Checkers MD Clive Weil said the effect of the new measures on the supermarket industry would be negligible since it already had permission to trade on an extended basis.

However, the chain's customers had "voted with their feet" in favour of Sunday shopping.

"Public opinion is on the side of Sunday trading, and the restrictions on this should be lifted totally for everyone," he said.

"More flexible trading would completely change shopping patterns outside of the supermarket industry."

Edgars MD Vic Hammond said his group had been battling for two to three years to have Sunday trading curbs lifted, and had got nowhere.

"I'm very disappointed that the government hasn't lifted these curbs in terms of the proclamation. It would have cleaned up the whole act, which is a farce now because authorities don't take action against those who do trade."

"However, we welcome the other measures. The less red tape the better."

Assocom remained committed to the view that there should be complete deregulation of Sunday trading, the association's economist Phil Lacey said.

The main reasons for this were consumer convenience and the difficulty of enforcing the existing legislation.

Government decided in May to remove all references to Sunday trading from the Draft Businesses Bill after an outcry from church groups.

© COMMENT: Page 12
Container monopoly terminated

Own Correspondent

JOHANNESBURG. — Government yesterday acted to dismantle Safren-controlled SA Container Depots' (SACD's) long-standing dominance of containerised cargo handling.

The decision follows five years of intense lobbying by competitors of Renfreight, which holds 65% of SACD, to persuade government to implement a recommendation by the Competition Board in 1984 that SACD's monopoly be terminated.

Commissioner of Customs and Excise (C&E) Daan Colesky said an extra depot would be commissioned for each of the major entrepot handling containerised cargo in Cape Town, Port Elizabeth, East London, Walvis Bay and Johannesburg.

Trade and Industry Minister Kent Durr has confirmed the Competition Board's recommendation and the commissioner's suggested licensees.

They are Grindrod for Durban and Cape Town, Aquamarine Container Depots for East London, Wesbank Transport for Walvis Bay, and Presto Transport Holdings for Johannesburg and Port Elizabeth.

Approval is subject to the condition that depots become operational within four months from today. Licensing is no longer on condition that SACD applies a uniform tariff to all facility users.

An interdepartmental working group chaired by C&E deputy commissioner Iliek Coetzee was formed to consider the board's recommendation. It comprised the Department of Transport and SA Transport Services, with members of the Competition Board present as observers.

The committee drew up a set of conditions for applicants and left it to the commissioner to decide.

Coetzee said the inclusion of Grindrod — a 12.5% shareholder in SACD — was made provisional on the condition that it satisfied the Competition Board with the sale of its SACD holding.
Fleamarket gets holiday concession

Fleamarkets at the old market site in Newtown are now permitted to operate on public holidays except Christmas Day, Good Friday, Ascension Day and the Day of the Vow. The Visual Arts Council, which will be responsible for clearing Mary Fitzgerald Square after each market day and providing adequate toilet facilities, has granted the concession for three years to the Market Thea...

excessive noise, the council said.
ALGEMENE KENNISGEWING

KENNISGEWING 1440 VAN 1989
DEPARTEMENT VAN HANDEL EN NYWERHEID
WET OP SKADELIKE SAKEPRAKTYKE, 1988

Ingevolge die bepaalings van artikel 10 (4) van die Wet op Skadelike Sakepraktyke, 1988 (Wet No. 71 van 1988), publiseer ek, Kent Diederich Skelton Durr, Minister van Handel en Nywerheid en Toerisme, hiermee die verslag van die Sakepraktykkomitee oor die uitslag van die ondersoek deur die Komitee gedoen kragtens Algemene Kennisgewing 1066 van 1989 soos gepubliseer in Staatskoerant No. 12061, gedateer 25 Augustus 1989, soos in die Bylae uteengesit.

K. D. S. DURR,
Minister van Handel en Nywerheid en Toerisme.

BYLAE

SAKEPRAKTYKCOMITIE

VERSLAG KRAGTENS ARTIKEL 10 (1) VAN DIE WET OP SKADELIKE SAKEPRAKTYKE, WET NO. 71 VAN 1988

VERSLAG No. 7
SET FOR LIFE INSURANCE AND MARKETING BK
INHOUD

I. Inleiding.
II. Die partye
III. Die Sakepraktyk.
IV. Voorstelling deur SFL.
V. Evaluasie van die sakepraktyk.
VI. Gevolgtrekking en aanbevelings.

I. Inleiding

Die Sakepraktykkomitee het kragtens artikel 8 (1) (a) van die Wet op Skadelike Sakepraktyke, 1988 ("die Wet"), ondersoek ingestel na 'n bemerkingspraktyk wat beoefen word deur Set for Life Insurance and Marketing BK en John Francis Drinkwater. Kennis van die ondersoek is gegee kragtens artikel 8 (4) van die Wet by Algemene Kennisgewing 1066 van 1989 gepubliseer in Staatskoerant No. 12061 van 25 Augustus 1989.

682-A
Staatskoerant
Government Gazette

Vol. 293  PRETORIA, 23 NOVEMBER 1989  No. 12198

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<tr>
<th>GOEWERMENSKENNISGEWING</th>
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<th>DEPARTEMENT VAN HANDEL EN NYWERHEID</th>
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<td>No. 2570 23 November 1989</td>
<td>No. 2570 23 November 1989</td>
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<td>WET OP SKADELIKE SAKEPRAKTYKE, 1988</td>
<td>HARMFUL BUSINESS PRACTICES ACT, 1988</td>
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<td>Ek, Kent Diedenhof Skelton Durr, Minister van Handel en Nywerheid en Toerisme, na verwag van 'n verslag deur die Sakepraktiekkomitee wat in die Staatskoerant bekendgemaak is, met betrekking tot 'n ondersoek waarvan in Algemene Kennisgewing 1066 in Staatskoerant No. 12061 van 25 Augustus 1989 kennis gegee is, en aangesien ek van oordeel is dat 'n skadelike sakepraktiek bestaan, en nie oortuig is dat die skadelike sakepraktiek in die openbare belang geregeer word nie, oefen hierdie bevoegdheid uit kragtig artikel 12 (1) (b) en (c) van die Wet op Skadelike Sakepraktike, 1988 (Wet No. 71 van 1988), soos in die Bylae uiteengevat.</td>
<td>I, Kent Diedenhof Skelton Durr, Minister of Trade and Industry and Tourism, having considered a report by the Business Practices Committee in relation to an investigation of which notice was given in General Notice 1066 published in Government Gazette No. 12061 of 25 August 1989 and being of the opinion that a harmful business practice exists and being not satisfied that the harmful business practice is justified in the public interest, and having made known the report of the Business Practices Committee in the Government Gazette, do hereby exercise my powers in terms of section 12 (1) (b) and (c) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988), as set out in the Schedule.</td>
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| K. D. S. DURR, | K. D. S. DURR, |
| Minister van Handel en Nywerheid en Toerisme. | Minister of Trade and Industry and Tourism. |

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<th>BYLAE</th>
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<tr>
<td>In hierdie kennisgewing, tensy uit die samehang anders blyk, beteken—</td>
<td>In this notice, unless the context indicates otherwise—</td>
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<tr>
<td>“die verslag” die verslag van die Sakepraktiekkomitee soos bekendgemaak in die Staatskoerant,</td>
<td>“harmful business practice” means any business practice whereby insurance agreements are concluded on the basis that applicants for insurance cover will receive commission in respect of any similar agreements concluded by any other person than the applicant, the said business practice being applied by Mr John Francis Drukker and Set for Life Insurance and Marketing BK, soos in die verslag beskryf:</td>
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<td>“skadelike sakepraktyk” enige sakepraktyk waarby versekeringsoorlopende aangegaan word op die grondslag dat applikante vir versekeringsdekking kommissie sal ontvang ten onseståe van enige oorsaak.</td>
<td>“the report” means the report of the Business Practices Committee as made known in the Government Gazette:</td>
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<td>“sakepraktiek” enige sakepraktyk wat aangegaan word deur enige ander persoon as die applikant, welke sakepraktiek bedryf word deur mnr. J. F. Drukker en Set for Life Insurance and Marketing BK, soos in die verslag beskryf:</td>
<td>1. The harmful business practice is hereby declared unlawful.</td>
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| 683—A | 12198—1 |
Govt plans to scrap licences for trading

GOVERNMENT yesterday stepped up its deregulatory efforts when Administration and Privatisation Minister Wim de Villeirs recommended the introduction of a proclamation which largely removes the need to apply for trading licences.

The proclamation will also do away with all restrictions on business hours during the week and on Saturdays.

De Villeirs recommended to President F W de Klerk that changes contained in the draft Businesses Bill published earlier this year be brought into effect by proclamation.

Although the final decision on issuing a proclamation rests with De Klerk, this should be a mere formality.

De Villeirs said that in terms of his recommendation to De Klerk it would no longer be necessary for most businesses in the Transvaal, Free State and Cape to renew trading licences for next year.

The only businesses unaffected by the new rules would be those such as escort agencies and night clubs which were subject to licensing on the grounds of public morals.

Because there was no provision for regional services council levies in Natal, currently valid licences in the province would still have to be renewed.

De Villeirs said all licences would, as in the past, be subject to review and suspension, but on more limited grounds than previously.

Applications for new licences during 1991 would also be subject to more limited grounds of refusal and review. In Natal, grounds for cancellation and refusal of licences would also be more limited.

De Villeirs said he had taken note of objections by certain trade unions to extending business hours.

He invited those concerned with the protection of workers' rights to inform him of their experience under the new regime.

"I trust this proclamation will not be to the detriment of workers, since the protection of workers' rights is primarily a matter for our labour legislation. Should there be a further need I will also consult with my colleague the Minister of Manpower, and with the National Manpower Commission," he said.

The proclamation will apply until the Businesses Bill has been approved by Parliament and comes into effect at the beginning of 1991.

De Klerk is expected to issue the proclamation within the next few weeks.

TANIA LEVY reports that Assocom legal manager Ken Warren last night welcomed the recommendations as a significant step in the deregulation process, and as recognition of changing shopping patterns among South African consumers.

However, he said, Assocom felt the sensitive issue of Sunday trading should be addressed as a matter of urgency to take into account the shopping needs of all in SA, particularly blacks who spent hours travelling to and from their places of work.

"Trading hours should be relaxed further to accommodate them," Warren said.

He hoped the proclamation would be issued without delay, as most businesses had already received license renewal notices. The proclamation would remove uncertainty as to whether they were liable to pay these or not. Large chain stores, in particular, had expressed dismay at the delay.
PRICES - CONTROL & CONTRAVENTIONS

1990
Consumers will dictate hours
SYLVIA DU PLESSIS
CHARLOTTE MATHEWS

RETAILERS considering an extension of their trading hours would allow themselves to be persuaded by consumer demand, spokesmen from some of the larger chains said yesterday.

While many took advantage in December of government's decision to allow extended trading hours during the week and on Saturdays, those contacted said they had no immediate plans to maintain those hours.

Checkers MD Sergio Martinengo said “Our trading hours are already pretty long, but if we find the need to extend them in certain areas, such as Hillbrow, we’ll certainly do it. It depends on what consumers want,” he said.

“Extended hours would entail a big increase in overheads, including overtime pay and slightly higher shrinkage due to less control.”

Pick ’n Pay food merchandise director Sean Summers said the group had no fixed policy regarding shopping hours. It varied from region to region.

Chicks operations director Berenice Roux said 85% of stores had extended trading hours on Saturdays and Sundays. Some stores had rejected the idea.

Le Roux said stores were manned during extra hours by casual staff with a minimum of supervision from permanent management.

D’Alu-Movie chairman Brian Cunningham said the change in regulation was “not likely to have any affect on video outlets, most of which had rental rights for Sundays and traded late seven days a week.”

However, the group’s Top Tec electronics chain had a “superb” December, showing a 47% increase in sales, half of which could probably be attributed to later trading hours, he said.
SABS remove their stamp from Domestic products

THE South African Bureau of Standards has warned that Domestic Geyser Manufacturers, manufacturers and suppliers of electric geysers with the trade mark "Domestic", are no longer allowed to have the SABS stamp on their geysers.

"It has come to our attention that geysers displaying the SABS mark and manufactured after the lapse of the permit, have been distributed for sale.

"In the public interest, prospective buyers are accordingly urged to exercise caution before buying one of the units still bearing the mark, to ensure that the unit was not manufactured after the date of suspension on June 2 1989."

Affected units are those with serial numbers greater than 893162."
Stiffer penalties for abuse of trade controls

CAPE TOWN — The Trade, Industry and Tourism Department has proposed a significant increase in the penalties for contravening import and export controls in an attempt to limit abuse of these controls.

In an amendment Bill to appear before Parliament in the next session, the department has proposed that fines for contravening the controls be increased from R2,000 to R40,000 and that the term of imprisonment be extended from two years to 10 years.

Areas of contravention include failure to comply with the conditions of a trade permit, trading without a permit, over- or under-invoicing trade goods, listing controlled goods in a different category and impersonating customs officials.

The Import and Export Control Amendment Bill is one of about 25 which are expected to be heard early in the legislative programme of the parliamentary session which begins in February.

Other amendment Bills in the first batch include the Companies Amendment Bill and the Close Corporations Amendment Bill, both of which emanated from recommendations made by the standing advisory committee on company law.

Trade, Industry and Tourism Minister Kent Durr said the amendments were intended as a deterrent and to reduce the administrative load of customs officials by reducing time spent policing importers and exporters.

A spokesman for Johannesburg-based trade consultants Antax Customs said circumvention and abuse of the controls had probably increased as a result of the high cost of imports and the limitations applied to them in an attempt by the authorities to improve the balance of payments.

One of the more significant amendment proposals in the Companies Amendment Bill requires a company to issue a prospectus every time it issues new shares to the public.

The drafters of the Bill say some companies have been circumventing the issue of a prospectus by issuing large numbers of shares at a nominal value or a director or friend of the company, who then offers the shares to the public at a high premium.
Paper industry to be investigated

JOHANNESBURG. - The Competition Board is to investigate whether restrictive practices which exist in the paper and paper products industry.

Administration and Privatisation Minister Wim de Villiers requested the investigation, notice of which appears in today's Government Gazette.

The investigation will determine whether any restrictive practices exist in firms which make paper or paper products, including packaging materials, the gazette states.

A board circular says the directive will probably require an investigation into the extent, pattern and implications of price increases, as well as international prices and the relationship, if any, between the two.

Competition Board chairman Pierre Brooks this week said the entire chain from timber processing to the end product market would be examined to determine if any restrictive practices exist.

The investigation would begin immediately after the notice was gazetted as the Minister was anxious that the board moved fast, said Brooks.

When initially contacted, none of the major players in the paper and packaging industries had been informed about the investigation.

However, Sappi CE Eugene van As said: "We compete with all the large companies around the world and have no concern about an investigation."

Mondi CE Tony Trahar said his company would make a submission to the Competition Board in due course.

However, Nampak MD Don McCartan said the move was not unexpected but had come late in the day as there had been a change in the trends for paper pricing.

He said excessive demand worldwide for paper had pushed prices up and there had been a tendency for local producers to price at parity.

He said over the last few years, local paper prices had been just below import prices. On average, paper as a raw material accounted for over 60% of the final price of paper packaging to the end user.

Interpak group MD Tony Rudston said in the last few years the local board and paper suppliers had taken advantage of the weak rand and there had been a greater increase in the price of board than in the CPI or inflation rate.
Usury Amendment Bill published

CAPE TOWN — A Bill amending the Usury Act in order to define certain expressions and prescribe conditions surrounding the levying and payment of finance charges, was published yesterday.

According to a memorandum on the objects of the Usury Amendment Bill, several aspects of the Act are to be addressed.

Among these are:

- Finance charges may not be levied for shorter or more periods than the instalment periods agreed upon.
- To further determine the finance charges that may be recovered.

— Sapa.
The first appeal to a special court against a finding of the Business Practices Committee has been lodged in terms of the Harmful Business Practices Act. It arises out of an order in the November 23 Government Gazette preventing Set for Life Insurance & Marketing CC and its MD, John Drinkwater, from marketing its existing scheme under that or any other name.

This was the third finding of the committee which resulted in the closure of certain business operations.

The special court will consist of a Supreme Court judge and two others — one with "a thorough knowledge of economics" and one with "wide experience of industrial, commercial or financial matters." The Act says sitting "shall be held in public" but the president of the court may exclude anyone "whose attendance is not considered necessary." The definition of "necessary" and the reason for this limitation are not clear.

Drinkwater's only alternative to the special court is to go to the Supreme Court on the grounds that proper procedures were not followed when his business methods were declared harmful. For instance, the Act may not have been properly applied or members of the committee or the minister may have acted "unreasonably" or in "bad faith".

A special court ruling is not "subject to review by or appeal to any other court." A ruling which upholds the minister's decision will result in the harmful practice remaining unlawful. If the court rules in favour of the appellant, the business may be re-opened.

However, no compensation will be forthcoming "in respect of anything done in good faith under this Act."

To get compensation, the appellant could go to the Supreme Court, but again only if he could show that the committee or the minister had acted in bad faith.
Proposed changing

Twelve proposed amendments to the Usury Act "are largely technical and intended to eliminate anomalies and misunderstandings," says Deputy Registrar Financial Institutions Chris Mostert. The most important empowers the Registrar to levy penalties — in certain circumstances — when there is a delay in furnishing information relating to consumer complaints.

The Bill was published by the minister of finance last week.

Another amendment expected soon should encourage the provision of low-cost housing.

It follows an announcement in October that the Urban Foundation and some foreign governments would introduce a scheme to help this sector.
TARIFF POLICY

High noon for Board of Trade

Trade & Industry Minister Kent Durr’s announcement last week of “two urgent investigations” into tariff policy is a shot across the bow of the Board of Trade & Industry (BTI).

It could ultimately mean the end of the road for the BTI. The twin investigations will look at the current tariff policy, administered by the board and the board’s “mission and functions.”

A number of commentators, including the FM, have questioned the efficacy of the board and have called for it to be abandoned. More recently, the board has been involved in a public row on trade policy with Durr’s Department of Trade & Industry (Business Report 2).

In view of the policy differences between the two bodies, the announcement could be interpreted as a ministerial slapdown for board chairman Lawrence McCrystal’s independent policy stance.

This week McCrystal was not available for comment. However, Stefan Naudé, the department’s director-general, was adamant McCrystal’s policy difference is not with him, but with “the Cabinet.”

McCrystal believes that industrial growth, exports, job creation and beneficiation of SA’s raw minerals can best be achieved by a series of structural adjustment programmes for selected industries. But Naudé insists government must move away from interfering with industry, adding that the adjustment programmes would require “hundreds” of bureaucrats to administer.

By launching the twin investigations, Durr is freezing McCrystal’s adjustment programmes. This follows the announcement last September of the General Export Incentive Scheme, which took away the export incentive component of the programmes. The tariff investigation will put the programmes’ tariff proposals on ice, thus undermining its implementation.

Does this mean the end of McCrystal’s tariff policy, and, by extension, the BTI?

Superficially, this may seem so, but the debate has many hidden elements. Durr’s statement has a footnote. “Other initiatives that are equally aimed at the restructurings of basic aspects of economic policy can be expected.”

Barlow Rand director John Hall says, historically, SA’s tariff policy has been aimed at promoting import substitution. This has led to severe distortions.

“The system of protective tariffs forced taxpayers to subsidise certain non-competitive industries on an ongoing basis,” he says.

“And, when these industries became even less efficient, the protection was merely increased.”

The question is: should the focus of tariff policy change?

“What one should now look at,” Hall says, “is a combination of ‘limited period’ establishment tariffs (allowing industry to establish itself and become globally competitive) and anti-dumping formula tariffs, which should be capable of rapid introduction.”

He proposes that the SA Chamber of Business should play a larger role in tariff policy. “The board now adds its own interpretation to policy changes suggested by the private sector. This could lead to distortions and delays.”

The chamber could help determine tariff policy by allowing its industry members to launch and finance their own investigations into proposed structural changes in their areas of operation.

There is a precedent. Last year, the stainless steel industry funded a R240 000 “pipeline” investigation, requested by the board.

“The chamber’s credibility will ensure that special pleading by vested interest groups will not distort national policy, while the board and the department could retain their supervisory roles,” Hall says.

Ron Haywood, the chamber’s deputy executive director, says tariff policy should be reviewed continually. “The Uruguay round of GATT talks, Europe 1992 and the changes in eastern Europe are a few of the issues that necessitate a relook at SA’s tariff policy. The chamber is prepared to assist with the investigations.”

The longest night

When 250 passengers boarded SA Airway’s late night flight on February 28 in Johannesburg, they thought they were headed for Cape Town. Instead, they arrived at the small town of Randfontein.

Thirteen hours and thousands of air miles later, they finally landed in Cape Town, after a few misty trips to Port Elizabeth and back to Johannesburg.

The flight, plagued by bad weather and inadequate landing facilities, was enough of a nightmare all round to prompt SAA into cancelling its late night flights in and out of D F Malan Airport until further notice. People with late night bookings will be accommodated on other flights.

The bizarre ordeal highlights the take-it-or-leave-it attitude so common to monopolies — government has not allowed other airlines to compete with SAA on the Cape Town-Johannesburg service.

According to accounts from two passengers aboard the flight, there was no cabin service because it was a cut-rate flight, so passengers went for hours without refreshments. There were a number of young children on board and one mother ran out of nappies for her baby. When a passenger with the flu asked for a blanket, she was told there were none left and was offered a tablet instead. The blankets were only for mothers with children, a flight attendant said.

Desperate smokers, cooped up for six hours in one stretch, resorted to smoking in the toilets. The cabin crew reimbursed them.

The airline says the “problem” was aggravated by the closure of D F Malan’s main runway for repairs. A second runway, not equipped with an instrument landing system, couldn’t be used because of the bad weather.

“As the weather is too unpredictable at this time of year, it has been decided to cancel all late night flights to avoid a repetition of the problem,” SAA says.
CAPE TOWN — Import surcharges on luxury goods are to be dropped by a third, Finance Minister Hareend du Plessis announced yesterday.

Du Plessis said in his Budget that the surcharge on luxury imports like televisions and hi-fi sets would be dropped from 60% to 40%.

The surcharge on imported consumer goods would drop from 20% to 15% while the surcharge on consumer goods that could also be used as raw materials would drop from 16% to 7.5%.

The import surcharge on capital goods would drop from 15% to 10%.

Du Plessis said the lowering of the surcharges would result in a loss of revenue to the State of R85m.

He said it was expected that the surcharge would yield about R2.6bn in 1988/89 as opposed to R1.9bn in the previous financial year. Capital goods were the largest contributor to the last year's surcharge revenue.

Surcharges on imports lowered

Est figure. He said the surcharge had failed in its main purpose of drastically cutting imports.

"What is more, it has had a cost-raising effect on the economy, and has also given unintended additional protection to certain local industries, incurring the danger that dependence on such protection will become entrenched," he said.

Du Plessis said it had also been decided to abolish the ad-valorem customs and excise duty on certain precious and semi-precious stones and jewellery to help expand the jewellery manufacturing industry.

The estimated loss of revenue to the State was expected to be R85m.
De Beers price rise confuses dealers

Finance

The share price of De Beers has risen significantly in the last two months of the year, confusing Dealers who are concerned about the price rise.

The latest move in the price of De Beers, however, is to be expected as the proportion of rough diamonds which are already being bought for the world market has increased. This is due to the high international prices which apply to fine diamonds in the current market, as well as the lower cost of rough diamonds. The price of De Beers, however, is not expected to go down in the near future as the proportion of rough diamonds is expected to remain high for a number of years.

Despite the increase in the price of De Beers, the company continues to be successful in the market, as the proportion of rough diamonds which are already being bought for the world market has increased. This is due to the high international prices which apply to fine diamonds in the current market, as well as the lower cost of rough diamonds. The price of De Beers, however, is not expected to go down in the near future as the proportion of rough diamonds is expected to remain high for a number of years.

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Food prices soar. July’s CPI annual percentage increase in the overall and food CPI hit 15.7 percent.

In the second half of the year, increases were especially in the second quarter of 1995, as CPI by only 11.1 percent, but LPG rose by only 1.4 percent. The government food index rose by 6.9 percent, consistent with the overall level, and secured a good portion of the proceeds for the farm food sales.

The interconnection of the two categories which in the overall inflation rate was 15.0 percent (and 12.6 percent) and also continued to rise. (9.5 percent) and the interconnection continued. The annual increase since January 1996.

CPI for food in February was 15.7 percent. The annual increase was larger than February.

Food prices continued to escalate in July, with a monthly basis food prices were up 12.1 percent.
Role of Competition Board to be broadened

CAPE TOWN - The role of the Competition Board in investigating restrictive practices, acquisitions and monopoly situations is to be clarified and broadened by amended legislation tabled in Parliament yesterday.

Although the Maintenance and Promotion of Competition Amendment Bill does not introduce any dramatic changes to the board's authority in dealing with these matters, it does allow publication of policy guidelines on restrictive practices and monopolies, rather than just acquisitions as in existing legislation.

More significantly, though, the board's authority to investigate restrictive practices and monopolies will be extended to acquisitions.

According to Competition Board chairman Pierre Brooks, the aim of the amendment is not to restrict healthy competition but to introduce more symmetry to existing legislation.

Since acquisitions have, or are likely to have, the effect of restricting competition directly or indirectly, the board's point of departure in assessing them should be that they are not justified in the public interest, he says.

Investigations into acquisitions, restrictive practices and monopolies must be completed within three months, according to the amended legislation, and the finance ministry is empowered to stay or prevent a restrictive practice for an interim period.
COMPETITION BOARD

A wider brief

To the dismay of free marketers, the Competition Board may soon be getting more power to meddle in business.

Under the proposed amendments to the Maintenance and Promotion of Competition Act, the board will be getting the power to issue guidelines on both monopolies and restrictive practices rather than being just acquisitors, as is now the case. Also under the amendments it will be assumed that an acquisition restricts competition and is against the public interest, unless the parties can prove otherwise. The changes are expected to be passed in this session of parliament.

With this wider brief, chairman Pierre Brooks is keen to provide business with a comprehensive picture of competition policy through guidelines that can be used as precedents in board decisions.

"We don’t want to pass judgment just on a gut reaction. We’ll build up competition principles on the basis of comparative law, taking special note of the laws in the US and EC."

One criticism of the board has been that the views of lawyers take precedence over the views of economists. This has been especially true since UCT economist Brian Kantor and economist and businessman Jan Graaff left the board last year.

Leon Louw, executive director of the Free Market Foundation, disagrees with the board’s whole thrust. He says companies merge so they can become more competitive and this shouldn’t be restricted. "If companies are placed under investigation because they’ve been successful enough to absorb a competitor, then this constitutes interference in the market."

He adds that there’s no reason for SA to harmonise its competition laws with those of the US and EC, which have a strong antitrust bias. "I don’t see why we should follow the lemmings."

Though on the face of it the new Act appears to be against company growth and, therefore, anti-big business, Brooks musts: "We aren’t against bigness as such. We don’t want to penalise entrepreneurship but would like to encourage competition. Often the remedy is more painful than the illness."

When the Americans broke up American Telephone & Telegraphy, it created other problems. We are on the lookout for companies that abuse their power to restrict competition."

One example of this was the board decision late last year that forced Gypsum Industries to supply gypsum board to Insulations Unlimited on the same terms as to Insulations’ competitor, Dorn, because Gypsum is the sole supplier of the product in SA.

On the other hand, in a preliminary report in November, the board found that Christian Dior was entitled to stop supplying the menswear chain Romans. Romans complained that Dior had stopped supplying because it disapproved of Romans’ marketing methods, which included an offer to buy one Dior suit and get a second one for a cent.

Romans argued that Dior had stopped supplying it as a means of keeping Dior suits in more expensive stores, but the board found that, in common with EC law, a franchisor is entitled to choose traders that seem most suitable to the marketing aims of the product. Because Dior has only a fractional share of the menswear market, it isn’t preventing Romans from continuing to trade by withholding its products.

A pivotal case on supplier-trader relations will be the investigation into the video sector. Smaller video traders complain they are obliged to buy videos from distributors in packages so that to get two hit videos they have to buy a package that includes half a dozen mediocre movies. CNA, on the other hand, can buy the videos it chooses.

This investigation has been going on for more than five months and others have been going on for even longer. The investigation of medical schemes has taken more than a year. Brooks says: "There is often no precedent for the matters we deal with and we want to be sure we’ve explored every angle. Our decisions have serious implications for the financial future of companies."

Many decisions wait until the quarterly meetings of the 13-member board, which includes part-timers from government departments and the private sector, such as JSE president Tony Norton. The medical schemes report, which Brooks says will have a deregulatory thrust, should get the final stamp of approval at the next meeting on May 7.

Nobody is immune from the board. Outside SA’s borders, it investigated the possible takeover of a British company, Consold, by a Luxembourg company, Minorcor, because of its SA implications. It concluded that the takeover of Goldfields of SA by the Anglo interests, in whatever guise, was against the public interest because of the near-monopoly power it would give Anglo.

Louw says, however, "If we’re going to compete with the rest of the world our companies must be allowed to grow."

The US is slowly learning this lesson. Its tough anti-trust laws have prevented many of the country’s top banks and corporations from growing large enough to compete effectively with Japan, where lax anti-trust laws have fostered the growth of huge companies that are well-equipped to compete internationally.

Louw says the board should concentrate on dismantling legal barriers to entry in trades and professions. Brooks notes the board is planning to publish guidelines for the professions that will include the encouragement of advertising, particularly for pharmacists. "Competition has been introduced by dispensing doctors and the Mediscor discount organisation," Brooks says: "Why shouldn’t pharmacists be allowed to say what they charge to help them compete?"

He notes that professions often form artificial work barriers, such as those between attorneys and advocates, and the barrier that prevents doctors, pharmacists and nurses working together in a group practice.

Stephen Craunston
Insurance scheme deemed to be a harmful practice

CAPE TOWN — Findings by the Business Practices Committee that the Set for Life insurance and Marketing cc was a harmful business practice which should be declared unlawful, were tabled in Parliament yesterday.

A report, which included the findings of an investigation into the close corporation, was submitted after an order in the Government Gazette prevented it and its MD John Drinkwater from marketing the scheme.

Set for Life was marketed as an insurance scheme which offered indefinite security, supplementary income and substantial financial rewards for participants and sales agents. It alleged that participants could earn monthly commissions of up to R29 112.

The committee, chaired by Louise Tager, found consumers were deceived or likely to be deceived as to the likelihood of getting the potentially huge sums advertised.

It found that for one agent to earn the potential R29 112 monthly income, a total of 5 460 transactions worth R546 000 would have to be concluded a month. Between June 17 and August 6, 1989, after which it was suspended, 1 972 transactions (R147 900) were concluded.

By mathematically linking the potential income to the number of additional participants, the scheme was similar to a lottery and to other schemes which were offences in terms of the Gambling Act, the report stated.

The committee found the scheme constituted an unlawful practice and could not be justified in the public interest and recommended it be declared unlawful.

The Business Practices Committee was established in 1988 to investigate "get-rich-quick" and other investment schemes which were assumed to be harmful and not in the public interest.

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NATAL UNREST: DEATHS

September 1987 — January 1988: .................................................. 666
February 1989 — April 15, 1990: ............................................ 923
Past 24 hours' official toll: ....................................................5
TOTAL: ........................................................................... 1 596
KENNISGEWING 352 VAN 1990  
DEPARTEMENT VAN MANNEKRAG  
LOONWET, 1957  
LOONRAADONDERSOEK.—HERSIENING VAN  
LOONVASSTELLING 441—KLERASIE- EN BREVEN-  
NYWERHEID, REPUBLIEK VAN SUID-AFRIKA  

Belanghebbende persone word versoek om daarop te  
let dat die sitting van die Loonraad wat om 14:00 op 15  
June 1990 te Ladysmith gehou sou word, nou om 14:00  
on 13 Junie 1990 aldaar plaasvind.  
M. J. DELPORT,  
Sekretaris: Loonraad.  
(4 Mei 1990)  

KENNISGEWING 353 VAN 1990  
DOEANE- EN AKSYNSTARIEFAANSEOEK.—  
LYS 3/90  
A. Die volgende aanseke wat deur die Raad van  
Handel en Nywerheid gedurende die tydperk 1 Maart  
1990 tot 31 Maart 1990 oorweeg is, is nie gestede nie:  

(a) Verhoging van die reg op:  
1. (a) Sintetiese stapelvessels van polypropyleen, nie  
gekraal, gekam of andersins vir spin voorberei nie; en  
(b) wysiging van tariefsbepalings 5505.10.10 deur die vol-  
gende na tariefsbepalings 5505.10.10 in Bylde 1 in te voeg:  

Tariefsbepalings  
Beskrywings  
Skaal van Reg  
5505.10.20 Van polypropyleenvessels  
20% of 450c  
per kg min  
80%  
(Lys 15/89, T.A.K. 890001) (Verslag 2841).  
2. Glukoosuur, natriumglukonaat en kalsiumgluko-  
aat. (Lys 19/89, T.A.K. 900249) (Verslag 2848).  

(b) Korting van die reg (in Bylde 3) op:  
Maniokstysel (kassawetysel) vir die papierynwer-  
heid. (Lys 21/89, T.A.K. 890268) (Verslag 2830).  
B. Die volgende aanseke om korting van die reg  
kragtegen item 470.03, wat deur die Raad van Handel en  
Nywerheid gedurende die tydperk 1 Maart 1990 tot 31  
Maart 1990 oorweeg is, is gestede:  
1. Materiaal vir die vervaardiging van rokke en  
bloese vir uitvoer.  
2. Breitowwe, krae en mansjette vir die vervaar-  
diging van rokke en bloese vir uitvoer.  
3. Natrumhidroksied vir die vervaardiging van  
houtpulp vir uitvoer.  
4. Ingeworde onderdele van luidsprekers vir die  
vervaardiging van luidsprekers vir uitvoer.  
5. Ingeworde leer vir die vervaardiging van leerbe-  
dekte motorpanele en paneelborde vir uitvoer.  
6. Materiaal en voering vir gebruik in die vervaar-  
diging van broeke vir uitvoer.  
7. Skafstrookstof van natuurlike rubber en nylon  
vir die vervaardiging van binne- en buitebande  
vir uitvoer.  
8. Poli-vinylbutyralkunsplastiek-bladmateriaal  
in rol vir die vervaardiging van gelamelleerde vei-  
ligheidsglas, motorwinderskans en booprodukte  
vir uitvoer.  

NOTICE 352 OF 1990  
DEPARTEMENT OF MANPOWER  
WAGE ACT, 1957  
WAGE BOARD INVESTIGATION.—REVISION  
OF WAGE DETERMINATION 441—CLOTHING  
AND KNITWEAR INDUSTRY, REPUBLIC OF  
SOUTH AFRICA  

Interested persons are requested to note that the  
sitting of the Wage Board which was to have been held  
in Ladysmith at 14:00 on 15 June 1990, will now be held  
there at 14:00 on 13 June 1990.  
M. J. DELPORT,  
Secretary: Wage Board.  
(4 May 1990)  

NOTICE 353 OF 1990  
CUSTOMS AND EXCISE TARIFF APPLICATIONS.—LIST 3/90  
A. The following applications considered by the  
Board of Trade and Industry during the period 1 March  
1990 to 31 March 1990 have not been supported:  

(a) Increase in the duty on:  
1. (a) Synthetic staple fibres of polypropylene, not  
carded, combed or otherwise processed for spinning;  
and  
(b) amendment of tariff subheading 5505.10 by in-  
serting the following after tariff subheading 5505.10.10  
in Schedule I:  

<table>
<thead>
<tr>
<th>Tariff Subheading</th>
<th>Description</th>
<th>Rate of Duty</th>
</tr>
</thead>
<tbody>
<tr>
<td>5505.10.20</td>
<td>Polypropylene fibre</td>
<td>20% or 450c per kg less 80%</td>
</tr>
</tbody>
</table>

(Lys 15/89, T.A.C. 890001) (Report 2841).  
2. Glucolic acid, sodium gluconate and calcium glu-  

(b) Rebate of the duty (in Schedule 3) on:  
Manioc (cassava) starch for the paper industry. (List  
B. The following applications for rebate of the duty  
in terms of item 470.03 considered by the Board of  
Trade and Industry during the period 1 March 1990 to  
31 March 1990 have been supported:  
1. Fabric to be used in the manufacture of dresses  
and blouses for export.  
2. Knitted fabric, collars and cuffs to be used in the  
manufacture of dresses and blouses for export.  
3. Sodium hydroxide in the manufacture of wood-  
pulp for export.  
4. Imported parts of loudspeakers for the manufac-  
ture of loudspeakers for export.  
5. Imported leather for use in the manufacture of  
leather-covered motor vehicle panels and dash-  
boards for export.  
6. Fabric and lining to be used in the manufacture of  
trousers for export.  
7. Natural rubber and nylon chafers for the manufac-  
ture of pneumatic tyres and tubes for export.  
8. Polyvinyl butyral artificial plastic sheeting in  
rolls for the manufacture of laminated safety  
glass, automotive windscreens and building pro-  
ducts for export.
9. Braakwynsteen vir sitrus vir uitvoer.
10. Nie-ioniese magnesiumsiedbromide van natrium en oppervlak-aktiewe middels vir gebruik in die vervaardiging van loofhoutpulp vir uitvoer.
11. Snijblomme vir rangskikking vir uitvoer.
12. Weefstowwe vir die vervaardiging van rokke vir uitvoer.
13. Ingevoerde onderdele vir gebruik in die vervaardiging van leerbedekte motorvoertuigkomponente vir uitvoer.
14. Koolelektrodes vir die vervaardiging van silikon vir uitvoer.
15. Diamante en ander stene vir gebruik in die vervaardiging van juweliersware vir uitvoer.
16. Komponente vir die vervaardiging van magnetiese videoband vir uitvoer op spoede.
17. Verlanging van 'n permit ingevoerde item 470.03/39.01 uitgereik (laedigheidspolietileenlaars).
18. Soldiersmeermiddels en goud-/silwerbedekte aluminiumsiakkelkettings vir gebruik in die vervaardiging van goue en silwerkettings vir uitvoer.
19. Lewendige kreef vir gebruik in die vervaardiging van verpakte gaar of bevorre of lewendige kreef vir uitvoer.
20. Aluminiumblikkies gebruik in die vervaardiging van geblakte sardientjies vir uitvoer.
21. Gebreide katoenstowwe, ongekleur, wat gebruik word in die vervaardiging van gekleurde gekreide katoenstowwe vir uitvoer.
22. Weefstowwe vir die vervaardiging van damesklere vir uitvoer.

Lys 2/90 is by Algemene Kennisgewing 228 van 30 Maart 1990 gepubliseer.

KENNISGEWING 354 VAN 1990

DOEANE- EN AOKSYNSTARIEFAANSOEKE.—
LYS 16/90

Onderstaande aansoek betreffende die Doeane- en Aksynstarie is deur die Raad van Handel en Nywerheid ontvang. Enige beswaar teen of kommentaar op hierdie vertoë moet binne ses weke na die datum van hierdie kennisgewing aan die Raad van Handel en Nywerheid, Pravassak X753, Pretoria, 0001, gerig word. Die aandag word daarop gevestig dat die skale van reg wat in die aansoek genoem word, die is wat deur die applikante aangevaar is en dat die Raad, afhangende van sy bevindinge, hoër of laer skale mag aanbeveel.

Verhoging van die reg op:
1. Vymasjiene, skuromasjiene, draadboselmasjiene en ander soortgelyke masjiene, met 'n kraglevering van meer as 1,25 kW asook onderdele van hierdie produkte, deur die huidige voorstelings by tariefsubposte, 8467.11.10, 8467.19.70 en 8467.92.40 deur die volgende te vervang:

NOTICE 354 OF 1990

CUSTOMS AND EXCISE TARIFF APPLICATIONS.—LIST 16/90

The following applications concerning the Customs and Excise Tariff have been received by the Board of Trade and Industry. Any objections to or comments on these representations must be submitted to the Board of Trade and Industry, Private Bag X753, Pretoria, 0001, within six weeks of the date of this notice. Attention is drawn to the fact that the rates of duty mentioned in applications are those requested by the applicants and that the Board, depending on its findings, may recommend lower or higher rates.

Increase in the duty on:
1. Filing machines, sanders, wire brush machines and the like, with a power output exceeding 1,25 kW, and parts of these products, by the substitution for the existing provisions under tariff subheading 8467.11.10, 8467.19.70 and 8467.92.40 of the following:
people running home businesses
Two Johannesburg traffic officers have been trained to issue spot fines to transgres-
sors of the town planning scheme, all they're waiting for is their pink tickets to be printed.
Instead of patrolling the city streets in search of parking offenders, these law enforce-
ment officers will seek out homes that are being used illegally for business. They have the authority to issue spot fines of between R300 and R1 000.
Johannesburg planning director Rudh
Erasmus explains the use of traffic officers is part of a campaign to understand better and control the problem of businesses operating from dwellings.

Public participation
“We plan a clampdown on illegal home businesses but also seek public participation and guidance on home businesses and, if so, to make the legalisation of operating from home easier.”
Planning committee chairman Eddy Ma-
gadu says the objective is to discipline the town planning scheme. “The council is being tak-
en for granted. People are causing intrusions into residential areas and complaints from neighbours tend effectively to stave off coun-

“The result is that until April 2, those operating illegal businesses from their homes had between a year and 18 months’ grace before being brought to book. Now spot fines can be issued followed by further fines for persistent offenders.”
Erasmus says the council wants to clamp
down on unauthorised use of dwellings for business while streamlining procedures for gaining permission for activities which are acceptable home businesses.
He says traffic officers are being used because they have the authority, under the
Criminal Procedures Act, to issue spot fines, whereas town planning inspectors (for the
time being) do not.

Just the ticket
“Please sir, can I see your authority to park your business in this house?” That could well
be the tone of questions soon to be asked of
Competition Board

Panko Buro

The need for a more effective enforcement of competition law and policy

In the context of government policy, competition law enforcement has been strengthened, with the Competition Board taking on new responsibilities. These changes are aimed at promoting fair competition and protecting consumers.

Competition law enforcement is crucial in ensuring that markets operate efficiently and fairly. Through the establishment of the Competition Board, the government aims to enhance the enforcement of competition law, ensuring that businesses operate within the rules. This is to prevent anti-competitive practices that can harm consumers and stifle innovation.

The Competition Board is equipped with the necessary tools to investigate and address potential antitrust violations. It works to identify and address cases where competition may be impaired, ultimately leading to better outcomes for consumers and a more competitive market environment.

In conclusion, strengthening competition law enforcement is a key component of ensuring a healthy and vibrant economy. The Competition Board plays a vital role in this regard, working tirelessly to uphold the principles of fair trade and the rule of law.
No. 99, 1990
AANSTELLING VAN LEDE VAN 'N SPESIALE HOF KRAFTENS DIE WET OP SKADELIKE SAKEPRAKTJKE, 1988 (WET NO. 71 VAN 1988)


Gegee onder my Hand en die Seel van die Republiek van Suid-Afrika te Kaapstad, op hede die Eerste dag van Junie Eenduisend Negehonderd-en-negentig

F. W. DE KLERK,
Staatspresident
Op las van die Staatspresident-in-Kabinet:
K. D. S. DURR,
Minister van die Kabinet.

GOEWERMENSKENNISGESWINGS

ADMINISTRASIE:
DEPARTEMENT VAN PLAASLIKE BESTUUR,
BEHUISING EN WERKE

No. 1310 15 Junie 1990

INSTELLING VAN DIE VAALOEWER PLAASLIKE GEBIEDSKOMITEE

Ek, Abraham Adriaan Venter, Minister van Begroting en Plaaslike Bestuur, Administrasie: Volksraad, handelend by myragens artikel 21 (1) van die Ordonnansie op die Transvaalse Raad vir die Ontwikkeling van Buitestedelike Gebiede, 1943, gelees met regulases 4 en 7 van die Regulaties vir Plaaslike Gebiedskomitees afgekondig deur Administratierskennisgewing No. 8 van 1945—

(a) stel hierby met ingang van 15 Junie 1990 'n plaaslike gebiedskomiteit in wat bekend staan as die Vaaloewer Plaaslike Gebiedskomiteit vir die gebied soos omskryf in Bylae 1 hiervan;
(b) bepaal hierby dat bedoelde plaaslike gebiedskomiteit uit sewe lede bestaan,
(c) benoem hierby die lede van bedoelde plaaslike gebiedskomiteit soos vermeld in Bylae 2 hiervan vir 'n tydperk van hoogstens vyf jaar.

A. A. VENTER,
Minister van Begroting en Plaaslike Bestuur

BYLAE 1
Beskrywing van die gebied van die Plaaslike Gebiedskomiteit van Vaaloewer

Vaaloewerdorp in sy geheel, volgens Algemene Plan A 1856/72.

BYLAE 2
Lede van die Plaaslike Gebiedskomiteit van Vaaloewer

Mnr. D. A. Smit.
Mnr. M. G. Tulp.
Mnr. J. E. S. van Zyl.
Mnr. P. M. van Noorden.
Mnr. J. W. Vosloo.
Mnr. H. J. van der Walt.
Mnr. S. J. Strydom.

No. 99, 1990
APPOINTMENT OF MEMBERS OF A SPECIAL COURT IN TERMS OF THE HARMFUL BUSINESS PRACTICES ACT, 1988 (ACT NO. 71 OF 1988)

By virtue of the powers vested in me by section 13 (3) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988), I hereby appoint Dr David Johannes Mouton and Mr John Melville Pels as members of the special court which I established by Proclamation No. 72 of 1990 on 12 April 1990 in Gazette No. 12417.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town, First day of June, One thousand Nine hundred and Ninety.

F. W. DE KLERK,
State President
By Order of the State President-in-Cabinet:
K. D. S. DURR,
Minister of the Cabinet.

GOVERNMENT NOTICES

ADMINISTRATION: HOUSE OF ASSEMBLY
DEPARTEMENT OF LOCAL GOVERNMENT, HOUSING AND WORKS

No. 1310 15 Junie 1990

ESTABLISHMENT OF THE VAALOEWER LOCAL AREA COMMITTEE

I, Abraham Adriaan Venter, Minister of the Budget and Local Government, Administrator: House of Assembly, acting under section 21 (1) of the Transvaal Board for the Development of Pen-Urban Areas Ordinance, 1943, read with regulations 4 and 7 of the Regulations for Local Area Committees promulgated by Administrator's Notice No. 8 of 1945—

(a) establish with effect from 15 June 1990 a local area committee to be known as the Vaaloewer Local Area Committee for the area as defined in Schedule 1 hereof;
(b) determine that the said local area committee shall consist of seven members;
(c) appoint the members of the said local area committee as mentioned in Schedule 2 hereof for a maximum period of five years.

A. A. VENTER,
Minister of the Budget and Local Government.

SCHEDULE 1

Description of the area of the Vaaloewer Local Area Committee

Vaaloewer Township in its entirety, vide General Plan A 1856/72.

SCHEDULE 2

Members of the Vaaloewer Local Area Committee

Mr. D. A. Smit.
Mr. M. G. Tulp.
Mr. J. E. S. van Zyl.
Mr. P. M. van Noorden.
Mr. J. W. Vosloo.
Mr. H. J. van der Walt.
Mr. S. J. Strydom.
Delegation debate

Anyone who arranges transfer of credit agreements or leases from cash-strapped individuals to third parties — a procedure known as delegation — may lay himself open to criminal prosecution. Last week a company operating under the name of Unitrade, which has been allowing third parties to use or take possession of vehicles without written permission from banks, was found guilty on 29 of 40 counts of theft.

The vehicles were financed by Stanbic (five), Santambank (9) and Wesbank (26) and technically belong to these institutions until the last payment is made.

Unitrade, registered as GM Sheppard Properties CC, was fined R1 000 on each count, while sole representative Gavin Sheppard was fined R2 000 on each — a total of R87 000.

The decision could influence the Harmful Business Practices Committee which is investigating delegation (Economy April 6).

At least one operator, Execu-Lease, as well as the Association of General Banks and representatives of several banks put their views to the committee last week.

Execu-Lease attorney Kevin van Huysteen admits there are problems in the sector but argues his client offers consumers a valuable service, and suggests banks should compromise on the issue and work with certain legitimate operators.

Stanbic MD Gutch Vickers rejects this idea. “We see no need for the service. Vehicle buyers wanting to rid themselves of payment obligations can find third parties the same way operators do — in the classifieds — and save the substantial fees charged by the middleman.” However, he does not believe that drastic step may not be necessary. He says banks are willing to make concessions, if circumstances warrant, to allow borrowers to meet their obligations.

Wesbank’s Robin Shales agrees there is no need for independent operators because banks will organise a delegation if the vehicle buyer brings in a third party. “There is also the question of sales tax, which must be paid by the registered vendor (the bank).”

Santambank’s Piet van der Grijp says there could be room for a middleman if correct procedures are followed — notification of the bank is essential so creditworthiness of the third party can be checked. “The problem arising from this is that many third parties do not have good credit ratings, so about three-quarters of people are rejected.” Middlemen could be asked to guarantee payments for clients who do not meet bank specifications, but that would mean closely monitoring creditworthiness of the operators, and putting a limit on the amount of business they can do. Since they work with a number of financial institutions, this would be difficult.

Though banks admit there are some legitimate operators, they insist a more extensive legal framework is needed. Van der Grijp says “We’ve tried informing the consumer through advertising and information campaigns, emphasising the illegality of unsanctioned transfers, but the situation is not getting better. If the committee rules against this kind of business, it will be easier to bring charges.”

Banks see the Unitrade decision as a step in the right direction. But will legislation stop this kind of business? It could be argued that as long as there is a demand for the service, someone will find a way to supply it. The attraction of middlemen to third parties is that their credit standards are lower which makes it easier to conclude a deal.

And buyers are often unaware that banks are prepared to be flexible and fear that if their cars are repossessed they will be left paying the difference between amount outstanding and the sum received in auction.

Detmar Schwachenberg
Business Times Report

CHANGES in the Maintenance of Competition Act have given the Competition Board sharper teeth. Competition Board chief Pierre Brooks says that until July 4 the onus was on the board to prove that a proposed merger or takeover was not in the public interest.

The latest change puts the onus of proof on the parties wishing to merge or take over.

Dr Brooks says "We have been fighting with one hand behind our back. Now things are far more equal."

Dr Brooks says changing the legislation does not amount to closing the stable door after the horse has bolted.

"We are empowered to look at past transactions and if we find them against the public interest, we can require the parties to undo them (243)." "We don't want to start a lot of uncertainty, but where there are cases of abuse we won't hesitate to act."
KENNISGEWING 737 VAN 1990

DEPARTEMENT VAN POST- EN TELEKOMMUNIKASIEWESE

WYSIGING VAN DIE TARIEFLYS VIR TELEKOMMUNIKASIEDIENSTE

Hiermee word ingevalge artikel 2B (3A) van die Postwet, 1958 (Wet No 44 van 1958), bekendgemaak dat die Postmeester-generaal, handelende kragtens artikel 2B (1) (e) van genoemde Wet, bepaal het dat die gelde, tariewe of koste uiteengesit in die onderstaande Bylae ten opsie van die betrokke dienste geëis of ontvang moet word.

BYLAE

1.0 In hierdie Bylae beteken die uitdrukking, "die Tarieflys" die Tarieflys vir Telekommunikasiedienste afgekondig by Goewermentskennisgewing No 1192 van 1 Julie 1977, soos gewysig

2.0 Die Tarieflys word hierby soos volg verder gewysig

\[ Vervang \] die bestaande item 34.3 deur die volgende:

<table>
<thead>
<tr>
<th>No</th>
<th>Dien</th>
<th>Koste</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;34 3</td>
<td>DATEL- EN FAKSIMILEOPROEPE DEUR 'N OPERATEUR TOT STAND GEBRING</td>
<td>Die oproepkoste voorgeskryf by item 34 1 plus 'n heffing gelykstaande aan die koste vir 'n oproepduur van een minuut</td>
</tr>
<tr>
<td>34 3 1</td>
<td>Oproep wat deur 'n operator verbond word omdat direkte skakelgerei nie vir die oproeper beskikbaar is neer</td>
<td>Die oproepkoste voorgeskryf by item 34 1 plus 'n heffing gelykstaande aan die koste vir 'n oproepduur van een minuut</td>
</tr>
<tr>
<td>34 3 2</td>
<td>Oproep wat deur 'n operator verbond word in gevalle waar direkte skakelgerei tot die oproeper se beskikking is</td>
<td>Die oproepkoste voorgeskryf by item 34 1 plus 'n heffing gelykstaande aan die koste vir 'n oproepduur van een minuut</td>
</tr>
</tbody>
</table>

SCHEDULE

1.0 In this Schedule the expression "the Tariff" means the Tariff for Telecommunication Services promulgated under Government Notice 1192 of 1 July 1977, as amended.

2.0 The Tariff is hereby further amended as follows:

\[ Substitute \] the following for the existing item 34.3:

<table>
<thead>
<tr>
<th>No</th>
<th>Service</th>
<th>Charge</th>
</tr>
</thead>
<tbody>
<tr>
<td>&quot;34 3</td>
<td>DATEL AND FAXIMILE CALLS ESTABLISHED THROUGH AN OPERATOR</td>
<td>The call charge presribed at item 34 1 plus a surcharge equal to the charge for a call duration of one minute</td>
</tr>
<tr>
<td>34 3 1</td>
<td>Calls that are connected by an operator because direct dialing facilities are not available to the caller</td>
<td>The call charge presribed at item 34 1 plus a surcharge equal to the charge for a call duration of three minutes</td>
</tr>
<tr>
<td>34 3 2</td>
<td>Calls that are connected by an operator in instances where direct dialing facilities are available to the caller</td>
<td></td>
</tr>
</tbody>
</table>

(7 September 1990)

KENNISGEWING 738 VAN 1990

DEPARTEMENT VAN HANDEL EN NYWERHEID

WET OP SKADELIKE SAKEPRAKYTE, 1988

Ingevolge die bepalings van artikel 10 (3) van die Wet op Skadelike Sakepraktyke, 1988 (Wet No. 71 van 1988), publiek ek, Kent Diederench Skelton Durr, Minister van Handel en Nywerheid en Toerisme, hiermee die verslag van die Sakepraktykkoemitee oor die uitslag van die onderzoek deur die Komitee gedaan kragtens Algemene Kennisgewing 87 van 1990 soos gepubliseer in Staatskoerant No. 12280, gedateer 9 Februarie 1990, soos in die Bylae uiteengesit

K. D. S. DURR,
Minister van Handel en Nywerheid en Toerisme.

NOTICE 738 OF 1990

DEPARTEMENT VAN NYWERHEID

HARMFUL BUSINESS PRACTICES ACT, 1988

In terms of section 10 (3) of the Harmful Business Practices Act, 1988 (Act No 71 of 1988), I, Kent Diederench Skelton Durr, Minister of Trade and Industry and Tourism, do hereby publish the report of the Business Practices Committee on the result of an investigation made by the Committee pursuant to General Notice 87 as published in Government Gazette No. 12280 dated 9 February 1990, as set out in the Schedule.

K. D. S. DURR,
Minister of Trade and Industry and Tourism.
SCHEDULE  

BUSINESS PRACTICES COMMITTEE 

REPORT IN TERMS OF SECTION 10 (1) OF THE HARMFUL BUSINESS PRACTICES ACT, 1988 
(Act No. 71 of 1988) 

REPORT No. 10 

EAGLE FINANCE ASSOCIATION 

CONTENTS 

1. Introduction 
2. The parties 
3. The business practice 
4. Representations by the parties 
5. Evaluation of the practice 
6. Conclusion and recommendations 

1. Introduction 
During 1989 the Business Practices Committee received a complaint from attorneys representing Mr J J Cilliers of Keetmanshoop. The complaint related to an alleged business practice carried on by Eagle Finance Association as financial brokers. Several complaints similar to that of Mr Cilliers have been brought to the attention of the committee by the Department of Trade and Industry. The South African Police also submitted a complaint to the committee and is at present investigating several charges of alleged fraud against the parties. 

With reference to these complaints the Business Practices Committee launched an investigation in terms of section 8 (1) (a) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988), “the Act”. Notice of the investigation was given in terms of section 8 (4) of the Act by way of General Notice 87 of 1990 published in the Government Gazette No. 12280 of 9 February 1990. The South African Police as well as Mr J. N. W de Kock of the firm Theron Du Toit assisted the committee in their investigation. 

The notice invited interested parties to make representations concerning the investigation to the committee within 14 days of publication. Verbal representations were then made by Mr L J J van Wyk, Mrs N van Wyk and Mr C P Hattingh. Written representations were received from Mr J. S. van der Walt. 

The Minister of Trade and Industry and Tourism has by way of General Notice 106 of 1990, published in the Government Gazette of 16 February 1990, in terms of section 8 (5) of the Act, issued a temporary order restraining the parties from practising any business whereby the making available of financing or the finding of situations of situations for workseekers forms part. 

The committee hereby reports in terms of section 10 (1) of the Act. 

2. The parties 

The parties are Mr L J J van Wyk, Mrs N van Wyk, Messrs D P. Ferreira, C P. Hattingh, J N Senekal, D A van Schalkwyk and C P van der Post. The parties traded under various names (See Notice 87 of 1990 published in Government Gazette No. 12280 of 9 February 1990). The business names that were used are not names of legal persons. 

The parties are not of the same degree or in the same manner concerned with the different aspects of the practices and have diverse administrative and organisational roles. However the parties acted as a team under the leadership of Mr L. J. J. van Wyk. Reference herein will consequently be made to “the organization” to make it clear that not every individual was necessarily involved in all conduct. Where appropriate reference is made to the particular individual concerned.

1. Inleiding. 

Die Sakepraktykkeomitee het na aanleiding van hierdie klages ondersoek ingestel ingevolge artikel 8 (1) (a) van die Wet op Skadelike Sakepraktyke, 1988 (“die Wet”). Kennis van die ondersoek is gegee krag- tens artikel 8 (4) van die Wet by Agencem Kennisgewing 87 van 1990 gepubliseer in Staatskoerant No. 12280 van 9 Februarie 1990. Die Suid-Afrikaanse Politie asook mnr. J. N. W. de Kock van die firma Theron Du Toit het die komitee in sy ondersoek bygestaan. 


Die Minister van Handel en Nwywerheid en Toerisme, het by Agencem Kennisgewing 106 van 1990, gepubliseer in die Staatskoerant van 16 Februarie 1990, krag- tens artikel 8 (5) van die Wet ‘n tydelike bevel uitgereik wat die partye verhinder het om enige sakepraktyk toe te pas waarby die beskikbaarstelling van finansiering of van betrokkenhede vir werksoekers deel is. 

Die komitee doen hiermee ingevolge artikel 10 (1) van die Wet verslag. 

2. Die partye 


Die partye is nie almal in dieselfde mate of op dies- e same telske verskilende aspekte van dié prak- tyke betrokke nie en bekleed uiteenlopende administratiewe en organisatoriese rolle. Die partye het egter as ‘n span onder die leiding van mnr. L. J. J van Wyk opgetree. Daar sal gevolglik verder hierdie verwys word na “die organisasie” ten einde duidelik te stel dat nie elkeen van die partye noodwendig individueel by alle optrede betrokke was nie. Waar gepas word na die betrokke individu verwys.
3. Die sakepraktyk

Die beweerde praktyke wat die onderwerp van die onderzoek gevorm het behels enersydys die besiskbaarstelling van finansiëring en waarborg en ander-sydys die besiskbaarstelling van betrekings. Die onderskeie praktyke sal afsonderlik behandel word.

3.1 Omvang van bedrywighede

Die organisasie het oor die tydperk vanaf Maart 1982 tot 6 September 1989 onder verskeie name handel gedryf. Gedurende hierdie tydperk was die hoofbankrekening by verskeie banke naamlik Nedbank, Volkskas, Trust Bank, Distriksbank, Die Bank van Lissabon en vir die jongste tydperk vanaf 28 Junie 1988 tot September 1989 onder die naam Eagle Finance by Swabank, Parow.

Oor die tydperk 28 Junie 1988 tot 6 September 1989 is R930 000 in die Swabank gedeponeer.

Aangesien kwantitatsies blykbaar slegs op versoek uitgeroek word en aangesien geen kasboeke vir die jongste tydperk beskikbaar was nie, kan die presiese aard van die deposito's nie bepaal word nie. Op 23 Augustus 1988 was 'n bedrag van R142 000 in die rekening gedeponeer wat skynbaar 'n lening is. Die grootste gedeelte van die reë van die deposito's verteenwoordig waarskynlik ledegelede en waarborgfonds wat vanaf kliente ontvang is.

Die opgesomde posisie van die bankrekening by Swabank oor die periode 28 Junie 1988 tot 6 September 1989 is soos volg.

Rekening geopen met balans van..... R 20 238
Plus Depositos..... R929 734

R949 972

Minus Berekende uitsetings..... 841 281

Saldo 6 September 1989.......... R108 691

Dit was ook die gebruik van die organisasie om lidmaatskapelde te laat oorplas na Volkskas Parow of Eerste Nasionale Bank Parow "vir hangende poste" mnr. L. J. J. van Wyk. Volgens bevestiging wat vanaf die twee bankakte verkry is, is R419 300 oor die tydperk vanaf ongeveer November 1987 tot Oktober 1989 op hierdie wyse deur mnr. Van Wyk ontvang. Dit is nie moontlik om vas te stel of hierdie kontantfonds in die bankrekening van die organisasie inbetaal is nie en indem nie, wat van die fondse geword het nie. Uit die beskikbare rekords wil dit voorkom asof dit nie in die betrokke rekening gedeponeer is nie.

3.2 Finansiering

Die finansieringspraktyk kom in kort daarop neer dat die organisasie beide in die dappers en in tydskrifte soos die Landbouweekblad en Keur 'n finansiële diens adverteer wat die beskikbaarheid van finansiëring en van waarborg te kenne gee. Gelde word van aansoekers gevorder maar geen of geen wesentlike teenprestatie word gewel nie. Verskillende tipes finansiëring-skemas is aangedryf.

Wat betref die finansieringspraktyk is die klag van mnr. J. J. Cilliers van Keetmanshoop kenmerkend van ander klaags oor die organisasie. Die klaw het Eagle Finance Association geskakel in reaksie op 'n advertensie wat in die Landbouweekblad verskyn het. Hy het mnr. Van Wyk meegedeel dat hy R400 000 wou leen

3. The business practice

The alleged business practices forming the subject of the investigation embrace on the one hand the making available of financing and guarantees and on the other hand the making available of employment situations. The respective practices will be dealt with separately.

3.1 Extent of the business

The organization has for the period from March 1982 until 6 September 1989 traded under various names. During this period the main bank account was kept with a number of banks namely Nedbank, Volkskas, Trust Bank, District Bank, The Bank of Lisbon and for the latest period from 28 June 1988 up to September 1989 under the name Eagle Finance with Swabank in Parow.

During the period 28 June up to 6 September 1989 R30 000 was deposited into the Swabank account.

Due to the fact that receipts are apparently only issued on request and no cash books for the last period were available, the exact nature of the deposits cannot be determined. On 23 August 1988 an amount of R142 000, apparently a loan, was deposited into this account. The larger portion of the balance of the deposits probably represents membership fees and guarantee fees received from clients.

The summarized status of the account with Swabank for the period 28 June 1988 until 6 September 1989 is as follows:

Account opened with balance of...... R 20 238
Plus Deposits..... R929 734

R949 972

Minus Calculated payments..... 841 281

Saldo 6 September 1989.......... R108 691

It was the custom of the organization to transfer membership fees to Volkskas or First National Bank in Parow "vir hangende poste" Mr L J J. van Wyk. According to confirmation received from both banks R419 300 was thus received by Mr Van Wyk from November 1987 up to October 1989. It is impossible to determine whether these cash funds were paid into the organization's bank account and, if not, what became thereof. According to available records it seems that it has not been deposited into the account concerned.

3.2 Financing

The financing practice in brief involves advertising by the organization, in both papers and magazines such as Landbouweekblad and Keur of a financial service which makes known the availability of financing and guarantees. Moneys are collected from applicants, but no or substantially no counter performance is rendered. Various types of financing schemes are offered.

As far as the financing practice is concerned the complaint of Mr J. J. Cilliers from Keetmanshoop is characteristic of other complaints concerning the organization. The complainant phoned Eagle Finance Association in reaction to an advertisement that appeared in the Landbouweekblad. On communicating to Mr Van Wyk...
— Die lid erken dat die organisasie nie die sukses van die aansoek kan waarborg nie maar dat hulle hul beste sal lêer in die uitvoering van dié aansoek.

Nadat die ledegelede ontvang is stel die "ekonomie" van dié organisasie 'n verslag oor die finansiële positie van dié lid en/of die uitvoerbaarheid van dié projek waarvoor die fondse benodig word, op grond van die inligting wat vanaf die lid verkry word

'n Afskrif van bogenoemde verslag word onder 'n standaard dekkende brief aan dié lid gestuur vir kommentaar.

Afskrifte van die verslag en standaard aansoekvorms vir leenings word dan onder 'n standaard dekkende brief aan nagenoeg elke finansiële instellings gestuur, byvoorbeeld aan verskillende takke van bankê. In reaksie op hierdie briefe reageer die bankê deur teens of negatief. Die lid word dan in kennis gestel dat die aansoek nie suksesvol was nie.

3.2.2 Die Individuele Huisskema Konsep

Die voornemende lid voltooi en onderteken 'n aansoekvorm om lidmaatskap.

Nadat die voornemende lid die lidmaatskapvoorwaardes van R500 betaal het word 'n genommerde lidmaatskapkaart uitgereik. Die lid is dan geregtig om op die omskeeu voordele van lidmaatskap.

Die procedures wat deur die organisasie gevolg word vir verkyring van 'n lening is dieselfde as onder die Boere en Sakemanne Skema behalwe dat daar gewoonlik nie 'n uitvoerbaarheidsstudie/verslag opgestel word nie. Op enkele uitsonderings na word hierdie aansoeke ook deur die finansiële instellings afgekeur.

3.3 Waarborg

Die verskaffing van waarborg vorm 'n belangrike deel van die organisasie se bedrywighede. Die organisasie is deur talle lede van die publiek genader om die uitreiking van 'n waarborg om deur die nakoming deur die aansoeker van 'n bepaalde verplichting deur die aansoeker in 'n derde party te versier. Byvoorbeeld vir die betaling van 'n skuld, die aankoop van vaste eiendomskapiteel-toerusting of die vorming van werk soos onder 'n bou- of ander tipe vervaardigingskontrakt.

Waarborg is dan uitgereik in die naam van Guarantee Exchange International. Waarborg ten bedrae van sowel as R1 000 000 elk is uitgereik. Die organisasie het risikofees wat oesynklik as 'n persentasie van 10% van die waarborgde bedrag bereken is. Bedrae tot sowel as R15 000 en R18 500 is ten opsigte van verskillende waarborgtransaksies ontvang.

Indien die waarborg bindend was sou dat die organisasie op risiko stel van etlike miljoene rand. Aangesien Guarantee Exchange International geen regspersoon is nie sou enige belanghebende wat die waarborg wou oproep ernstige probleme ondervind om sy belange af te dwing. Die waarborg was beide regtens en finansiële nuteloos aangesien dit nóg regtens agtergedag sou kon word nóg deur enige finansiële basis gerugsteun is. Die waarborg is dan ook in talle gevalle bevrugtieken of verworp.

3.4 Werkverskaffing

Adverteerders wat in die pers verskyn het die die andag gevestig op die adverteerder se vermoe om werksoeker in diens te plaas. Alhoewel gelde gevorder is van werksoekers byk dit dat min werksoekers, inderdaad, suksesvol in diens geplaas is. Die Departement van Mannekrag het op 5 April 1990 kennis gegee aan — Die member acknowledges that while the organization is not able to guarantee the success of the application, it will do its utmost to ensure the success of the application.

After receipt of membership fees the "economist" of the organization prepares a report concerning the financial status of the member and/or the feasibility of the project for which the funds are needed, based on the information received from the member.

A copy of the above-mentioned report, under a standard covering letter is sent to the member for comment.

Copies of the report as well as standard application for loan forms are then sent to various banks, for example different branches of the same bank, under a standard covering letter. The reaction of the banks to these letters is uniformly negative. The member is then informed that his application was unsuccessful.

3.2.2 The Individual House Owner Concept

The prospective member completes and signs an application for membership.

After the prospective member has paid a membership fee of R, a numbered membership card is issued to him. The member is then entitled to the stipulated benefits of the membership.

The organization follows the same procedure for obtaining a loan as in the Farmers and Businessmen Scheme, except that usually no feasibility report is composed. With solitary exceptions these applications are also refused by the financial institutions.

3.3 Guarantees

The providing of guarantees form an important part of the organization's business. The organization has been approached by numerous members of the public for the issuing of a guarantee to serve as security for the fulfillment of an obligation of the applicant towards a third party, for example the payment of a debt, the purchase of fixed property or capital assets or the execution of work, such as in terms of a building—or other manufacturing contract. Guarantees were then issued in the name of Guarantee Exchange International. Guarantees in amounts up to R1 000 000 each were issued. The organization imposes risk fees which is calculated at 10% of the guaranteed amount. Amounts up to R15 000 and R38 500 have been received in connection with these transactions.

If these guarantees were binding the organization would be at risk for several million rand. As Guarantee Exchange International is no juristic person (legal person), anyone who would want to call up the guarantee would experience serious problems in enforcing his interest. The guarantees were both legally and financially useless, as it could neither be legally enforced nor could it be supported by any financial basis. These guarantees where on numerous occasions questioned or rejected.

3.4 Employment service

Advertisements in the media focussed the attention on the advertiser's ability to place workers in a certain service. Although fees were gathered from workers it seems that very few, if any, successfully received employment. On 5 April 1990 the Department
4. Voorstellingen deur die partye

Die organisaasie gee voor dat dit onder ander die volgende dienste lever, naamlik:

1. Die reël van afdal op die aankoop van motors, trokke, trekkers, onder plaasimplemente en meubels.
2. Die opstel van begrotings deur deskundiges sodat klante (ledes) op 'n wetenskaplike basis kan boer.
3. Die opstel van inkomstabelasting opgawes en balansstate.
4. Die bepalings van die lewensvabaarheid van projekte deur finansiële deskundiges.
5. Die reël van uitvoerbermenging deur deskundiges, insluitend die aankoop en bemarking van onbeheerde ooste.
6. Die reël van verbande.
7. Die verskaffing van waarborges.
8. Die belegging van fondse teen die hoogste maandlike koers en die beste termyn.
10. Die verskaffing van kantoornakomodiasie en administratiewe dienste.
11. Kosteloose tegnieke en regverteenwoordiging deur aangestelde procurateurs ten opsigte van verkeersoorstredings met die uitsondering van parkeerkartjies.
12. Onderhandelings namens lede met die aankoop van motors, karavane, implante, ens. teen verlaagde prys.
13. Gratis verwerking van aanseke om finansiering onder R100 000. (Heffingsfooi slegs betaalbaar op aanseke vanaf R100 000 teen 5% op die eerste R100 000 en 2,5% op elke R100 000 daarna.) Daar word te kene gegee dat heffingsfooi betaalbaar is na registrasie.
14. Die reël van huurkope, bruikuur en terugverhuring teen die laaste maandlike koers.
15. Die invoering van uitsaande skulde.
16. Professionele advies deur die besighede adviesafdeling ten opsigte van lede se sake-probleme.
17. Verlaagde likwideratustarieue ingeval van insolvense en bywoning van krediteursvergaderings.
18. Algemene verskommeling en boedelbeplanning.
19. Die reël van padvervoerpermite.
20. Die opstelling van ekonomiese ontledings.
22. Die bemarking van lewende hawe.
23. Die verkoop van kunswere plaaslik en oorsee en die hou van uitstallings.
24. Die verskaffing van insleepdienste.

of Manpower informed Mr J S. van der Walt, who managed the business "Top Hands" as a private employment office, that to continue the business would result in a prosecution in terms of the Guidance and Placement Act, 1981 (Act No 62 of 1981). As this business has ceased the committee will not comment on it any further.

4. Representations by the parties

The organization purports to provide inter alia the following services.

1. The arranging of discounts on the purchase of motorcars, trucks, tractors, other farming appliances and furniture.
2. The compilation of budgets by experts so that clients (members) are able to farm on a scientific basis.
3. The compilation of income tax statements and balance sheets.
4. Feasibility tests for projects by financial experts.
5. The arranging of export marketing by experts, as well as the purchase and marketing of uncontrolled crops.
6. Arranging of mortgages.
7. The providing of guarantees.
8. The investing of funds at the highest rates and the best terms.
9. The purchase or marketing of minerals locally or overseas.
10. The providing of office accommodation and administrative services.
11. Free technical and legal assistance by appointed attorneys in traffic offences, with the exception of parking tickets.
12. Negotiations on behalf of members in connection with the purchase of motorcars, caravans, implements etc. at lower prices.
13. Free processing of applications for financing below R100 000. (Levies are only payable on applications for amounts in excess of R100 000 at a rate of 5% on the first R100 000 and 2.5% on each subsequent R100 000.) Levies are indicated to be payable after registration.
14. The arranging of hire-purchase agreements, lease agreements and lease-back agreements at the lowest possible rates.
15. The recovery of debts.
16. Professional advice by the business-advice department in connection with business problems of members.
17. Reduced liquidation fees in case of insolvency and attendance of meetings of creditors.
18. General insurance and estate planning.
19. The arranging of transportation permits.
20. The compilation of economic analyses.
22. The marketing of livestock.
23. The selling of works of art locally and overseas and the arranging of exhibitions.
24. The providing of tow-in services.
25. Die levering van motorhersteldienste teen gunstige tariewe in gevolge ooreenkomste met deelnemende motorhuwens.

26. Die reël van plaaslike en oorsese toere teen 'n verminderde tarief

27. Die beskikbaarstelling van vakasieleenings vir motorherstelwerk by wysie van kredietkoepons tot 'n bedrag van R200.

28. Die betaling van die vervangingskoste van beskadigde motorruitte.

29. Die konsolidering van skulde.

Dit is duidelik dat die organisasie daarna gestreef het om voornemende klante te laat glo dat die organisasie bona fide handel dryf en die vermoë het om werlike lenings of waarborgte te verskaf. Aansoeke is gereeld ingehou dat die betrokke lening reeds goedgekeur of gereserveer is en dat uitbetalings daarvan bloot deur die formaliteit van die papierwerk vertraag word. Die regsverhouding wat hierna tot stand gebring is, is dan aangewend om die organisasie te vrywaar van die na-koming van enige wenselike verpligtinge en om enkele terugbetaling van geldte te kan weersaai. Die inhou of hierdie regsverhouding het die verstandhouding waarop klante met die organisasie sake gedoen het ondubbelzinnig weerspreek.

5. Evaluasie van die sakepraktyk

Alhoewel die kontaktonee verhouding met elke individueel klient die organisasie oesynklyn geregeld maak om die handelswyse te volg wat hierin beskryf word is dit duidelik dat inmiddels deelnemers vooraf kennis sou dra van die feit dat aansoeke om finansiering deurgaans onskesvol is nie, bedoel sake met die organisasie sou doon nie.

Die voltooiing van dokumentasie wat die regsverhouding tussen die klant en die organisasie sou beliggend was niks meer as 'n geoorloofde paperkastery nie. Die pseudo-economiese analyse en -bewreetstudies was bloot vertoon en die kwansuee briefwisseling met bankbetuigens 'n oeverlinderend wat daarop gegrond was om 'n skyn van egtheid aan die organisasie se bedrywighede te verleen. Hierdie briefwisseling het voortgeduur ten spye daarvan dat finansiële instellings herhaaldelik te kenne geege het dat hulle die organisasie neerken nie en direk met die publiek skakel. Die komitee aanvaar dat die organisasie daarvan bewus moes gewees het dat hulle al sulkie aansoeke wat na finansiële instellings verwys is geweier sou word. Dit is slegs die organisasie wat voordeel getrek het uit transaksies met klante.

5.1 Skadelike sakepraktyk

Artikel 1 (x) (b) van die Wet verwys na "enige skema, praktyk of handelsmethode, met inbegrip van enige methode van bemarking of distribusie." Die komitee is tevreden dat die sakepraktyk beskryf in afdeeling 4 van hierdie verslag 'n sakepraktyk daartel vir die doeleindes van artikel 1 (x) (b).

Artikel 1 (xi) van die Wet bepaal dat 'n skadelike sakepraktyk daar gestel word deur enige sakepraktyk wat, regstreek of onregstreek, die uitwerking het of waarskynlik sal hé om—

(a) die verhouding tussen besigheids en verbrukers te skakel;
(b) enige verbruiker onredelik te benadeel; en
c) enige verbruiker te mislei

25. The providing of motor repair services at favourable rates in terms of agreements with participating garages.

26. Arrangements for local and overseas travel at a reduced rate.

27. The making available of holiday-loans for motor repair work by way of credit-coupons to the amount of R200.

28. The payment of replacement costs for damaged windscreen.

29. The consolidation of debts.

It is clear that the organization endeavoured to lead prospective clients to believe that they are doing business bona fide and that they have the ability to actually provide loans and guarantees. Applicants were regularly informed that the loan in question has been approved or has been reserved and that delay of payment is due only to formalities in connection with the paperwork. The legal relationship that came into being was then applied to indemnify the organization from performing any substantial obligation and to enable the organization to oppose claims for the repayment of fees. The contents of this legal relationship unequivocally contradict the understanding on which the clients did business with the organization.

5. Evaluation of the business practice

Although the contractual relationship with every individual client prima facie entitled the organization to follow the procedure as set out above, it is clear that if the clients had knowledge of the fact that applications for financing uniformly fail, none would have done business with the organization.

The completion of documentation which embodies the legal relationship between the client and the organization was nothing more than a orchestrated farce. The pseudo-economic analyses and pseudo-feasibility tests were mere display, and the ostensible correspondence with managers of banks pure make-believe designed to import to the business of the organization an appearance of authenticity. This correspondence continued in spite of the fact that the financial institutions frequently indicated that they did not recognize the organization and negotiate directly with the public. The committee accepts that the organization must have been aware that all such applications that were referred to financial institutions would be refused. It is only the organization which benefited from transactions with clients.

5.1 Harmful business practice

Section 1 (m) (b) of the Act refers to "any scheme, practice or method of trading, including any method of marketing or distribution". The committee is satisfied that the business practice as set out in section 4 of this report establishes a business practice in terms of section 1 (m) (b) of the Act.

Section 1 (xi) of the Act provides that a harmful business practice is constituted by any business which, directly or indirectly, has or is likely to have the effect of—

(a) harming the relations between businesses and consumers;
(b) unreasonable prejudicing any consumer; or
(c) deceiving any consumer.
The organization's business not only had the undisputed potential to deceive the public on a considerable scale, but many members of the public were in fact deceived to do business with the organization to their detriment. The committee is satisfied that the organization's business constitutes a harmful business practice.

5.2 The public interest

In view of the finding that the conduct of the parties constitute a harmful business practice, the committee must consider if this harmful business practice is justified in the public interest.

The committee is convinced that this method of business can not be justified in the public interest. A prohibition on the business practice as carried on by the organization can not be seen as an unnecessary impingement on the freedom of entrepreneurs to imaginatively participate in the economy. Consumers suffered considerable damage due to the calculated conduct of the organization.

6. Conclusion and recommendations

It is therefore recommended that the business practice be declared unlawful by the Minister in terms of section 12 (1) (b) of the Act and that the parties be directed in terms of section 12 (1) (c) to refrain from the application or continuation of any business practice of which the making available of financing (whether by way of the provision, or procurement of a loan or guarantee to or for any person) forms part, and to cease to have any interest in a business or type of business which applies a similar harmful business practice or to derive any income therefrom and to refrain from at any time obtaining any interest in or deriving any income from a business or type of business applying a similar harmful business practice.

(7 September 1990)
(A) Republic Helicopters (Edms.) Bpk., Posbus 18115, Randlughawe, 1419 (B) Republic Helicopters (Edms.) Bpk. (C) Handelsduidensiensese W484. Onder "Lugvaartue wat gebruik gaan word" voeg by: "Bell 206-reeks, op voorwaarde dat lugvaartuig ZS-gegeregister en C-gekategoriseer is."

(A) Republic Helicopters (Edms.) Bpk., Posbus 18115, Randlughawe, 1419 (B) Republic Helicopters (Edms.) Bpk. (C) Handelsduidensiensese W484. Onder "Lugvaaruit wat gebruik gaan word" voeg by: "Robinson-reeks, op voorwaarde dat lugvaartuig ZS-gegeregister en C-gekategoriseer is."

(A) Stellar (Edms.) Bpk., Posbus 2546, Kaapstad, 8000. (B) Stellar (Edms.) Bpk. (C) Handelsduidensiensese W344. Onder "Lugvaartue wat gebruik gaan word" voeg by: "Bell 206-reeks, op voorwaarde dat lugvaartuig ZS-gegeregister en C-gekategoriseer is."

(A) Stellar (Edms.) Bpk., Posbus 2546, Kaapstad, 8000. (B) Stellar (Edms.) Bpk. (C) Handelsduidensiensese W344. Onder "Lugvaartue wat gebruik gaan word" voeg by: Robinson-reeks, op voorwaarde dat lugvaartuig ZS-gegeregister en C-gekategoriseer is."

(A) Stellar (Edms.) Bpk., Posbus 2546, Kaapstad, 8000. (B) Stellar (Edms.) Bpk. (C) Nie-vasteselde-lugvervoerduidensienese N345. Onder "Lugvaartue wat gebruik gaan do" voeg by: "Bell 206-reeks, op voorwaarde dat lugvaartuig ZS-gegeregister en A-gekategoriseer is."

(A) Stellar (Edms.) Bpk., Posbus 2546, Kaapstad, 8000. (B) Stellar (Edms.) Bpk. (C) Nie-vasteselde-lugvervoerduidensienese N345. Onder "Lugvaartue wat gebruik gaan word" voeg by: "Robinson-reeks, op voorwaarde dat lugvaartuig ZS-gegeregister en A-gekategoriseer is."

(14 September 1990)

KENNISGEWING 776 VAN 1990

DEPARTEMENT VAN HANDEL EN NYWERHEID

WET OP SKADELIKE SAKEPRAKTYKE, 1988

Ek, Kent Diedenhof Skelton Durr, Minister van Handel en Nywerheid en Toerisme, na oorweging van 'n verslag dui die Sakepraktekekomitee met betrekking tot 'n onderzoek waarvan in Kennisgewing 87 van 1990 in Staatskoerant No. 12280 van 9 Februarie 1990 kennis gegaan is, welke verslag gepubliseer is in Kennisgewing 738 in Staatskoerant No. 12724 van 7 September 1990, is van oordeel dat 'n skadelike sakepraktiek bestaan wat nie in die openbare belang gereguverd is nie, en een hiermee my bevoegdheid uit kragtens artikel 12 (1) (b) en (c) van die Wet op Skadelike Sakeprakteke, 1988 (Wet No. 71 van 1988), soos in die Bylae uiteengesit.

K. D. S. DURR,
Minister van Handel en Nywerheid en Toerisme

BYLAE

In hierdie kennisgewing, tensy uit die samehang anders blyk, beteken—


(A) Republic Helicopters (Pty) Ltd, P.O. Box 18115, Rand Airport, 1419 (B) Republic Helicopters (Pty) Ltd (C) Aerial Work Air Service Licence W848. Under "Aircraft to be used" add "Bell 206 Series, provided such aircraft is ZS-registered and categorised C ."

(A) Republic Helicopters (Pty) Ltd, P.O. Box 18115, Rand Airport, 1419 (B) Republic Helicopters (Pty) Ltd (C) Aerial Work Air Service Licence W848. Under "Aircraft to be used" add: "Robinson Series, provided such aircraft is ZS-registered and categorised C ."

(A) Stellar (Pty) Ltd, P.O. Box 2546, Cape Town, 8000 (B) Stellar (Pty) Ltd (C) Aerial Work Air Service Licence W344. Under "Aircraft to be used" add: "Bell 206 Series, provided such aircraft is ZS-registered and categorised C ."

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(A) Stellar (Pty) Ltd, P.O. Box 2546, Cape Town, 8000 (B) Stellar (Pty) Ltd (C) Non-scheduled Air Transport Service Licence N345. Under "Aircraft to be used" add: "Bell 206 Series, provided such aircraft is ZS-registered and categorised A ."

(A) Stellar (Pty) Ltd, P.O. Box 2546, Cape Town, 8000. (B) Stellar (Pty) Ltd (C) Non-scheduled Air Transport Service Licence N345. Under "Aircraft to be used" add: "Robinson Series, provided such aircraft is ZS-registered and categorised A ."

(14 September 1990)

NOTICE 776 OF 1990

DEPARTMENT OF TRADE AND INDUSTRY

HARMFUL BUSINESS PRACTICES ACT, 1988

I, Kent Diedenhof Skelton Durr, Minister of Trade and Industry and Tourism, after having considered a report by the Business Practices Committee in relation to an investigation of which notice was given in Notice 87 published in Government Gazette No. 12280 of September 9, 1990, which report was published in Notice 738 in Government Gazette No. 12724 of 7 September 1990, and being of the opinion that a harmful business practice exists which is not justified in the public interest, do hereby exercise my powers in terms of section 12 (1) (b) and (c) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988), as set out in the Schedule.

K. D. S. DURR,
Minister of Trade and Industry and Tourism

SCHEDULE

In this notice, unless the context indicates otherwise—

"harmful business practice" means any business practice of which the making available of financing to any consumer (including the provision, or procurement of a loan or guarantee to or for any person) forms part, excluding the granting of an extension of time to a debtor for the payment of any debt, to the extent which the parties are involved therewith
GOVERNMENT GAZETTE, 14 SEPTEMBER 1990
No 12740

RAADSKENNISGEWING

RAADSKENNISGEWING 64 VAN 1990

WYSIGING VAN INDELING VAN PLAASLIKE OWERHEDE VOLGENS GRADES INGEVOLGE DIE WET OP DIE BESOLDIGING VAN STADSKLERKE, 1984

Ek, Hermanus Hendrik Steyn Venter, Sekretaris van die Raad op die Besoldiging en Diensoordele van Stadsklerke handelende kragtens magtiging deur die gemelde Raad aan my verleen ingevolge artikel 8(2) van die Wet op die Besoldiging van Stadsklerke, 1984 (Wet No 115 van 1984), wysig hierby Bylhe A by Goewer-mentskennisgewing No. R 1153 van 29 Mei 1987 soos volg:

(i) Met ingang van 1 Julie 1990

1. Deur—
   (a) die woord “Franschoek” waar dit in die kolom vir die Kaapprovinsie onder Graad 3 voorkom, te skrap; en
   (b) die woord “Darling” in die kolom vir die Kaapprovinsie onder Graad 4 in te voeg.

(ii) Met ingang van 1 September 1990:

2. Deur die woord “Waterfall” voor die woord “Weenen” in die kolom vir Natal onder Graad 3 in te voeg.

H. H. S. VENTER,
Sekretaris
(14 September 1990)

“skadelike sakepraktyk” enige sakepraktyk waarby die beskikbaarstelling van finansierying (met inbegrip van die verskafting, of die verkryging van 'n lening of waarborg aan of vir enige persoon) deel is, met uitsluiting van die verleen van uitstel aan 'n skuldenaar vir die betaling van enige skuld, vir soverre die partye daarby betrokke is

1. Die skadelike sakepraktyk word hiermee onwettig verklaar

2. Die partye word hiermee gelaas—
   (a) om af te sien van die toepassing van die skadelike sakepraktyk;
   (b) om op te hou om enige belang in 'n besigheid of tipe besigheid te hê wat die skadelike sakepraktyk bedryf, of om enige inkomste daaruit te verkry;
   (c) om te gener tyd die skadelike sakepraktyk te bedryf nie;
   (d) om te gener tyd enige belang in 'n besigheid of tipe besigheid wat die skadelike sakepraktyk bedryf te bekom nie, of om enige inkomste daaruit te verkry nie

3. Hierdie kennisgewing tree in werking op die datum van publikasie hiervan.

(14 September 1990)

BOARD NOTICE

BOARD NOTICE 64 OF 1990

AMENDMENT OF CLASSIFICATION OF LOCAL AUTHORITIES ACCORDING TO GRADES IN TERMS OF THE REMUNERATION OF TOWN CLERKS ACT, 1984

1. Hermanus Hendrik Steyn Venter, Secretary to the Board on Remuneration and Service Benefits of Town Clerks acting herein by virtue of authority granted to me by the said Board in terms of section 8(2) of the Remuneration of Town Clerks Act, 1984 (Act No 115 of 1984), hereby amend Annexure A to Government Notice No R 1153 of 29 May 1987 as follows:

(i) Effective from 1 July 1990.

1 By—
   (a) the deletion of the word “Franschoek” where it appears in the column for the Cape Province under Grade 3; and
   (b) the insertion of the word “Franschoek” in the column for the Cape Province under Grade 4 after the word “Darling”.

(ii) Effective from 1 September 1990.

2. By the insertion of the word “Waterfall” in the column for Natal under Grade 3 before the word “Weenen”.

H. H. S. VENTER,
Secretary.

(14 September 1990)

Hou Suid-Afrika skoon!
Keep South Africa clean!
Bid to outlaw firm’s business activities

THE Business Practices Committee — established in terms of the Harmful Business Practices Act — has recommended the business activities of Eagle Finance Association be declared unlawful, according to a recent report gazetted by Trade and Industry Minister Kent Durr.

The S.A. Police were also investigating charges of alleged fraud against the parties involved in the operation, the report said.

An investigation found that at least R949 992, and a few hundred clients, had been involved in the “financial services” schemes operated by the association, the report said.

Eagle offered various services including the provision of finance and guarantees. Prospective clients would be told loans could be granted on condition that they became members of Eagle Finance Association and paid membership fees of, for instance, R500.

Eagle would promise loans would be made available after payment of the deposit. Clients were usually later told their loan application had been declined, but membership fees were rarely refunded, the report said.

For a 10% fee, Eagle would also offer to provide clients with financial guarantees. Several million rand's worth of such guarantees, which were legally and financially useless, were provided, the report said.

Eagle would advertise in newspapers and magazines. Finance and guarantee services were conducted under the names Equity Finance International, Cosmopolitan and Guarantee Exchange International.

The activities were conducted between March 1982 and September 1988, the report said.

Investigations began after the committee received complaints from the public regarding the activities of Eagle Financial Brokers.

“A prohibition on the business practice as carried on by the organisation cannot be seen as an unnecessary imposition on the freedom of entrepreneurs to imaginatively participate in the economy,” the report said.
Probe into retail outlets' practices

THE Competition Board is investigating the supply and distribution of foodstuffs by retail outlets after complaints by small producers about the dictatorial practices of retailing conglomerates.

The announcement was made in Friday's Government Gazette and the deadline for submissions is December 7.

The investigation, which excludes fruit and vegetable outlets, was undertaken to enable the board to judge complaints about monopolies, restrictive practices and acquisitions.

Competition Board chairman Prof Pierre Brooks said yesterday the investigation aimed at "formalising" the board's knowledge of the structure of the retail industry, the major players and the problems.

Brooks said there had, for example, been a steady stream of complaints from small producers about retail chains dictating the terms of supply of goods and putting one group of products they favoured to the disadvantage of the smaller competitor.

"I'm afraid MD Hugh Herman was unaware of the investigation and had no comment to make. Spokesman for the other major retailers, Checkers and OK Bazaars, were not available for comment."
Probe into consumer safeguards

TRADE, Industry and Tourism Minister Kent Durr has announced an investigation into the possibility of establishing codes for transactions in the motor, furniture, and advertising industries to ensure consumer protection.

The move has encountered opposition from the furniture trade representatives.

The investigation will be conducted in terms of the Harmful Business Practices Act.

Durr said the motor and furniture industries were selected as priority areas because of the volume and value of consumer transactions, and “advertising is an integral element of all kinds of consumer transactions”.

The investigation will be conducted in cooperation with the Advertising Standards Authority, the Motor Industries Federation, the National Association of Motor Vehicle Manufacturers and the Furniture Traders’ Association (FTA).

In his budget vote speech in May, Durr said the market could not determine the rights and interests of consumers and there was often disturbing evidence that consumers had legitimate grounds for complaint.

FTA executive chairman Frans Jordaan said the investigation into the law relating to consumer transactions was at variance with government's stated intention to deregulate the economy as far as possible.

Jordaan said while the FTA was for consumer rights, there were already several Acts which applied to the furniture retail trade, and the overregulated industry “certainly doesn't need any more”.

FTA members — more than 90% of furniture stores — subscribed to a stringent code of conduct with a great deal of consumer protection, he said.

Unethical traders would not disappear but would merely attempt to circumvent any new code of conduct.

Major furniture retailers were “perplexed” and wanted to know what aspects of the industry would be investigated.

Rustenburg chairman Geoff Austin said he endorsed the views of the FTA and added that competition in the industry ensured fair play.

A spokesman for another major furniture retailer said competition and guarantees ensured fair play, and customers would shop where they got the best deals.
To consumers
Give more clout
State plan to
"counterfeit" commands
BUSINESS PRACTICE CODES

PICKING THE TARGETS

Government, in its zeal for more regulation, now wants to establish mandatory consumer codes for different industries (Business October 5). This week Minister of Trade & Industry Kent Durr chose the first three candidates for codes — advertising agencies, motor car dealers and furniture outlets

While these sectors cursed their bad luck at catching Durr's eye, other industries that have a history of consumer complaints, such as the home improvement and swimming pool industries, have been let off for now.

Durr says a general investigation of the three sectors will be conducted before codes are drawn up. It will be the first general investigation under the two-year-old Harmful Business Practices Act and will be conducted by the Business Practices Committee.

Durr says motor cars and furniture were chosen first “by virtue of their volume and value of consumer transactions.” Advertising was selected because advertising is an integral element of all kinds of consumer transactions, he says.

The Motor Industries Federation, the Furniture Traders Association and the Advertising Standards Authority now operate consumer codes in their industries. Durr says he has been keen to work with these bodies, but they will be quick to defend self-regulation against the encroachment of mandatory regulation — and its accompanying army of lawyers. The Advertising Standards Authority is already defending itself against another investigation, a Competition Board probe of charges that the authority restricts competition (Business September 28).

"We are totally pro all aspects of consumer rights, but in an industry that is already over-regulated, we don’t believe more regulation is necessary," says Frans Jordaan of the Furniture Traders Association. "We also believe the new proposals are at variance with the government’s stated intention to deregulate the economy as far as possible."

"The average consumer is far more sophisticated than he is generally given credit for. The proposed code would simply be telling him that he is unable to make rational decisions for himself."

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We are totally pro all aspects of consumer rights, but in an industry that is already over-regulated, we don’t believe more regulation is necessary," says Frans Jordaan of the Furniture Traders Association. "We also believe the new proposals are at variance with the government’s stated intention to deregulate the economy as far as possible."

"The average consumer is far more sophisticated than he is generally given credit for. The proposed code would simply be telling him that he is unable to make rational decisions for himself."
Trade probe is aimed at 'bad eggs'

The proposed investigation into the law relating to customer transactions in the motor, furniture and advertising industries would not undermine work done by self-regulating bodies, investigation committee member E.J. van Eerden said last week.

The investigation, announced last Wednesday by Trade, Industry and Tourism Minister Kent Durr to ensure consumer protection - encountered opposition from members of some of the industries involved.

Van Eerden said while self-regulatory bodies did a "good job", their codes had loopholes and shortcomings that the committee would look at supplementing.

One of the loopholes was that the codes could not be applied to non-members who were often the "bad eggs", and it was unfair for the self-regulatory bodies to carry the burden of wayward dealers on their shoulders, he said.

There would not be a whole new library of laws, he said, but a reasonable balance setting down what was fair and reasonable and what average rights and obligations were in transactions between businesses and customers.

A major benefit would be to strengthen the consumer position and to maintain a balance between the formulation of guidelines and strictly enforceable regulations.

He said the content of the codes in existence were already enforceable with penalties issued by the regulatory bodies or by the Minister, and many aspects of the relationship between business and the consumer did not need to be linked to a criminal sanction.

He said the investigation would cover a wide range of areas as the complexity of the legal relationship that flowed from legal transactions started at advertising and ended with delivery.
Minister starts probe on motor trade dealings

THE Minister of Trade, Industry and Tourism, Mr. Kent Durr, has commissioned an investigation into sectors of the motor industry in terms of the Harmful Business Practices Act.

Opening the 79th Motor Industries Federation annual conference in Cape Town yesterday, Durr said the probe was due to the "thoughtless, dishonest or incompetent actions of a small number of people" who could endanger the interests of the many who had reason to be proud of their work.

The investigation would also concentrate on the law relating to consumer transactions concerning motor cars.

He added that the motor industry was one of the country's largest employers and encouraged it to work towards export markets.

Quoting from a Council for Scientific and Industrial Research report in which it was shown that there were 106 vehicles for every 1000 people in the country, Durr said this figure was well below those of Western countries such as the United States with 588 and Britain with 370.

However, South Africa was the best in Africa where Kenya, for instance, had only six vehicles per 1000 of the population. - Sapa.
JOHANNESBURG: The Competition Board has begun an investigation into interlocking directorships which could radically affect the face of South African business. Interlocking directorships are common throughout business, particularly where companies are closely linked partners.

The investigation, an informed source said, formed part of a Competition Board probe initiated in August after the Anglo/De Beers group had increased its shareholding in Gold Fields of South Africa (GDSA) to 25% from 20%.

The probe is to determine whether the acquisition of additional shares constituted a "restrictive practice" which could place Anglo in a "monopoly situation".

It is understood that the Competition Board intends using the present investigation as a test case of interlocking or cross-directorships to establish a defined policy on the issue.

Competition Board chairman Mr. Pierre Brooks declined to comment yesterday.
Directorships probe may spark changes

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In terms of the gazetted mandate for the inquiry, the Competition Board is empowered to investigate the effect the share acquisition could have on the right of Anglo or De Beers to appoint one or more of GFSA's directors. Anglo and GFSA have only one director in common, Peter Gush, formerly head of Anglo's gold division.

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KEVIN DAVIE

Competition Board chairman Pierre Brooks declined to comment yesterday. Business Day has learnt, however, that the board believes conglomerates must not only compete but be seen to compete. Should the board take the view that interlocking directorships facilitate behaviour inhibical to competition, it could use the Maintenance and Prevention of Competition Act to redress the situation.

The Anglo group's 25% stake in GFSA allows it to block special resolutions where a 75% vote is required. The 75% rule applies to all companies and is designed to protect shareholders. In this case Anglo could, for example, block attempts by GFSA's board to restructure the group's capital.

Robin McGregor, author of Who Owns Whom yesterday welcomed the Competition Board inquiry but said he was disappointed it was "only having a go at cross directorships."

"Interlocking directorships do not matter a lot. Most important is who controls the company. Concentration is the problem. Derek Keys's unbundling proposals are a good start which could cut down the bureaucracies."
and competition of condolomemates
The tricky issue

KEVIN DAVE
6/10/04 2:45"
Video suppliers restrict competition

THE Competition Board has recommended that certain actions of SA's eight video distributors — especially Ster Kinekor Video Pty Ltd — have restricted competition and should be declared unlawful.

The board's findings, published by Administration and Economic Co-ordination Minister Wim de Villiers in Friday's Government Gazette, are the outcome of a year-long investigation.

The bulk of submissions, orchestrated by the SA Video Retailers' Association, were against Ster Kinekor and four areas of restrictive practice were identified, the report said.

The contractual provision obliging video store owners to buy videos they did not want was identified by complainants as most irksome and exploitative.

Ster Kinekor's marketing policy presented the most problems in this respect. It entailed selling tapes in "packages" of seven, which dealers said contained films they would not usually buy. Individual films were available separately without discount only a month after their launch.

By obliging video dealers to buy films they did not want in order to acquire the one or two films they required on the launch date, Ster Kinekor was channelling funds to itself, which, if dealers had had a free choice in the matter, would most likely have been spent on films from other distributors, the report said.

The board found Ster Kinekor's contractual obligation restricted competition between the company and other distributors.

Many video dealers complained of Ster Kinekor's preferential treatment of CNA. They said CNA was allowed to purchase a minimum of 250 copies of a video.

This enabled CNA to stock only the more popular titles. Video dealers contended that this gave CNA an unfair competitive advantage and restricted competition.

The board found that video distributors' application of dissimilar prices, terms and conditions in their contractual relationships with video store owners restricted competition between store owners.

Prohibitions or restrictions on the sale of videos to other retailers, which were stipulated by distributors in their contracts with dealers, also restricted competition, despite submissions from Ster Kinekor that this prevented piracy.

The unconditional prohibition by a distributor of the movement of videos between branches of a business owned by the same person should also be declared unlawful, the board recommended.
DURBAN — The Democratic Party has called on the Administrator of Natal, Con Botha, to reconsider his rigid stand on keeping Natal’s shops closed on Sunday.

Mike Ellis, the DP’s Natal coastal region leader, said he could find “no real reason in the Administrator’s firm stand taken against opening shops on December 16.”

“It is a date that has always been controversial. All the other provinces have let shops open on this day, so Natal’s stand does not make sense,” Mr Ellis said.

“It also does not make sense that Natal appears to continue to foster memories which should have been allowed to die a long time ago. Most South Africans should not place too much emphasis on December 16 being a religious holiday. It is a pity that Natal continues to do so,” Mr Ellis said.

“We would call upon Mr Botha to reconsider this decision as a matter of urgency. He is doing himself and the province no favour whatsoever by sticking rigidly to a decision that makes no sense.”
MediKredit gets board all-clear.

The Competition Board has given the Pharmaceutical Society of South Africa a clean bill of health after four years of investigation into the society’s MediKredit scheme.

The board found the scheme had not practised “horizontal price collusion” with affiliated medical schemes.

The board started the investigation after complaints that a monopoly of medicine prices had been created by MediKredit.

The board’s favourable decision comes shortly before the exemption granted by it for the scheme to continue during the investigation was due to lapse at the end of December. — Medical Reporter.
Clean bill of health for chemists’ body

By PORTIA MAURICE

AFTER four years of investigation, the Competition Board has given the Pharmaceutical Society of South Africa and its contracting subsidiary, Medikredit, a clean bill of health.

Medikredit is an accounting service used by many pharmacists to process the prescriptions of medical aid clients, send them to medical scheme administrators and arrange payments. In this way, patients are given credit for their pharmaceutical requirements, and avoid having to pay cash up front.

Medical aids contract in to Medikredit and in return receive discounts on pharmaceutical goods.

Allegations had been made to the Competition Board that the Medikredit accounting system constituted “horizontal price collusion” because it set “notional prices” for medicines to facilitate computerisation. Complainants said Medikredit was price fixing and dominating the market in this way.

On announcing the Board’s decision this week Boet van der Merwe, executive director of the PSSA, explained that the Medikredit system “did not preclude pharmacists from granting patients whatever discounts on medicines their business could bear”.

He said millions of rand had been invested in mainframe computer installations and programming, for the benefit of pharmacies and medical scheme members they served.

“It would have been catastrophic if the machinery for settling medical scheme claims were not allowed to continue by a negative Competition Board ruling,” he said.

“Millions of medical scheme members would have found that they could no longer obtain medical scheme credit for prescribed medicines at pharmacies throughout the Republic,” he said.
PRICES — CONTROLS & CONTRAVENITIONS

1991
Merger to create banking colossus

Analysts saw the rationalisation opportunities as the main benefit of the deal.

They said that the country was “over-banked”, and would benefit from the economies of scale which would lower technological costs.

The merger would strengthen the equity base, and help defer the need to raise further capital.

Reserve Bank Governor Dr. Chris Stals gave tacit approval to the creation of a super bank last September saying: “We have no objection, this is in line with our thinking on rationalisation in the sector.”

Ed Hern Rudolf director Mr. Alan McConnachie emphasised that Allied would probably retain its own identity and its branch network for a “couple of years”, but over time, with the formation of one computer system and one treasury, rationalisation would take place.

Allied chairman Mr. Norman Alborough is on record as saying Allied’s separate identity was “not negotiable”.

Recent figures suggest that the new financial services giant will have combined assets of about R50bn, and after-tax earnings about R400m.

By contrast, the present banking leader Standard Bank Investment Corporation has assets of about R32bn, and its last year’s attributable earnings were R333m.

JOHANNESBURG - UBS, Volkskas, Allied and Sage Financial Services have agreed in principle to merge their interests to create the largest financial institution in South Africa.

The mechanics of the agreement will be announced shortly, the companies promised yesterday.

Own Correspondent
The Competition Board has decided not to investigate Rainbow Chicken's outright acquisition of Bonny Bird, a move which it is believed will give the Natal-based farm business more than 30 percent of the broiler market.

A spokesman for the board, which controls Bonny Bird, said the company had approached it for a ruling.

"With the information at its disposal, the board decided not to probe the transaction because it does not meet the requirements of the Maintenance and Promotion of Competition Act," he said.

Stock market watch dog "Robin McGregor, chairman of McGregor's On Line Information, said recently he was "incensed" that the Rainbow deal had not raised any objection.

"In no other industrialised country can a producer hold more than 25 percent of a market unless that share is achieved by organic growth," he said.

Rainbow managing director John Geoghegan could not be reached to amplify on the terms of the deal announced this month, in which his company obtained 100 percent of Bonny Bird, as well as 50 percent of the shareholders' interests in the Epol animal feed division of Premier Food.

Referring to suggestions that the new grouping could mean higher chicken prices, Stephne Alberts, of the Consumer Council in Durban, said the more competitive pricing of red meat in the past year should help to keep a check on protein prices.

"Consumers have seen with the milk price war the benefits of withholding their custom when prices move out of their reach and I believe they exercise the same discretion with meat prices."
Competition Board looks at fertiliser operation

Own Correspondent

JOHANNESBURG — The manner in which Agriland Fertiliser's collapse last year benefited AECI's Kynoch is to be investigated by the Competition Board.

An announcement in Friday's Government Gazette said the board was investigating whether an agreement entered into by AECI, Indian Ocean Fertilisers (IOF) and two AECI subsidiaries, Kynoch Fertilisers and AECI Opencast Services constituted a restrictive practice.

The investigation follows complaints by the National Maize Producers' Organisation (Nampo) that the takeover by Kynoch of IOF's granulation installation at Richards Bay strengthened its position in the fertiliser industry.

The board is investigating whether this agreement gave rise to an acquisition and, if so, whether it was in the public interest.

Competition Board chairman Pierre Brooks said yesterday AECI had entered into an agreement with IOF in terms of which Kynoch would use the production facilities at IOF's Richards Bay plant to produce fertiliser for SA.

Kynoch took over the lease of the granulation installation from Agriland Fertiliser, which had to close last year.

Brooks said the original terms for IOF's participation in the SA fertiliser industry was that it restrict itself to exports.

AECI chairman Mike Sander said that in terms of the agreement with IOF, AECI ceased supplying Natal from its Phalaborwa plant, and instead supplied Natal with the phosphate production purchased from IOF. The agreement meant AECI saved on freight costs.

IOF was owned jointly by Foskor and an international consortium, he said.
Bank merger drama expected as curbs Act deadline nears

Business Staff

LAST minute counter offers to Allied and Saambou are expected to be made in the next day ahead of stricter regulations governing mergers and takeovers coming into effect on Friday.

First National Bank is expected to make a counter offer today in order to acquire 100 percent of Allied. This follows the announcement Monday that Allied intended merging with UBS Holdings and Volkskas to form South Africa's largest bank with assets of R50 billion to be called the Amalgamated Banks of South Africa (ABSA).

Mr. Viv Bartlett, senior general manager at First National Bank, said this week that FNB was keen to acquire Allied. On Friday, FNB said it had made a proposal to acquire Allied, but it was rejected.

He said a counter offer was being considered today. The merger of Allied with UBS and Volkskas still had to be approved by Allied shareholders.

Analysts said if FNB was to have any hope of securing sufficient Allied shares to block the merger, it would need to offer substantially more than the R20c for each Allied share that ABSA was offering.

And with just one full trading day left before the close of Trafalgar's offer to acquire 30 percent of Saambou, there is widespread speculation that another party will make a last minute counter offer to get control of the independent building society.

Market speculation is that another bid could come from Nedcor, Fedsure or Prestani and that one of these parties recently acquired about 5 million Saambou shares.

Nedcor's Mr. Chris Liebenberg and Fedsure's Mr. Arnold Basslerabe were not available for comment yesterday. Earlier this month Prestani denied it was involved in an offer for Saambou shares.

The close of trading tomorrow is important for several reasons, and many Saambou shareholders will not commit themselves until tomorrow afternoon. They will want to see if there is any other offer and how the market price compares with the Trafalgar offer before deciding whether to take up that offer.

Starting on Friday morning, takeover and merger activity will be regulated by the Securities Regulation Panel (SRP).

As the new regulations impose tougher requirements on takeover and merger bids, it seems likely any counter bid in the offering would be made under the existing legislation.

Also the new Deposit Taking Institutions Act comes into effect on Friday, which means that any potential bid for control of a financial institution from that date would have to meet with the banking industry's new requirements.

Because of the SRP and the new Act, Trafalgar will not be extending its present offer beyond tomorrow afternoon.

In spite of the strengthening in the share price since Trafalgar published its offer on January 17, Mr. Pieter Hougaard, executive director of Trafalgar, is optimistic about a good response to his 140c offer.

He says it will not be possible to identify the extent of the response until late tomorrow, but points out that the fact that the current share price is around 150c does not automatically mean that the 140c will be rejected.

He says many of the 18,500 Saambou shareholders might not be familiar with the workings of the stock exchange and might prefer to respond to the offer letters received from Trafalgar. Also the 140c JSE price might not be sustained if there were a lot of sellers.

Trading charges

What must also be taken into consideration is that trading charges on the JSE reduce the apparent gap between the offer and market prices.

Against all of this is the fact that Trafalgar's offer is only for 30 percent of the Saambou shares, while a counter offer could be for 100 percent.

In spite of speculation about his objectives and his backers, Mr. Hougaard remains adamant. He has identified Saambou as an under valued investment and is using the funds in his care to try and get a strategic stake in the company.
Spotlight on a Monopsony

By DAVID SHANNA

In view of the fact that monopolistic competition is the rule in most of our major industries, it would be interesting to examine the effects of the phenomenon as it operates in at least one industry.

Although the production of output from a given quantity of input costs less under monopolistic competition than under competition, the consumer is not benefited by the phenomenon whatever its name. The reason is that the monopolistic firm can bring about a decline in the price of output by finding an additional market for it, whereas the competitive firm can bring about a decline in the price of output by producing output of greater volume.

Therefore, in the absence of competition, the monopolistic firm is in a position to bring about a decline in the price of output by finding an additional market for it, whereas the competitive firm can bring about a decline in the price of output by producing output of greater volume. The reason is that the monopolistic firm can bring about a decline in the price of output by finding an additional market for it, whereas the competitive firm can bring about a decline in the price of output by producing output of greater volume.
Board seeks tighter competition policy

THE Competition Board is to submit a proposal to government within the next month on how a more effective competition policy can be brought about through improved enforcement mechanisms.

Competition Board chairman Pierre Brooks says the lack of adequate enforcement measures has lessened the deterrent value of competition policy.

He says there have been no convictions for certain collusive activities since they were outlawed in 1986. This may have encouraged those who are prepared to run the risk of ignoring these prohibitions.

The board has also found that the threat of criminal prosecution has hampered getting evidence. Unlawful conduct is also difficult to prove and is often outside the expertise of police and public prosecutors.

Brooks says one possible solution is decriminalisation and a switch to administrative fines. Another is the introduction of a penalty for prior anti-competitive behaviour later declared by government to be unlawful.

The number of formal and informal investigations conducted by the Competition Board has increased sharply over the past 18 months and Brooks expects these to increase further in the future.

The board is about to launch a new investigation into a specific industry, but he will not elaborate at this stage.

Brooks says there is an urgent need to reappraise the situation of SA's corporate conglomeration.
SA signs standards deal

By Norman Chandler
Pretoria Bureau

A formal agreement for the mutual recognition of national measuring standards was signed in Pretoria yesterday between South Africa and the Republic of China.

Deputy Minister of Trade and Industry Dr Theo Alant said at a ceremony at the CSIR convention centre that it was a significant agreement.

The agreement could be seen as being a form of quality assurance — "governments of all industrialised countries are very conscious of the need to provide the right inducements and the right support for manufacturing industries."
New bank would control home loan market

By ARI JACOBSON

A UNIFIED banking group in the Rembrandt stable — with Allied on board — would provide the Amalgamated Bank of SA (Absa) with effective control of the home loan market according to BAR returns for the period to September.

These returns, which display each market player's share, have UBS as the major force, with 22% of total home loans.

The importance of the tug-of-war between First National Bank (FNB) and the UBS-led coalition is highlighted by Allied's 13.6% portion of the home loans market. FNB languishes on roughly 9% (a book of a mere R3.6bn).

A successful UBS-Allied merger would provide Absa with close on 40% of the home loan market (which includes Volkskas's 3% contribution).

Furthermore, UBS' backward linkages, with strategic stakes in estate agency businesses, will cement its overall control.

A UBS spokesman said the prime consideration in the prospective merger had been the benefits arising from rationalisation of support services (such as computer facilities).

He said while Allied and UBS were strongly represented in the home loan market neither had a strong presence in banking-related activities such as personal loans, instalment sales, cheque accounts and overdraft facilities.

FNB senior GM Vyv Bartlett said a tie-up with Allied would assure the banking group a well-diversified presence in the industry. FNB has a 27% claim in the instalment credit market coupled with a strong banking portfolio.

The Permanent Building Society of SA (the Perm), with its well-documented endeavours in the black housing market, has a sizeable 18.3% of the home loan market.

Theoretically this core area of banking business could be well-spread if linkages were distributed in an equitable fashion.

Take FNB-Allied on 22.3%, UBS-Volkskas alliance on 24.8%, and the Perm-Nedbank tie at 21.2% — neatly sharing the spoils in the mortgage market.

In addition intimations of a Standard Bank and Natal Building Society linkage (NBS) would enhance equality with 22.2% of the total home loan profile.

Bankorp — the only major financial institution missing — intends using the current financial year to June as a consolidation period after undergoing tough rationalisation measures.

CE Fiet Liebenberg said the group's 9% stake through Trust Bank home loans was satisfactory, considering the enlarged focus in commercial, industrial and mining loans.
PHARMACEUTICALS

DRAGGING THEIR FEET

Time is running out for the Pharmaceutical Society to avoid prosecution for breach of competition law. The society was ordered by the Competition Board to submit new Medikredit contracts to medical schemes by January 1 or risk having the matter turned over to the police (Business January 18).

Medikredit, a subsidiary of the society, supplies pharmacies with medicines and the pharmacies are then able to claim the cost from medical aids rather than in cash from the patients. The new Medikredit contracts are supposed to allow pharmacies greater flexibility in pricing the medicines.

David Boyce, who administers Medikredit in the Transvaal, says an addendum to the contracts that explains the new pricing formula is being sent to 3 000 contract holders from pharmacies and medical schemes. The contracts themselves are also being changed.

But major medical scheme administrators have not yet received the new contracts and some have informed the Competition Board of this in writing. The Representative Association of Medical Schemes says it won't comment until after its pharmaceutical subcommittee meets next week.

Competition Board chairman Pierre Brooks says that judging by the correspondence he has received, he is not satisfied that the society has made a concerted effort to circulate the new contracts. The old contracts violate the prohibition of horizontal price collusion and collusion on conditions of supply.

The board is adopting a new get-tough

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BUSINESS & TECHNOLOGY

Last week Brooks said the lack of adequate enforcement measures has lessened the deterrent value of competition law. There have been no convictions for collusion since most types were outlawed in 1986.

There is no doubt that the attorney general would be reluctant to get involved in a drawn-out court case against a professional body and file criminal charges against its officers. Brooks proposes that the law should be decriminalised and administrative fines introduced. This, he says, would give the board much-needed teeth.

The Pharmaceutical Society stresses that it is not seeking a confrontation with the Competition Board. But it could be the first target of the board's new determination to enforce its rulings.
person may within a period of twenty-one (21) days from the date of this notice, make written representations regarding this report to:

The Secretary
Business Practices Committee
Private Bag X84
PRETORIA
0001.

K. D. S. DURR,
Minister of Trade and Industry and Tourism.

30 Maart 1990, soos in die Byl toeengeset. Engim-
mand kan binne een-en-twintig (21) dae vanaf die da-
tum van hierdie kennisgewing skriflike vertgang aan:

Die Sekretaris
Sakepraktylekomitee
Privaatsak X84
PRETORIA
0001.

K. D. S. DURR,
Minister van Handel en Nywerheid en Toensme.

SCHEDULE

BUSINESS PRACTICES COMMITTEE

REPORT IN TERMS OF SECTION 10 (1) OF THE BUSINESS PRACTICES ACT, 1988
(Act No. 71 of 1988)

REPORT No. 13

DEBT BROKING

CONTENTS

I. Introduction.
II. The business practice.
III. Submissions received.
IV Evaluation of the business practice.
V. Conclusion and recommendations.

I. INTRODUCTION

1. The Business Practices Committee conducted an investigation in terms of section 8 (1) (b) of the Harmful Business Practices Act, 1988 (Act No. 71 of 1988) ("the Act"), into a business practice whereby a credit receiver is invited and assisted to transfer to a third party his rights and obligations in terms of the credit agreement. Information received by the Committee indicates that the business practice is of widespread occurrence.

2. Notice of the investigation was given in terms of section 8 (4) of the Act by General Notice 232 of 1990 published in Government Gazette No. 12375 of 30 March 1990.

3. According to the Notice the investigation concerned a business practice—

   (i) whereby any person—

      (a) helps any credit receiver to breach a credit agreement; or

      (b) excepting the credit grantor, or with the permission of the credit grantor, purports to arrange the transfer to another person of the rights and obligations of a credit receiver under a credit agreement;

   (ii) any advertising relating to the business practice.

4. Written and oral submissions were received pursuant to the notice in terms of section 8 (4) of the Act.
II. DESCRIPTION OF THE BUSINESS PRACTICE

5. The business practice investigated involves credit grantees, credit receivers, third parties and brokers (or agents). The relationship between the parties to credit agreements is primarily governed by the Credit Agreements Act, No. 75 of 1980 ("the Credit Agreements Act"). Credit receivers who owe debts to credit grantees in respect of motor vehicles are invited by the broker to enter into an arrangement facilitated by the broker. In terms of this arrangement the credit receiver's obligations are purportedly transferred to and assumed by a third party. The credit receiver reimburses the broker for his services in locating the third party. With the assistance of the broker the credit receiver enters into a contract with the third party, which contract embodies their relationship and obligations. The credit receiver parts with the vehicle which is handed to the third party. The object of the arrangement is to effect the release of the credit receiver from his obligations to the credit grantor, the third party stepping into his shoes and assuming his responsibilities in respect of the credit grantor.

6. Brokers assert that the arrangement benefits all the parties. The benefit to the often over extended credit receiver is that, although he forfeits earlier payments, he is released from the continuing burden (but not the obligation) of having to pay regular instalments. The benefit to the third party is that he has the opportunity of obtaining a vehicle at an attractive price since a portion of the debt has already been paid by the credit receiver. The credit grantor benefits because he is spared the prejudice and loss flowing from default by the credit receiver since the latter's obligations are assumed by the third party.

7. The credit grantees concerned are banks duly registered as banks who do business by extending credit to credit receivers who enter into credit agreements. The role of the bank is to provide the finance required by the credit receiver and the dealer. Finance is granted to credit receivers (consumers) and dealers (businesses) in respect of a relationship between the bank and a dealer (whether a business or an individual) from whom the credit receiver obtains a product or by whom a service is rendered to the credit receiver. The credit granted settles the credit receiver's debt as against the dealer and in turn becomes a creditor of the credit receiver. The practical effect of these arrangements is that the credit grantor not only becomes a creditor of the credit grantor but that he also steps into the dealer's shoes and in fact becomes the seller or lessee. Depending on the specific arrangements the credit grantor and the credit receiver come to stand to each other in the same relationship of seller and purchaser as did the credit receiver and the dealer with whom the transaction was originally negotiated. The credit receiver now owes payment to the credit grantor, but the credit grantor also has certain common law and statutory obligations as seller towards the credit receiver, e.g. concerning latent defects.

8. The broker's role is typically as follows:3

   (i) He advertises his ability and willingness to find third parties prepared to enter into agreements (also referred to as "use agreements") with credit receivers.

   (ii) He prepares the use agreement and provides the necessary documentation.

   (iii) He acts as an agent between the credit receiver and the third party.

   (iv) He is instrumental to the process of the signature of the use agreement by the parties.

   (v) He delivers or causes the vehicle to be delivered to the third party.

   (vi) He processes the administration arising from the use agreements.

   (vii) He does not inform the credit grantor of the existence of the use agreement nor does he obtain the latter's consent thereto.

   (viii) Some brokers represent to the credit receiver and the third party that the broker will inform the credit grantor of the existence of the use agreement, alternatively that the arrangement is approved by the credit grantor.

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1 A credit granter is defined by the Credit Agreements Act, No. 75 of 1980 as---

   (a) a seller, or a person who renders a service, in terms of a credit transaction, and includes a person to whom the rights or the rights and obligations of any such seller or any such person so rendering a service have passed by assignment, cession, delegation or otherwise,

   (b) a lessee in terms of a leasing transaction, and includes a person to whom the rights or the rights and obligations of any such lessee have passed by assignment, cession, delegation or otherwise

2 As defined by the Credit Agreement Act, No. 75 of 1980, a credit receiver---

   (a) is a purchaser, or a person to whom a service is rendered, in terms of a credit transaction, and includes a person to whom the rights or the rights and obligations of any such person to whom a service is rendered, have passed by assignment, cession, delegation or otherwise;

   (b) a lessee in terms of a leasing transaction, and includes a person to whom the rights or the rights and obligations of any such lessee have passed by assignment, cession, delegation or otherwise

3 See S v G M Sheppard Properties CC and Gawn Michael Shepherd, Case No 41/2282/89, Regional Court, Johannesburg.
(ix) As a rule brokers do not inform credit receivers of their statutory obligation to provide relevant information to the credit grantor, nor do they point out that the credit receiver's participation in the arrangement may constitute a breach of the contract between the credit receiver and the credit grantor. Brokers also fail to point out that the use agreement is in fact void.

(x) Some brokers may explicitly inform the credit receiver and third party that the use agreement is lawful.

IV. SUBMISSIONS RECEIVED

9. The Committee received 14 letters from consumers who had dealt with a debt broker. Although the accounts differ in detail the complaints related are basically similar. After having noticed a press advertisement which offered assistance with regard to the taking over of hire purchase or lease payments on motor vehicles the complainant contacted a debt broker who offered to find a purchaser who would "take over" the complainant's payments on his vehicle. The broker presented the complainant with a document which was likely to be represented as being a proper and legal document in terms of which the complainant entered into an agreement with a third party who would assume the complainant's obligations and, most importantly, pay his instalments to the financing institution. The complainant then parted with his vehicle From his point of view the whole purpose of the transaction was that the third party (or purchaser) would regularly meet the payments to the financing institution thereby relieving the complainant of his own obligation. Complainants saw the third party as a substitute debtor whose indebtedness would replace their own indebtedness. Complainants believed or were led to believe that the arrangement had the approval of the bank in question.

10. It subsequently transpired that the purchaser had failed to meet the commitments to the bank. In many cases this was only revealed when the bank instituted action against the complainant for payment of arrear instalments and/or return of the vehicle. It was not unusual for the vehicle to have been exchanged more than once on the same basis so that its potential whereabouts could not be traced or the vehicle could only be recovered with difficulty. In some cases the vehicle had disappeared or been damaged. The complainants suffered extensive losses. Insurance claims were compromised and in several cases complainants were burdened with unpaid traffic fines. It is clear from the various complaints that the reliability and credit worthiness of the purchasers were not strictly controlled. The abuse of and damage to vehicles evidence a general lack of responsibility on the part of purchasers towards what was in fact not their property and in the preservation and care wherein they had only a tenuous interest. In most cases there was a marked deterioration in the condition of the vehicle and often a substantial reduction in its value.

11. A submission received from a broker describes the essence of his business as acting as an agent who brings two parties together, the one wishing to part with a motor vehicle on terms most favourable and one wishing to acquire a motor vehicle at the least reasonable expense. On the basis of an advertisement the broker receives enquiries both from people who wish to part with their vehicles and those looking for a vehicle. Once a "buyer" is matched with a particular "seller" the broker acts as an intermediary between the parties. The vehicle is delivered to the third party provided that the broker's commission has been paid, the third party has entered into an agreement with the credit receiver and any arrears instalments have been paid to the bank. The broker collects from the third party any amount of arrear instalments as well as one monthly instalment in advance, which monies are paid over to the bank. The form of agreement between the credit receiver and the third party is provided by the broker. In terms of this contract the parties acknowledge that the relevant bank is the owner of the vehicle. The form of agreement also stipulates that the credit receiver consents to the third party taking ownership of the vehicle once the total amount has been paid to the bank. The third party is obliged to insure the vehicle, to maintain it in good condition and to sign a voluntary surrender form. While the broker carries out some form of credit assessment this is not done in conjunction with the bank nor is this assessment approved by the bank. It is highly improbable that the broker and the bank would apply the same standards of credit worthiness. It is claimed that in this broker's experience it is unusual for a third party to renge on his obligations.

12. According to the broker in question the result is that the bank becomes fully paid up to the extent that the debt is then outstanding, that the credit receiver is relieved from an unwanted burden, and that the third party has the benefit of a vehicle at an affordable price. It is this broker's practice to maintain contact with the credit receiver and the third party on a monthly basis, to verify that payments are regularly made and to take action against a defaulting third party by collecting the vehicle from him and by making the arrear payments to the bank itself, recouping that payment when the vehicle is subsequently placed with another third party. The basis of the broker's action against a third party is not clear. It is also claimed that this firm has even had repairs effected to vehicles and that it has had dealings with banks. The banks do not deny that they sometimes receive payments made on behalf of credit receivers but they firmly maintain that it is their policy not to have any dealings with debt broker.
13. The Association of General Banks as well as individual banks also complained about the business practice and indicated that they strongly disapprove thereof.

V. EVALUATION OF THE BUSINESS PRACTICE

14. A credit receiver under a credit agreement who, before he has acquired dominium in the goods, sells or otherwise alienates them without the owner’s consent commits theft.1

15. In terms of section 8 of the Credit Agreements Act the credit receiver must, if the goods are removed from the place where the goods are ordinarily kept, or if he loses or parts with possession of the goods, within 14 days notify the credit grantor by registered post of the changed circumstances and indicate the name and address of the person in whose possession the goods are or to whom they were handed over, and of the place they are kept. Failure to comply with section 8 is an offence punishable by a fine or imprisonment.

16. By disposing of his vehicle to a third party through the offices of a broker the credit receiver is also likely to be in breach of his contract with the credit grantor since credit agreements as a rule contain provisions—

(i) reserving ownership to the credit grantor until the credit receiver’s obligations have been discharged; and

(ii) restricting the credit receiver’s rights to sell, let, or otherwise alienate or encumber the goods without the credit grantor’s permission. Unless the credit grantor’s permission to the arrangement has been obtained the agreement between the credit receiver and the third party will, moreover, be invalid and unenforceable. The third party acquires no enforceable rights and cannot rely on the use agreement to protect his interests.

17. In a recent prosecution of a broker on charges of theft and fraud the court held that in the circumstances of the particular case the conduct of a broker who had failed to obtain the consent of the credit grantor constituted theft. The Committee accepts that the terms of all credit agreements are not identical and that the conduct of brokers are not uniformly similar. The business practices of various brokers will consequently not necessarily involve either theft or fraud. The point is that in the absence of the consent of the credit grantor being obtained the broker as well as the credit receiver run a considerable risk of committing either theft or fraud or both.

18. In view of his function and business a broker presumably cannot assist in the (purported) transference of the credit receiver’s rights and obligations to a third party without apprising himself of the content of the credit receiver’s obligations to the credit grantor and of the relevant provisions of the Credit Agreement Act. As it must be assumed that a broker is or should be aware of the provisions of the Credit Agreements Act as well as of the relevant provisions of his client’s contractual obligations towards the credit grantor the broker must be assumed to be aware of the credit receiver’s statutory obligations and to the distinct possibility of breach of contract by the credit receiver and the commission of various offences by the credit receiver as well as by the broker himself. In view of the nature of his business the broker further has a duty towards his client to determine whether the client is aware of these legal duties and obligations, and where he is aware that the credit grantor disapproves of the arrangement, to point this out to the credit receiver. The broker can not be heard to say that he is unaware of his own and the credit receiver’s duties and obligations.

19. Section 1 (ii) (b) of the Act refers to “any scheme, practice or method of trading, including any method of marketing or distribution.” The Committee is satisfied that the business practice described in section II of this report constitutes a business practice for the purpose of section 1 (ii) (b).

20. Section 1 (vi) of the Act provides that a harmful business practice is constituted by any business practice which, directly or indirectly, has or is likely to have the effect of—

(a) harming the relations between businesses and consumers;

(b) unreasonably prejudicing any consumer, or

(c) deceiving any consumer

21. Once it has been determined that specific conduct or any situation constitutes a business practice the next step is to establish whether one or more of the three requirements above are satisfied. Only if this is the case can it be said that the conduct or situation in question constitutes a harmful business practice. The Committee is of the opinion that the business practice in question satisfies all three of the above criteria.

1 See Diermont and Aronstam The Law of Credit Agreements and Hire-Purchase in South Africa 5ed 1982 Juta p 245; and S v Van Heerden 1984 1 666 AA.
VII. CONCLUSION AND RECOMMENDATIONS

30. The Committee has found that the business practice investigated constitutes a harmful business practice for the purposes of the Act. No grounds justifying the practice in the public interest have been found.

31. The Committee has also considered that desirability of a prohibition on advertising relating to the business practice. It is clear that if brokers are not allowed to advertise their business this should effectively contribute to bringing the practice to a halt. Should the Minister prohibit only the practice itself any advertisement relating to the business will still come to the notice of the authorities so that necessary action can be taken. In view of certain practical consequences flowing from a prohibition on advertising the Committee will, whenever possible, avoid taking steps that may result in such a prohibition. In the circumstances the Committee has found it unnecessary to make this recommendation to the Minister, although the matter can obviously be reviewed should the need arise.

32. It is accordingly recommended that in terms of section 12 (6) of the Act the Minister declares unlawful the business practice whereby any person—
(a) helps any credit receiver to breach a credit agreement, or
(b) excepting the credit grantor, or with the permission of the credit grantor, purports to arrange the transfer to another person of the rights and obligations of a credit receiver under a credit agreement.

PROF. L. A. TAGER,
Chairman Business Practices Committee

BYLAE

SAKEPRAKTYKKEOMITEE

VERSLAG INGEVOLGE ARTIKEL 10 (1) VAN DIE WET OP SKADELIKE
SAKEPRAKTYKE, 1988 (WET No. 71 VAN 1988)

VERSLAG No. 13

SKULDMAKELARY

INHOUD

I. Inleiding.
II. Die Sakepraaktyk.
III. Voorleggings ontvang.
IV. Evaluasie van die sakepraaktyk
V. Gevolgtrekking en aanbevelings.

I. INLEIDING

1. Die Sakepraaktykeomitee het ingevolge artikel 8 (1) (b) van die Wet op Skadelike Sakepraaktyke, 1988 (Wet No. 71 van 1988) ("die Wet"), ondersoek ingestel na 'n sakepraaktyk waarby 'n kredietopnemer uitgenooi en bygestaan word om sy regte en verpligtinge ingevolge 'n kredietoorrekeningkoms aan 'n derde party oor te dra. Inligting deur die Sakepraaktykeomitee bekomm toon dat dit 'n sakepraaktyk is wat wydverspreid voorkom.

2. Kennis van die ondersoek is gegee ingevolge artikel 8 (4) van die Wet in Algemene Kennisgewing 232 van 1990 gepublisere in Staatsskoerant No 12375 van 30 Maart 1990.

3. Volgens die kennisgewing het die ondersoek betrekking op 'n sakepraaktyk—
(i) waarby enige persoon—
(a) enige kredietopnemer help om 'n kredietoorrekeningkoms te verbreek; of
(b) uitgesonderd die kredietgewer, of met die toestemming van die kredietgewer, voor- gee om die oordrag na 'n ander persoon van die regte of verpligtinge van 'n kredietopnemer kragtens 'n kredietoorrekening, te ree

(ii) enige reklame met betrekking tot die sakepraaktyk.

4. Skriftelike en mondelse vertoe is ontvang na aanleiding van die kennisgewing ingevolge artikel 8 (4) van die Wet.
NOTICE 171 OF 1991

OFFICE OF THE COMMISSION FOR ADMINISTRATION

INVESTIGATION IN TERMS OF SECTIONS 10 (1) (a) AND (d) OF THE MAINTENANCE AND PROMOTION OF COMPETITION ACT, 1979 (ACT NO. 98 OF 1979), INTO RESTRICTIVE PRACTICES AND MONOPOLY SITUATIONS IN THE SUPPLY AND DISTRIBUTION OF COAT-HANGERS, DRY-CLEANING CHEMICALS AND RELATED ACCESSORIES IN THE DRY-CLEANING INDUSTRY

The Competition Board hereby make known for general information in terms of section 10 (4) of the Maintenance and Promotion of Competition Act, 1979 (Act No. 96 of 1979), that they are undertaking an investigation in terms of sections 10 (1) (a) and (d) of the Act to determine whether any restrictive practices and monopoly situations exist or may come into existence in the supply and distribution of coat-hangers, dry-cleaning chemicals and related accessories in the dry-cleaning industry.

A "restrictive practice is defined in section 1 of the Act as":

"(a) any agreement, arrangement or understanding, whether legally enforceable or not, between two or more persons; or

(b) any business practice or method of trading, including any method of fixing prices, whether by the supplier of any commodity or otherwise; or

(c) any act or omission on the part of any person, whether acting independently or in concert with any other person; or

(d) any situation arising out of the activities of any person or class or group of persons, which restricts competition directly or indirectly by having or being likely to have the effect of—

(i) restricting the production or distribution of any commodity; or

(ii) limiting the facilities available for the production or distribution of any commodity; or

(iii) enhancing or maintaining the price of or any other consideration for any commodity; or

(iv) preventing the production or distribution of any commodity by the most efficient and economical means, or

Engemend kan binne 'n tydperk van dertig (30) dae vanaf die publikasie van hierdie kennisgeving skriflike vertoe aanvaange hierdie onderrig om aan die Direkteur: Ondersoeke van die Raad op Mededinging, Privaatsak X720, Pretoria, 0001, of Telefax (012) 322-5428 (Verwysing R4/2/1/2/49).

(22 February 1991)
NOTICE 172 OF 1991

DEPARTMENT OF MANPOWER

LABOUR RELATIONS ACT, 1956

REGISTRATION AS AN EMPLOYERS’ ORGANISATION

It is hereby notified for general information that the Garment Manufacturers’ Association of the Western Cape has with effect from 5 February 1991 in terms of section 4 (7) of the Labour Relations Act, 1956, been registered as employers’ organisation in respect of the Cut, Make and Trim Undertaking, as defined below, in the Magisterial Districts of Bellville, The Cape and Wynberg.

“Cut, Make and Trim Undertaking” means an undertaking concerned with the manufacture of clothing and merchandise by providing a service to fabricate and convert the components of assembled garments or other fabric items or merchandise, or any of the above processes.

(22 February 1991)

NOTICE 173 OF 1991

DEPARTMENT OF TRANSPORT

AIR SERVICES ACT, 1949 (ACT No. 51 OF 1949), AS AMENDED

Pursuant to the provisions of section 5 (a) and (b) of Act No. 51 of 1949 and regulation 5 of the Civil Air Services Regulations, 1964, it is hereby notified for general information that the applications, details of which appear in the Schedules hereto, will be heard by the National Transport Commission

(22 February 1991)
22. There are abundant indications that consumers have been deceived and unreasonably prejudiced. The terms of their relationships with credit grantors and their obligations under both the common law and the Credit Agreements Act have been misrepresented. Consumers have been enticed into committing offences. This type of business practice leads to justified disappointment with the business community on the part of consumers. As a result of the business practice consumers have suffered substantial hardship and financial losses, and they have been burdened with additional interest and legal costs. Consumers have had to face legal proceedings instituted by credit grantors and they have been exposed to criminal prosecution. Vehicles have been damaged or lost. A business practice by means of which consumers are induced to enter into invalid or worthless contracts, resulting in widespread disappointment of their expectations, not only has the capacity to harm relations between businesses and consumers in general, but also brings the whole business community into disrepute.

23. Having found that the business practice as described in the notice made known under section 8 (4) of the Harmful Business Practices Act by General Notice 232 of 1990* constitutes a harmful business practice, it must be considered whether this harmful business practice is justified in the public interest.

24. In this respect account is taken of considerations such as the undesirability of regulatory intervention on behalf of consumers. Consideration is also given to matters such as the likelihood and magnitude of financial harm to consumers if a harmful business practice is allowed unchecked, and the fact of whether or not a harmful business practice conflicts with policies expressed in either legislation or the common law.

25. The system of debt broking described is clearly in conflict with the policy of the Credit Agreements Act requiring that the credit receiver should keep the credit grantor informed of relevant information pertaining to the credit receiver as well as pertaining to the goods forming the subject matter of their relationship. The business practice simultaneously consists of the giving of assistance to consumers to commit, whether willingly or unwillingly, breach of their contracts with credit grantors and to enter into invalid agreements with third parties.

26. The Credit Agreements Act provides a framework for the responsible extension and use of consumer credit. The fact that consumers become unable to meet their credit obligations may be due to a number of causes, including the general rise in the cost of living and unemployment resulting from inflation and weak economic growth. Consumers sometimes assume credit obligations which they cannot shoulder, while credit grantors are not always as strict as they should be in taking on credit risks that might be better avoided. A general improvement in economic conditions might prevent some consumer defaults, but there is a clear need for better consumer education regarding the responsible use and implications of consumer credit. On the other hand, a more fastidious approach to the extension of credit to consumers may also be called for on the part of some credit grantors.

27. The regulation of consumer credit by means of laws such as the Credit Agreements Act constitutes an important part of consumer law and provides significant protection to consumers. The regulation of credit is a feature of virtually all legal systems both modern and ancient. The availability of credit appears to be both potentially advantageous and harmful. The sensible utilisation of credit makes possible expansion and growth and the maintenance and creation of employment. The excessive use of credit has plunged both individuals and societies in penury. The Credit Agreements Act seeks to achieve a reasonable balance between the interests of credit receivers and credit grantors. In so far as the business practice of debts broking conflicts with the policies of the Credit Agreements Act the Committee is of the view that the practice cannot be justified in the public interest.

28. Various ostensible advantages of the business practice for the credit receiver, the credit grantor and the third party have been pointed out, such as the facts that the credit receiver is released from his debt obligations, that the third party can acquire a vehicle at an attractive price, and that the credit grantor recovers arrear payments outstanding as on the date of the debt broking transaction. These advantages are only advantages if the rights and obligations of the credit grantor and the credit receiver are entirely disregarded and if the fact that the credit grantor still has a property and contractual interest in the vehicle is ignored. These ostensible advantages can consequently not be taken into account in determining whether the business practice is justified in the public interest.

29. The essence of the practice of debt broking consists of the actions of the broker in assisting a credit receiver to transfer, without the knowledge of the credit grantor, the credit receiver’s obligations to a third party. As was pointed out such a purported transfer is not only void but also prohibited by law, exposing both the credit receiver and the broker to prosecution and civil legal action. This conduct is normatively objectionable in terms of existing law.

* Published in Government Gazette No 12375 of 30 March 1990
Board to probe textbook industry

THE Competition Board is to investigate whether any restrictive or monopolistic practices exist in the textbook industry.

An announcement about the investigation will be published in today's Government Gazette.

The investigation was initiated on the basis of complaints made by certain booksellers in Natal that monopolies relating to some large publishers existed, a Competition Board spokesman said yesterday.

He said the investigation would examine the full spectrum of the supply and distribution network of textbooks to primary, secondary and tertiary levels of education in SA.

The publishing of textbooks in SA is a multimillion-rand business. The Department of Education and Training (DET) alone spent R51m on textbooks this financial year.

However, according to Juta MD James Duncan, the DET is not one of the largest buyers at present. Homelands were huge buyers of textbooks.

Duncan said there were a host of education departments in SA and the homelands and each had its own systems and purchasing policies.

Book Trade Association of SA president Ekhfad Oellerman said certain education departments approved four to six textbooks for a course for a particular standard and each school chose the one it would use.

The contract price was agreed between the publisher and the education department. The publisher chosen had to be a member of the SA Publishers Association, but this was to eliminate fly-by-night suppliers, Oellerman said.

Interested parties may make written representations on the matter within 30 days to the Competition Board.
DEREGULATION  

BUREAUCRATS RESIST

Local authorities in Natal continue to resist the scrapping of most business-licence requirements and trading-hour laws, but this is unlikely to stop parliament from pushing ahead. The Business Bill, now being debated by the parliamentary Joint Committee on Trade & Industry, would replace the interim measure that took effect on January 1, 1990, that eliminated licence requirements except for escort services and businesses that process or handle food. They also allowed unrestricted trading hours every day except Sunday and religious public holidays.

But Natal was temporarily exempted from the deregulation because the provincial government depends on licence fees for income (Business, December 15, 1989). Municipal bureaucrats, fearful of losing their licensing department jobs and power to restrict businesses, also opposed the measures, especially in Cape Town.

Jimmy Sade, director of the Pretoria-based United Municipal Executive, which represents local authorities throughout the country, says there is now a difference of opinion between members in Natal and the other three provinces. This makes it a “sensitive issue” and the executive doesn’t want to comment, particularly because it may be called to give evidence to the committee.

As a smokescreen for their real complaints, local authorities objecting to the Bill argue that it will lead to chaos and a drop in standards. But Brian Goodall, the DP spokesman for Trade & Industry and one of the staunchest supporters of the measure, says the deregulation has been in place for more than a year “and the sky hasn't fallen on our heads.” He says the Bill is particularly beneficial to small businesses and the informal sector because it removes many restrictions on their activities. “Government has talked about deregulation for years. This is the opportunity to put its money where its mouth is. If parliament doesn’t pass this Bill, then all the talk of deregulation will have been meaningless. If we are serious about free markets and free competition, then this measure must go through.”

Goodall says deregulation is an even more important issue than privatization “We have a simple choice, we either adjust wealth discrepancies through the tax structure — and this will play a role — or through economic structures by allowing the marketplace to eliminate the discrepancies.”
Board gets hooks into coat hanger industry

THE wire coat hanger industry is to come under the scrutiny of the Competition Board.

Board chairman Pierre Brookes says he has received a complaint that the makers of plastic-coated hangers are in collusion and an investigation has been launched.

The owner of a dry-cleaning firm in Mamelodi has claimed that a collusive relationship exists between the only two manufacturers of the hangers used by the industry. Single-channel marketing was causing exorbitant prices, he said.

One manufacturer had apparently become the sole distributor of the hangers, leaving the producer to the other. "This case is special because it is the first complaint we have received from a black businessman. The Competition Board does not only exist for mega-corporations, but also to assist small businessmen," Brookes said.

Both manufacturers of coat hangers listed in the telephone directory pleaded ignorance and said they had no idea who the guilty party could be.

AECI has also become entangled in the case through being the sole local supplier of white spirit. The businessman asked the board to examine the monopoly in dry-cleaning chemicals.

Dry-cleaners told Business Day that they were limited to buying coat hangers from Protea and chemicals from AECI.

All dry-cleaners approached said they welcomed the board's investigation.

An AECI spokesman said the small scale of the SA market made it impractical to have several suppliers of dry-cleaning chemicals.
Committee to probe cash lender’s schemes

By June Bearzi
Star Line

The Harmful Business Practices Committee has called on anyone who has a complaint about money lender and debt distributor Lucifer Spokie van Zyl or his agents and companies, Novio Finance and Reficul Industries, to write to the body within 14 days.

The notice in today’s Government Gazette announcing an investigation in terms of section 8(4) of the Harmful Business Practices Act, 1988, follows hot on the heels of a Star Line probe into Mr van Zyl’s finance companies.

Over the last few weeks Star Line has highlighted complaints from people burdened with debts and loan-seekers who made down-payments amounting to as much as R8 000 to enter debt-distribution or cash loan schemes offered by Mr van Zyl.

However, angry clients complained that loans were not forthcoming or that most of their creditors were not paid, and when they demanded their money back they were told to sign cancellation forms.

**Desperate**

When I approached Novio I was told that if I made a R8 000 up-front payment, the loan would be confirmed within three to seven days.

"After two weeks nothing was done so they said that if I was unhappy I should sign a cancellation document. Some time after that I got a R3 000 cheque — R4 400 was deducted for their expenses," Mr da Rocha complained.

The investigation by the Business Practices Committee will include Mr van Zyl’s associates, employees and agents, among them Donovan Pretorius, Henry Strydom, Jan Human, Gert Fingerling, Chris Saaiman, Ferdi Beeslaar and Dewald Ahlers.

All representations relating to Mr van Zyl and his associates’ activities must be addressed to The Secretary, Business Practices Committee, Private Bag X8, Pretoria 0001.
Alant expounds on Businesses Bill

CAPE TOWN — Government was committed to a policy of deregulation aimed at ensuring ease of entry into the economy for all South Africans, Deputy Trade and Industry Minister Theo Alant said yesterday.

Introducing the second reading debate of the Businesses Bill in Parliament, Alant said the Bill was a product of that policy and represented a fundamental departure from the existing system of provincial control of business activities.

The Bill eliminates the licence requirements of all businesses other than those providing food or entertainment services, and allows unrestricted trading hours every day except Sundays and religious public holidays.

It had received widespread and enthusiastic support from all parties.

Alant said concessions had been made along the way, but the end product was a balanced proposal.

He said the Bill standardised the licensing procedures of the four provinces and drastically reduced the number of business categories requiring licences from 60 to a limited number in the food and entertainment industries. It abolished licensing boards and, contrary to earlier fears, did not institute a system of registration.

The Bill also cut down on regulation which stifled the business activities of hawkers, Alant said.

But it maintained appropriate controls over their activities, restricting them, for example, from doing business on frontages of shops trading similar goods or from areas where they could obstruct traffic.

Licensing authorities would be able to refuse or revoke the licences of businesses in the licenciable categories if they did not comply with health and safety regulations.

The Bill affirmed the removal of restrictions on business hours during the week and on Saturdays. But, it did not affect restrictions on Sundays and religious public holidays except in Natal where the 1996 abolition of restrictions on Sunday trading hours would be maintained.

Inequality

Alant said government was considering representations from the business and religious communities about Sunday trading.

DP MP Brian Goodall, a staunch supporter of the Bill, said the removal of unnecessary restrictions would help to reduce inequality in the economy without destroying growth potential.

Sapa reports Goodall said during the debate on the motion he hoped political apartheid would not be replaced by economic apartheid.

Until blacks felt they also could enjoy the benefits of the market system, they would have no reason to support it.

NP MP Fanus Schoeman, who chaired a Parliamentary Joint Committee which considered the Bill, said it would make it easier for people to move into the business sector and help to create new jobs.
Probe into price differences of pharmaceutical goods

Beverly Huckleby

The Competition Board is to investigate claims that the prices of pharmaceutical products distributed to drug wholesalers, retail pharmacists, dispensing doctors, private hospitals and clinics are inconsistent.

The investigation is to be gazetted today.

The board said the probe had been launched in response to allegations that the pharmaceutical manufacturing industry discriminated against purchasers who sold drugs on prescription.

SA Druggists MD Tony Karz said he favoured the investigation as the drug wholesale industry received the worst possible price on pharmaceutical products.

"The drug wholesale industry is the largest supplier to the private sector of which private hospitals and retail pharmacies are a major part.

"Dispensing doctors have been known to receive better deals than wholesalers who are paying a relatively high price per 10,000 units compared with the lower prices paid by dispensing doctors for 100 units.

"National Drug Wholesalers' Association president Maurice Goldstein said yesterday the association believed "restrictive practices" were prevalent.

"This has been going on for a long time and the contention is that different prices apply to different buyers."

The Pharmaceutical Manufacturing Association was unavailable for comment.
Quality controls will be good for trade

By Paula Fray

The South African Bureau of Standards (SABS) greatest assistance to industry was the creation of internationally recognised quality systems, SABS director-general Dr Jean du Plessis said last week.

Commenting on the Bureau's annual review, Dr du Plessis said local industry was clearly beginning to realise that the introduction of quality systems could make a large contribution to profitability.

Dr du Plessis said the Bureau's assistance in many areas enabled industry to exploit "export opportunities created by the changing political climate."

Thus their greatest help to industry was the creation of internationally recognised quality systems.

"The removal of internal trade boundaries in Europe in 1992 will present South African exporters with strong challenges to compete on the European market. Successful competition would be possible only if quality was guaranteed," Dr du Plessis said.

Industry's acceptance of the role of quality systems as a guarantee of quality was reflected by the growth of the SABS code of practice for quality management.

"A total of 209 companies were listed over the first eight years and 318 over the past two years, 161 during 1990 alone," Dr du Plessis said.

Reviewing SABS activities for 1990, Dr du Plessis said the SABS had concluded a reciprocal recognition agreement with the German Association for the Certification of Quality Systems, a first step towards recognition of its listing scheme in Europe.

Dr du Plessis said industry's improved acceptance of quality systems, as well as the Bureau's greater market orientation and the expansion of its services, were reflected by the improved SABS financial statements for the year ended 31 March 1990.

The SABS's total income increased by 18.4 percent from R76.8 million to R91 million.

Self-generated income increased by 21 percent from R47 million to R59 million, while the parliamentary grant was only 8.7 percent more at R31.9 million (R29.4 million).

Investigations, tests and services, the listing scheme, assessment services, consignment inspections, levies on compulsory specifications and permit fees paid on a production basis were the SABS's main sources of self-generated income.
SABS boasts increased income

PRETORIA, The SA Bureau of Standards increased income last year by 18.6%, from R76.8m to R91m, according to its latest annual report.

Self-generated income increased 21% to R59m while the bureau's state grant was only 8.7% up to R31.9m.

Investigations, tests and services, its listing scheme, assessment services, consignment inspections, levies on compulsory specifications and permit fees paid were the main sources of self-generated income.

SABS director Jean du Plessis said the bureau had assisted industry to better exploit export opportunities created by the changing political climate.

Its greatest assistance to industry was the creation of internationally recognised quality systems.

And industry's acceptance of the system was reflected in the growth of the SABS code of practice for quality management, 24% over two years.

More than 200 companies were on the bureau's listing scheme in the first eight years while 218 had joined over the past two years, Du Plessis said.

Du Plessis said the removal of international trade barriers in Europe next year would present SA exporters with a strong challenge to compete in European markets.

Successful competition however would be possible only if quality was guaranteed.
Plenty to whine about as Barend ups dummy duty

The increase in excise duty on beer was disgraceful discrimination against the drink of the black man and the working man as a whole, the managing director of South African Breweries’ beer division, Graham Mackay, said after Mr du Plessis had presented his Budget speech to Parliament.

Mr du Plessis announced a 3c increase in the excise duty on a beer dummy, but no duty was levied on unfortified wine.

“I have no problem with the wine industry,” Mr Mackay said. “Our criticisms are aimed at the Ministry of Finance.”

He said South Africa’s biggest beer producer was a victim and that the Government, in imposing such a heavy levy, was simply taxing what the traffic could bear.

Precisely, is the view of Dean Colesky, Commissioner of Customs and Excise at the Department of Finance.

He said he could understand that the beer industry wanted to achieve maximum sales, but the Government was faced with the problem that it had to generate revenue for various social needs, by increasing taxes.

“People won’t stop drinking beer, though. Any decrease in sales will be temporary.”

He said the increase should not have come as a surprise to the beer industry, all that was unexpected was that the increase was substantially higher than last year’s increase of 1c.

The Government was deliberately targeting a successful product for extra taxes, Mr Colesky said.

The beer industry had a large consumption and should be expected to make a contribution to the State coffers.

The decision to increase the excise duty on beer by 20 percent — about 5 percent higher than consumer inflation — was made for a number of reasons.

- It offered the Government much revenue because it was a buoyant industry with a large volume of sales.
- The International Monetary Fund had commented on the fact that excise duties were relatively low compared with other countries in the world and recommended that the Government should at least increase duty to keep pace with the producer prices of the articles.

Mr Mackay insists that his industry is a victim of discrimination and that the Government was taxing productivity.

“We have an impermeable production record and attract the tax because the common view is that we can afford it.”

He said beer had about 55 percent of the market share and contributed between 75 and 80 percent of the excise.

What he describes as the drink of the working man was being ignored in the interests of expediency, and excise-tax equality was not being served at all, by not taxing wine.

There was no animosity between the beer and wine industries, Mr Mackay said, because their markets varied.

“Excise-tax equality is not being served at all — any way you look at it.”

Mr Colesky insisted that South Africa was in step with other wine-producing countries who did not levy excise duties on unfortified wine, targeting beer and spirits instead.

There had been a duty of 3 percent on wine until 1982, when it was abolished.

Mr Colesky said natural wine was regarded as a natural agricultural product, and therefore not taxable, and that tax on the industry would not have done it any good.
SABS moots stricter labelling of textiles

Consumer Reporter

Consumers could soon have improved protection when buying textiles if a South African Bureau of Standards (SABS) draft code of practice for the labelling of textiles is approved.

The proposed code provides for the labelling of textile products with the actual fibre content, for example "88 percent polyester/12 percent cotton", rather than generic labelling such as "polyester/cotton".

A draft of the proposed code has been circulated for comment.

The intention is to provide the buyer with more information.

Since consumers are becoming increasingly aware of the performance to be expected from certain fibre types or blends of fibres, correct fibre content labelling would help them to buy more wisely.

Consumers would have information on how to care for the garment and an important benefit would be that people suffering from allergies would be able to avoid irritating fibres.

Compulsory labelling would also assist in the control of imports and exports.

The proposals were provided by a committee set up by the SABS.

The committee agreed that compliance with the proposed code of practice should be made compulsory in terms of the Merchandise Marks Act.

Such legislation would bring South Africa more in line with the United States, certain Far Eastern countries and all member-countries of the European Community, where regulations governing such labelling have been in effect for many years.
Michael Chester

Commercial epics fit for block buster movie


The food chain

The food chain

In this image, the text appears to be related to a food chain or a commercial epic, possibly referring to a blockbuster movie. However, the content is not fully legible due to the quality of the image.
After-hours
goze trade
on the cards

POLITICAL STAFF

CAPE TOWN — shopping hours for off-consumption liquor sales could be relaxed soon, the Government has hinted.

The Department of Trade and Industry's annual report for 1990 says the law is to be reviewed to keep pace with "modern-day requirements."

Various aspects of deregulation are to be dealt with in a draft Bill to be prepared for comment.
Bakers warned to clean up act

Bread weighed, found wanting

More than 90 percent of bread on sale in South Africa has been found by the SABS Bureau of Standards to be under the weight required by law.

The SABS recently conducted a countrywide survey which showed about 2,000 loaves of bread were weighed at 24 bakeries in the PWV area, Cape Town, Durban, Bloemfontein and Port Elizabeth.

Of the 24 bakeries, one in Bloemfontein and the other in Port Elizabeth had been found to have been emitting from further baking until they complied with the regulations. A director of the bureau, Martin Kellerman, said in Pretoria yesterday.

A spot check by The Star yesterday revealed that Johannesburg bakers were not complying with regulations.

Variation

Two out of four loaves of standard bread were below the required weight of 650 g, taking into account the permitted variation of 75 g. Loaves weighed 575 g and more.

In his statement, the SABS referred to underweight and overweight issues. A spokesman later explained that a loaf was deemed overweight if it was 10 percent over the permitted weight. This prevented a bakery from avoiding the regulations by packing their loaves.

The SABS investigated 60 bakeries and found that 44 percent of the loaves were underweight, 60 percent were within the permitted variation and 6 percent were overweight.

Bakers who were found to be producing bread far under the required weight had been warned to correct the situation. Mr. Kellerman said this was a general warning to all bakers to clean up their act or face prosecution.

In terms of regulations, a standard loaf must weigh 650 g, 550 g or 1,200 g.

A variation of ±5 percent and plus 15 percent is allowed. A loaf of 600 g must therefore weigh between 750 and 600 g and the average weight of 10 loaves must be more than 650 g.

Non-standard bread, such as egg bread, may be packed individually with the weight on the packaging.

The greatest variation had been found in Port Elizabeth, where loaves had an average weight of 653 g. Mr. Kellerman said he had been informed of the situation.

He added that the bakers producing about 95 percent of South Africa's bread were members of the South African Chamber of Bakers and generally co-operated well with the SABS.

The remaining 5 percent of bread was produced by 1,000 smaller bakers not monitored by the chamber.

James Dippenaar, executive director of the chamber, said the chamber had been pleased with the initiative taken by the SABS. It would benefit both the consumer and the bakers. The chamber would now take steps to ensure that the regulations were being followed.

Mr. Kellerman called on the public to report instances of underweight bread to the SABS.

Just checking. Helenie Dannheisser of The Star's promotions eyes an under-weight loaf of bread while The Star bought at a Johannesburg deli was found to weigh 57 g below the required 600 g.

Picture: Karen Fletcher
Non-regulation bakers ordered out of kitchens

PRETORIA — More than 20% of bread loaves failed to conform with weight requirements, according to an S.A. Bureau of Standards (SABS) survey.

During a two-week period about 2,000 loaves from 76 bakeries nationwide were weighed.

At bakeries in Port Elizabeth and Bloemfontein loaves were so much off standard that the bakers were prohibited from further baking until they complied with regulations.

Regulation of bread weights set out by the Trade Metrology Act are 460g, 800g or 1,200g; variations of 3% less or 1% more are allowed.

The region with the smallest weight variations was the PWV.
Bakers query survey

Major bakers have questioned claims by the South African Bureau of Standards that more than one-third of all South African bread is underweight.

South African Chamber of Baking executive director James Dippenaar yesterday said the SABS findings were based on a sample of only 2,000 loaves, whereas more than 1,700 million loaves were produced in South Africa each year.

"It was an inadequate sample as far as we are concerned," Mr. Dippenaar said. "While it may be true that 30 percent of loaves tested by the SABS were underweight, it is far-fetched to say 30 percent of all bread in South Africa does not comply with weight requirements."

The bulk of bread baked is of the correct weight and the majority of bakers are playing the game," he added.

However, the chamber, which represents about 400 bakers across the country, welcomed the SABS survey.

Consumers who were unhappy about the size of their loaves could complain to the chamber, he added.

Reacting to Mr. Dippenaar's statement that the SABS sample in five metropolitan centres - the PWV area, Cape Town, Durban, Bloemfontein and Port Elizabeth - was inadequate, an SABS spokesman said the organisation regarded its sample as representative.
SABS warning over false claims

THE South African Bureau of Standards (SABS) has warned the construction industry to be wary of suppliers and manufacturers who make unfounded claims that their products comply with SABS specifications. SABS cited laminated wooden beams, doors, wood, concrete building blocks and paving blocks as products particularly affected by misrepresentations. SABS chief director Jan Meyer said legal action could be taken against people guilty of misrepresentation.
SABS opens grumbles line

Customer complaints about items bearing the South African Bureau of Standards mark can now be handled by the customer service. Complaints about goods or services not satisfying in any of these categories should be addressed to the Consumer Council or other consumer organisations.

The bureau said in a statement yesterday that consumers could call Pretoria (012) 428-6668 during office hours if they failed to get satisfaction from retailers when goods which had the SABS quality mark were faulty.

Complaints about goods not bearing the mark, but subject to legally compulsory safety, packaging or quality standards, would also be handled by the customer service.

In addition, any manufacturer or importer of such goods could submit samples to the SABS for safety testing before offering them for sale.
New SABS service to help customers

CUSTOMERS with complaints about items bearing the South African Bureau of Standards mark can now call the newly installed SABS customer service.

The bureau said in a statement issued on Monday that consumers could call Pretoria (012)428-6666 during office hours if they failed to get satisfaction from retailers when goods which had the SABS quality mark were faulty.

Complaints about goods not bearing the mark but subject to legally compulsory safety, packaging or quality standards would also be handled, the bureau said.

Complaints about goods or services not falling in any of these categories should be addressed to the Consumer Council or other consumer organisations.

The SABS said goods subject to compulsory safety standards included all domestic electrical equipment. These items were tested regularly by the SABS on a random sample principle.

In addition, any manufacturer or importer of such goods could submit samples to the SABS for safety testing before offering it for sale.

Sowetan Correspondent

Azasaco publicity secretary Sipho Maseko will speak on youth politics today.

Youth politics to be discussed by youth bosses

AZAPO and ANC youth leaders will discuss "youth politics in the anti-apartheid struggle" at the Downtown Inn in Pieter Street, Johannesburg, today.

They are national chairman of the ANC Youth League Peter Mokaba and Sipho Maseko, who is the publicity secretary of the Amanhlanzi Students Convention and a BA student at Wits University.

Khotso Seathlolo, who was one of the central figures in the June 1976 uprising, will chair the session which starts at 5pm.

Seathlolo was released from Robben Island prison last year after spending eight years for charges relating to terrorism and recruiting people for armed revolt.

The meeting is being held under the auspices of Tribute magazine.

Sowetan Correspondent
Competition Board plans big campaign

THE Competition Board is to push for speedy prosecution of cases involving alleged contraventions of competition law.

In an interview yesterday board chairman Pierre Brooks said he was concerned about the board’s credibility and he vowed to go to great lengths to bring to court a Maintenance and Promotion of Competition Act case.

No cases have gone to court in five years. The SAP’s commercial branch is currently investigating 12 cases.

“If at all possible, we would like to see prosecutions. Even if a verdict of not guilty is returned, it would show that the system is working. A prosecution would also serve as a deterrent,” Brooks said.

Brooks said he would meet attorneys-general to discuss prosecution problems. He had already held talks with the Justice Department on the low priority the courts and the police apparently accorded cases involving competition legislation. The commercial branch’s difficulties in investigating these alleged contraventions would also be addressed.

Conviction could result in a fine of R100,000 or five years’ imprisonment.

Failure to prosecute over the past five years had prompted the board to propose that the process be “demonisation”; allowing the board itself to administer pun-

GRETA STEYN
Low Equity poll votes to maintain SA ban

LONDON — British actors' union Equity yesterday voted against lifting its ban on the sale to SA of television and radio material involving its members.

Veteran actor Marcus Gorng, who forced the referendum to be held, said he would pursue the matter through the courts and hoped to get the ban declared unconstitutional within three months.

In a low poll, 6,675 (14.8%) of the total of 46,000 Equity members voted on lifting the ban, which was imposed following a similar referendum in 1976.

Of the 6,675 valid papers in the postal ballot, 3,763 (56.5%) voted against ending the ban, while 2,887 (43.3%) were in favour.

A second question — whether Equity should discontinue its policy of excluding SA from a list of countries where theatre actors may tour with the backing of the union — was defeated by a similar margin.

Gorng, 79, said he had already instructed lawyers to resume a case against Equity which was adjourned earlier this year in order that the issue might be settled at least cost through the referendum.

Some Equity council members have already successfully brought one action against Equity.

In 1986 the High Court declared that Equity's policy of instructing members not to work in SA was sectarian and unconstitutional.

Gorng's application on the policies in yesterday's referendum is based on a claim that they are unconstitutional for the same reason — namely that they are sectarian, which is forbidden in the Equity constitution.

Equity called for a partial lifting of the ban on sales.

Keeling said he believed the "no" vote was more a vote against the SABC than against SA, and members would not be sold to SA.

Last night another Equity member, Fred Keeling, said he would back a campaign for another referendum, this time calling for a partial lifting of the ban on sales.

He added that a more aggressive effort to counter misinformation spread by some Equity members during the referendum might have led to a vote in favour of programme sales.
Heat is on red meat industry

By Helen Grange
Pretoria Bureau

An all-embracing investigation is to be conducted into the red meat industry by the Competition Board, the Government announced yesterday.

The industry has recently been under criticism over its marketing policies, which result in the consumer paying a high price — but the farmer gets less than half of it.

The Ministry for Economic Co-ordination and Public Enterprises, and the Ministry of Agriculture and Agricultural Development, said yesterday that the investigation would review all arrangements and structures involving meat production and marketing.

It would also investigate and make recommendations on the most appropriate manner in which red meat production and marketing ought to be regulated on a competitive basis.

Specific attention would be devoted to the prevailing marketing arrangements and the desirability of privatizing the South African Abattoir Corporation.

Jan van der Walt, manager of the Red Meat Producers Organisation at the South African Agricultural Union, said he was disappointed at not being consulted before the decision was made public. He added that the meat industry was already being deregulated.

A Farmers Weekly magazine source recently reported that both farmers and consumers were victims of a “middleman syndrome” — agents and organisations who are controlling prices by hoarding rather than marketing meat surpluses in order not to disturb the high profit margins.

There is also a row over the importation of meat, with Dr Pieter Coetzee, senior general manager of the Meat Board, saying there is no need for importation of certain meats when these are already available.
Competition Board to probe red meat sector

CAPE TOWN - Government yesterday instructed the Competition Board to conduct an "all-embracing" investigation into the red meat industry in SA.

The probe could result in a major revamp of the entire industry, placing it on a more competitive and market-orientated footing with cheaper meat for the consumer as the ultimate goal.

The investigation, which will take place in terms of the Maintenance and Promotion of Competition Act, was announced jointly yesterday by Economic Co-ordination and Public Enterprises Minister Dawie de Villiers, and Agriculture Minister Kraai van Niekerk.

The ministers said the board would be charged with the task of "authoritatively and impartially" determining the influence of existing legislation, regulations and marketing arrangements and structures on the red meat industry.

The investigation will consist of:
- a review of all arrangements and structures involving production, and marketing; and
- an investigation into the most appropriate manner in which red meat production and marketing ought to be regulated "on a competitive basis within a market force context," and recommendations on how this could be achieved.

Specific attention will be devoted to the prevailing market arrangements and the desirability of privatising the SA Abattoir Corporation "in a deregulated market environment."

Deregulation

The role and functions of the existing marketing structure "within a market economy" will also come under the spotlight.

The ministers said the investigation should put the government in a position to take future decisions on the red meat industry with due regard for the policy of privatisation and deregulation and especially the necessity of competition.

The ministers said the probe would take place "with the knowledge of all the important role-players in the industry. But they gave no indication when the investigation might be completed."
Cement cartel under spotlight

Own Correspondent

JOHANNESBURG. — The Competition Board has launched an investigation into the three-member cement cartel.

Competition Board chairman Pierre Brooks confirmed that the board was to review the cartel's exemption, granted in 1988, from the Maintenance and Promotion of Competition Act.

Brooks said the board hoped the investigation would be complete by year-end.

He said while there was no certainty the status quo would change, the board had decided that the circumstances surrounding the exemption had changed.

The cement cartel — consisting of PPC, Anglo-Alpha and Blue Circle, represented by the SA Cement Producers' Association (Sacpa) — has been a controversial issue in the building and construction industry.

Sacpa has come under fire for fuelling the rate of inflation in the construction industry and being arrogant and insensitive towards its customers.

Anglo-Alpha MD Johan Pretorius said as far as the producers understood the board had not officially stated its intention to embark on a full inquiry, "although the cartel would co-operate fully with any investigation."

The producers claim they require market stability which reduces the risk on the high capital expenditure required and allows the industry to accept a lower rate of return on investment.

Sacpa argues that this results in lower prices, which is in the public interest.

But Concor Tectocrete MD Peter Mchau said the cartel should not consider itself unique as far as capital intensity was concerned. He said there was a risk involved in putting up a steel or aluminium factory or a fertiliser plant.

"It is just a question of managing one's capital adequately rather than seeking protection," he said.

A Sacpa positioning paper released on Friday claimed the cartel was in the best interests of the public.

The paper pointed out that market forces kept selling prices down and that prices had been in line with the PPI and the building materials cost index despite a significant increase in plant replacement costs.

Capital intensive

"The high capital intensity of the industry was shown in the fact that an economically sized kiln cost about R500m at today's prices."

The document said that while comments were frequently made about the impact the price of cement had on the cost of a home, its research indicated that it was "surprisingly low" at 4% to 8%.

It added that low-income housing had a higher cement content but was subject to vigorous competition from alternative building systems.

The cartel said that in the US, antitrust legislation has resulted in a number of adverse consequences for its cement industry.

The US industry is characterised by little new investment and maintenance programmes have fallen behind.
Red meat organisation ‘not consulted’ about inquiry

PRETORIA — The Red Meat Producers’ Organisation (RPO) said at the weekend it had not been consulted on the need for a Competition Board investigation into competitive aspects in the industry.

RPO chairman Gerhard Brus said the announcement of the investigation had given the impression that all was not well with the industry’s competitive aspects.

He stressed competition in the industry had been investigated by the recent Eloff Commission and nothing significant was discovered.

The industry had made great progress in the last few years in deregulating marketing arrangements, especially in the free movement of meat and the abolition of registration in the trade.

The report of a Meat Board committee which included representatives of the RPO, the Agricultural Department, the marketing board and the Board of Trade and Industry, on further deregulation would be discussed at a September meeting of the RPO executive.

Farmers’ attitudes to aspects such as the floor price, price formation and market access will be submitted to the Competition Board.
Probe into red meat industry welcomed

By Paula Fray
Consumer Reporter

The surprise announcement of an all-embracing investigation into the red meat industry by the Competition Board has been welcomed by the independent Organisation of Livestock Producers (OLP).

"The investigation is a surprise but it is something we believe is very necessary, especially as it is an independent commission of inquiry," said OLP chairman Nils Dittmer.

OLP executive member Sandy Speedy said the organisation was sceptical about the deregulation process.

"Very little has happened. We see the meat scheme as being re-regulation rather than deregulation. Hopefully, this investigation will put the deregulation process into top gear," Mr Speedy said.

The Red Meat Producers Organisation (RPO) has expressed surprise that it was not formally notified of the proposed investigation and that no consultation had taken place concerning the actual need, the terms of the consignment or the body that should conduct such an investigation.

RPO chairman Gerhard Bronn said the organisation would avail itself of the opportunity to state its views on aspects in the meat industry to be investigated by the board.

However, he felt that the Competition Board's decision to conduct the investigation created the impression that all was not well with regard to competition in the industry. He said this aspect had already been investigated before by the Eloff Commission and nothing significant had been discovered.

The Ministry for Economic Co-ordination and Public Enterprises and the Ministry of Agriculture and Agricultural Development last week said the investigation, in terms of the Maintenance and Promotion of Competition Act, would review all arrangements and structures involving meat production and marketing.

It would also make recommendations concerning the most appropriate manner by which red meat production and marketing ought to be regulated on a competitive basis within a market-force context.

Attention would be given to the desirability of privatising the SA Abattor Corporation.
The client does not incur brokerage charges. The spread between buying and selling prices is met and interest and storage insurance charges are paid at the end of each year. The spread widens to around $1 in volatile markets.

However, dealing costs are far lower than levels in the early to mid-1980s. Then the gap between buying and selling prices was sometimes as high as several dollars.

**Sliding Scale**

It is far more difficult to assess transaction costs of international securities. They depend on the customer's activity and relationship with the house. Commissions are calculated on a sliding scale and all sorts of special arrangements.

But with the exception of long-term government bonds, which have miniscule dealing spreads that keep dealing costs below 0.1 percent, bond and stock dealing charges exceed those of gold.

Total charges depend on the quality of the issue and marketability of the security and the exchange.

In the Eurobond and international corporate bond market, triple A issues can trade on a half-point spread, so that costs in the example are around 0.5 percent. Private clients can also incur commissions of around 0.5 percent to 1.5 percent.

"Scales on equity transactions are horrendously complicated and are a moving target," says a stockbroker.

But for sizeable transactions, total costs inclusive of commissions, range between one to three percent.

Commissions are higher in Japan and Europe, although London tends to be a less expensive market than its Continental counterparts.

Over and above these securities, private clients will pay banks custodian charges which can add at least another 0.5 percent on to expenses.

Some markets also encounter stamp duties, for example 1.5 percent in the UK. Sizeable buyers of UK unit trusts can negotiate spreads of around two percent, but must pay an annual management fee which ranges between one to 1.5 percent.

Property and art are not strictly comparable with liquid markets such as gold or securities. But a commercial property investment in the UK incurs purchase charges of six percent and in Germany eight percent, while France's costs can be as high as 20 percent in some instances.

A buyer of a $1 million painting will pay the auctioneer 10 percent. Annual insurance costs are $2,000 for every $1 million.

**Business**

**Bullion now cheaper to hold as competition drives costs down.**

By Neil Dalman

The price of bullion is falling, each ounce of these 250-g gold bars now costs around £12.50 instead of £15.00. The cost of bullion in London is around £12.50 and insurance costs of around £1.00.

The cost of bullion in London is around £12.50 and insurance costs of around £1.00.

For comparative purposes, however, the state supplied £10,000 bullion in London at £75,000 per annum, and insurance costs of around £1,000 per annum, so the state saved £15,000 per annum.

In an allocated account, the bullion costs £12.50 and insurance costs £1.00, so the total cost is £13.50. The cost of bullion in London is around £12.50 and insurance costs of around £1.00.

The cost of bullion in London is around £12.50 and insurance costs of around £1.00.

For this benefit, monthly storage costs are typically £5, which is paid by the customer. The client can then inspect the bullion at times, including in New York, at a total of £10 per month.

In a non-allocated account, the bullion costs £12.50 and insurance costs £1.00, but the storage costs are £10 per month, so the total cost is £23.50. The cost of bullion in London is around £12.50 and insurance costs of around £1.00.

For this benefit, monthly storage costs are typically £5, which is paid by the customer. The client can then inspect the bullion at times, including in New York, at a total of £10 per month.

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Brent von Merwille
on the comment cartel
Hindu Settler Board

Competition Board

The competition board has been created to ensure fair trade practices and prevent monopolies in the market. The board monitors and enforces regulations to maintain a competitive environment.
Video dealers to appeal to Pretoria over restrictions

MARCIA KLEIN

The video rental industry is to make urgent representation to government to plug a loophole which allows distributors to force store owners into buying mixed packages of video tapes.

Sources said objections already made to the Competition Board had resulted in government action on the issue but some distributors had found a way around this.

They said that further complaints had now been lodged with the board and with Administration and Economic Co-ordination Minister Dawie de Villiers.

Industry spokesmen said yesterday that despite action taken last year to stop distributors from pressuring them to buy videos in "mixed bag" packages of good and bad movies, certain distributors, particularly Ster-Kinekor Video, were still forcing them to take the packages.

The alternative was to pay a large premium on the titles that were in demand, they said.

Competition Board chairman Pierre Brooks said yesterday that recommendations resulted in government gazetting a notice making it unlawful for any mental distributor to determine that the purchase of any video was subject to the purchase of another.

The notice also meant distributors could not prohibit the resale of films six months after they were bought.

Dealers took Ster-Kinekor to court over the issue and won but it had still not been resolved, they said.

Industry sources said that instead of selling the tapes, Ster-Kinekor was leasing tapes to the stores.

These were priced in such a way that rental stores had to pay up to R500 a tape if only one was leased, and there was a 15% to 17% discount if up to seven titles were taken. The average price of a tape from CIC was R250.

A dealer said each of the three major distributors — CIC, Nu Metro and Ster-Kinekor — had a monopoly on the distribution of certain titles. Without tapes of the major titles, stores would go out of business.

Ster-Kinekor made up about 45% to 50% of the dealer's business, he said.

Industry players said CIC allowed for the trade of videos with no restrictions, while Nu Metro had some restrictions, but these were negotiable.

A video rental dealer said that tapes leased by Ster-Kinekor could not be exchanged between stores, so that each store owner had to buy his own titles.

He said that stores "had to sit on all the titles in the Ster-Kinekor package for six months of the leases" before they had an option to take the videos and sell them.

Ster-Kinekor declined to comment.
McCrystal to leave BTT next year
Sugar regulations to remain in place

GOVERNMENT legislation controlling the marketing and production of sugar is to be retained, says the Department of Trade and Industry.

LTi spokesman Charl Nel said the Sugar Industry Agreement — legislation enabling the SA Sugar Association (Sasa) to regulate prices and supply — was being amended, but Sasa’s “A- and B-pool” production and pricing system would not be affected.

"With sugar production and marketing being regulated worldwide, he said, SA could not act in isolation by dismantling controls overnight without "serious harm" being done to the industry.

Sasa sets the "A-pool" to meet domestic and export demand and then shares the quota between cane growers and gives them a fixed price each month. Excess ("B-pool") sugar is sold at international spot prices.

Nel said: "Production in the A-pool consists of 1.3-million tons for the domestic market while the balance of 500,000 tons is exported at ruling world market prices, which are extremely volatile."

He said the deregulation measures taken by government in 1999 entailed lifting import control on sugar and molasses, allowing the industry (represented by Sasa) to set its own prices, relaxed administration and created "free production areas".

The last measure allows smaller growers living within 30km of a sugar refinery to sell their produce at A-pool prices."
BUSINESS & TECHNOLOGY

Fearing that it would drive up costs and eliminate jobs, opponents are lining up against the Draft Designs Bill, which would largely prohibit the manufacture of spare parts by anyone other than the original maker. But the motor industry and other powerful interests are just as determined to push the Bill through (Business & Technology June 21).

The Bill has been amended substantially since it was proposed a year ago, but it would still erect so many bureaucratic hurdles for independent suppliers and manufacturers of vehicle replacement parts that the booming sector, which has created 70,000 jobs in four years, would all but die. The Bill is an attempt by vehicle manufacturers to control the lucrative after-sales market by giving themselves a monopoly over the manufacture and sale of components that go into their vehicles.

"The second attempt is no better than the first — it is a thoroughly bad law that would harm the spare-parts industry, lose jobs and fuel inflation," says Marius le Roux, a patent attorney who has broken ranks with his peers in opposing the Bill.

Critics say the Bill in recent weeks has been the Automobile Association of SA (AA), the short-term insurance industry and Louise Taylor of the Harmful Business Practices Committee.

Say SA Insurance Association spokesman Damon Deavin: "The Act clearly creates a monopoly and our main concern is that costs to the end user will increase, ultimately pushing up premiums at a time when neither the industry nor the economy can afford it."

Says AA spokesman Quinten van Erden: "It appears that the Bill could have adverse implications for the spare-parts industry. Ultimately we have to decide whether the legislation will benefit the motorist." He says the AA is still formulating its final recommendation. All comments must be submitted to the advisory committee appointed by Minister of Trade, Industry & Tourism Org Marais by September 30.

Critics mainly object to the Bill because it would grant manufacturers the right to register for protection the design of functional parts, in addition to aesthetic parts such as grilles and bumpers, which already have protection. Carmakers argue that they need this protection to maintain safety standards and protect customers from import parts, fraudulently passed off as originals. But opponents say the Bill is overkill, would stifle the many legitimate businesses to get at a few bad apples.

The Bill, however, would make exceptions. Spare-parts makers could obtain a licence to manufacture a specific part, but the item must be one that is replaced regularly.

And obtaining a licence would be an onerous procedure. Licences would have to be approved by no less than an official than the Minister. And before one is approved — the ability to supply the component at half the going price would make a good case for approval — the Minister must publish the planned approval and allow time for comment. Vehicle manufacturers are likely to object every time.

The lucky applicant making it through this administrative gauntlet still would have to pay royalties to the owner of the registered functional design. The applicant could decide not to go ahead after all if the Minister sets the royalty payments too high and wipes out the applicant’s potential profit margin. The Minister also would wield the power to say where the spare parts could be exported, if at all.

To add insult to injury, the Bill would not allow licences for imported spare parts — the very sector of the industry that is keeping prices in check. In other words, suppliers whose livelihood depends on imported parts will be out of business as soon as the Bill becomes law.

"This constitutes government interference in trade and industry at a time when government’s stated policy is the exact opposite — de-regulation," says Le Roux. "This concept is unheard of in intellectual property law."

"More than 100,000 parts could be affected," says John Reich, MD of spare-parts dealer Midas. "The Bill could include every nut or bolt. It will keep a lot of attorneys very happy."

To top it all off, the Bill would prohibit any outside manufacturing of a spare part for the first two years after the vehicle manufacturer puts it on the market. This would give the vehicle manufacturer time to decide which functional designs to register while giving it a monopoly over the replacement of every part in its vehicles. By the time the grace period is over, copying the spare parts would be less attractive because new models would be on the market.

Naturally, the Bill has the support of a large number of patent attorneys. Advisory committee member Chris Job, who is also the attorney acting for BMW and Toyota, says: "The majority recognise the need in a healthy economy to protect innovation and encourage expenditure of effort and money on original research and capital investment."

But says Midas’s Rich: "At the end of the day, the Bill seeks to protect the motor manufacturers, who are well established in the country and are all doing well, despite the recession."
A year after the effort to devise codes of conduct for business was announced, the Harmful Business Practices Committee is running into some obstacles.

The three-year-old committee, chaired by Louise Tager, is looking into creating codes for the after-sales motor industry, the property and building sectors, the advertising industry and the furniture trade.

In the process, Tager has become embroiled in a dispute with the Furniture Traders’ Association of SA, which sees her investigation as “unjustified interference.”

Says executive director Frans Jordaan: “During the Seventies, the association drew up its own code. But since then, the Credit Agreements Act imposed a number of new regulations on the industry. Together with the requirements of the Usury Act and the Stamp Duties Act, we feel that no further regulations are required. In fact, we find it strange that Tager, who is a leading lobbyist for deregulation in SA, now wants to impose new regulations.”

Advertising Standards Authority chairman Jack Siebert says the authority is negotiating with the committee to have its existing code adopted for the committee’s purpose. “We have effectively operated our code for 21 years and are not aware of what the committee has in mind as far as changes are concerned.”

Tager says her focus is on harmful practices that hurt consumers; codes would help reduce these practices.
Pharmaceuticals probe runs into complications

WILLIAM GILFILLAN

The Competition Board's investigation into alleged restrictive practices by pharmaceutical manufacturers was running up against a number of complicated issues, Competition Board chairman Pierre Brooks said on Monday.

The Board was trying to ascertain whether manufacturers were adopting discriminatory pricing practices which restricted competition in the wholesale and retail distribution network.

Brooks said the investigation was being complicated by high levels of pilferage in the industry and the distribution of samples to doctors.

Pilferage interfered with the pricing system as it could create a situation in which retailers might be able to sell pharmaceuticals at prices below the wholesalers' prices, he said.

Brooks said the Board was not looking at a "one size fits all" pricing system because it accepted that higher discounts could be given on higher volumes sold. It wanted a non-discriminatory pricing system.

Retailers and wholesalers were the prime instigators of the investigation as they claimed manufacturers had been discriminatory in their pricing between various customers, Brooks said.
In a finding which has the force of law, it has also ruled that the purchase did not result in an acquisition or a monopoly.

But in a postscript, which has no legal weight but conveys the views of the authors, the board warns that the big financial houses must get their houses in order or the Government will intervene to end excessive economic concentration.

The board says "Some measure of corporate concentration or diversification is not only tolerable but desirable. However, the indications are that both from an economic and a political perspective, the degree of economic concentration in this country is probably too high for adequate control. The board's concern is that there should be no discernible improvement in the situation in the short term, it is conceivable that a few years hence more dramatic steps akin to those introduced by the Supreme Commander for the Allied Powers in Japan after the Second World War, which included the Elimination of Excessive Concentration of Economic Power Act of 1947, are likely to be implemented."

Waters

Anglo has taken strong exception to certain statements in the board's "Postscript." Anglo says: "We are pleased that the Competition Board has found so unequivocally for Anglo American and De Beers on all three grounds of its investigation - but many of its incidental statements are highly debatable.

"The chairman of the board got into highly controversial waters earlier this year when he proposed an administrative system of competition policing which would enable him and has board not only to judge, but to prosecute and execute at the same time - with retrospective powers to boot."

"Many of the assertions in the postscript have an almost polemical flavour and would be highly debatable in the SA and international context."

Gold Fields of SA accepts the judgment and agrees with most of the points raised, says director Bernard van Rooyen.

The board is severely critical of directors sitting on the boards of competing companies and says that "many South African directors who serve on the boards of competing companies are not concerned about or perhaps unaware of their tenuous legal position or the dictates of commercial morality.

"For example, various forms of collusion, namely price fixing, market sharing and collusion on conditions of supply have been outlawed. The collusive activity can be effected by means of an agreement, arrangement, understanding, business practice or method of trading."

The possibility cannot be excluded that a board meeting could be used for such purpose, and persons sitting on the boards of rival companies cannot blame other business associates or the general public for being sceptical about such a state of affairs."

Mr Spicer says Anglo's holding in GFSA and its representation on the board date to the formation of the West Wits mine in 1932. GFSA came out of West Wits.

By 1971, when GFSA became the listed holding company, Anglo had two directors on the GFSA board. They were not there to thwart competition.

Anglo has a policy of not allowing its directors to sit on non-group companies. Few exceptions to this rule are permitted and they have been cases where companies approached Anglo to have representation on their boards so as to benefit from the experience of relevant individuals - the reason d'etre of the non-executive director.

The Competition Board reports that GFSA contended the purchase of shares by Anglo and De Beers was a restrictive practice and/or an acquisition and/or placed the companies in a monopoly position.

Voted

GFSA contended that Anglo's holding was "not a portfolio investment but a mechanism to ensure it had veto power to counteract Rembrandt Group's increased stake in GFSA (which was not to their liking) in accordance with their philosophy of 'who needs takeovers when you can control with a minority stake?'"

GFSA asked the board to ensure that Peter Gush, Anglo's representative on its directorate, vacate his position. Mr Gush was voted off the GFSA board on January 15, 1979.

The Competition Board interprets this as vindication of Anglo's point that it has no right or power to appoint directors to the GFSA board. In its submission, Anglo

□ To Page 3
SABC concedes on licence discount

By Paula Fray
Consumer Reporter

The SABC backed down on a decision not to pass on the 2 percent reduction in VAT on 1991/92 licence fees yesterday after talks with the consumer watchdog body, Vatwatch.

The corporation is now prepared to accept licence payments after September 30 of R147, despite R150 being shown on statements sent to viewers.

Those who pay before September 28 will escape VAT.

Important signal

The SABC had said that for technical and administrative reasons it could not reduce VAT on licences from 12 percent to 10 percent, but that adjustments would be made next year.

The decision to charge only 10 percent is seen as a coup for the consumer body.

Vatwatch chairman Professor Louise Tager said that by recalculating the VAT rate on licences, the SABC was sending an important signal to commerce and industry.

"Large organisations ought to set an example to smaller businesses and discourage anyone from using weak arguments as a smokescreen that prevents consumers from enjoying cost benefits from VAT."

A 45-minute television programme, developed to counter public ignorance about the effect of VAT on prices, is being screened on TV1 this month.

According to Vatwatch, which will monitor price trends before and after the introduction of VAT, the programme explains why the new tax need not cause a general rise in prices.

Produced by a leading firm of tax consultants, the programme will be screened each Tuesday and Wednesday at 9.15 am. The final programme will be shown on September 25.

A Vatwatch spokesman said the presentation had been developed to counter public ignorance about VAT's cost effects.

"Consumers must not fall into the trap of believing that business costs, and therefore prices, will rise as a result of VAT," he said.

Fall away

"Businesses registered as 'vendors' in terms of VAT will obtain a full tax credit for their payments. In this way, VAT will not be a cost borne by the business."

"In fact, tax that business used to pay on a wide range of items will fall away under VAT."

"This may save which the business sector will begin to enjoy on September 30 ought to be passed on to consumers."
Sunday film, liquor ban set to bite dust

By Helen Grange Pretoria Bureau

Sundays — traditionally "nothing to do" days in South Africa — are set to become as active as any other day if the Government's plan to introduce movies and allow open liquor trade on Sundays is approved by Parliament.

"A White Paper proposing the removal of "irritating" obstacles blocking the way to realising the country's full tourism potential is currently being finalised by Tourism Minister Dr Org Marais."

He feels strongly that restrictions on Sunday liquor trade, entertainment and shopping hours need to be lifted in order to boost trade and provide the public with a choice.

"The current constraints on cinema screening and other entertainment on Sundays and public holidays is also to be reviewed by the Department of Justice."

"If movies are screened on television on a Sunday, I cannot see the difference in allowing them to be shown in a cinema," said Dr Marais.

The Minister has proposed that — in order to avoid tampering on people's sensitivities — each region under its own local authority can decide the extent to which it allows Sunday entertainment.

"This proposal is also being looked at in the Department of Justice's review."

"The Department of Tourism's policy is to try to deregulate the tourist industry as far as possible, removing the obstacles which prevent the free flow of tourists."

"The current situation where it is illegal to have a glass of beer without ordering food in some establishments on a Sunday is unnecessary."

"We are, at the same time, aware that some people feel strongly about religious days. This is why regional authorities should have the power to decide what they want," Dr Marais said.

Another obstacle to tourism were the current laws governing liquor, which made it extremely difficult for a business to get a liquor licence — and yet once it had been issued, it was almost impossible for authorities to withdraw it.

"We need a new Liquor Act which does not concern itself with the profitability of a business as it does now — but has more power to withdraw a licence if it is miscused," Dr Marais said.

He gave the assurance, however, that he was not in favour of supermarkets being granted liquor licences as this would upset the competitive balance among the smaller businesses which traditionally sold liquor.

The White Paper is expected to be completed by the end of the month, Dr Marais said.
Bill to Support Parts, Pirated

The Weekly Mail, September 13 to September 19, 1991
Anti-monopoly laws applauded

The Star Monday September 30 1921

The new anti-monopoly laws have been well received by business men throughout the country. These laws are designed to prevent the formation of monopolies and to break up existing monopolies. The laws also provide for the protection of small business and for the prevention of unfair competition.

The Anti-monopoly Commission was created to enforce the new laws. This commission is composed of experts in economics and law, and is charged with the task of investigating potential monopolies and taking action to prevent their formation.

Under the new laws, it is illegal for any person or corporation to control a significant part of a market or industry. If a company is found to be in violation of the laws, it may be subject to fines, injunctions, or other penalties.

The new anti-monopoly laws are an important step towards a fairer and more competitive market. They encourage competition and prevent the exploitation of consumers by large corporations. The laws also help to ensure that small businesses have a chance to thrive.

Overall, the new anti-monopoly laws are welcome changes that will benefit both consumers and businesses. They provide a framework for fair competition and a level playing field for all participants in the market.
CORRUPTION BILL

Weapon for harassment?

The Corruption Bill, drafted at government's request by the Law Commission to tighten up existing legislation, does that — and more. Businessmen and civil servants could end up serving life sentences if found guilty under the proposed legislation. The problem is that they can't be certain just what corruption is except for a reference to "any benefit not legally due;" the Bill does not define corruption — in fact, nothing is defined.

The Bill is short on detail (less than two pages), wide in application (jurisdiction is extended outside SA) and lethal in effect. It could be interpreted to cover everything from a business lunch to an overt bribe.

Says Afrikaanse Handelsinstituut CE Joe Poolman: "The Bill is wide enough to include normal everyday business practice, previously considered legitimate. One doesn't need regulations which interfere with business activity not regarded as corruption in the strict sense. If government has good reason to enact fresh legislation, it must specify the types of crimes included and excluded, otherwise the Bill could become a joke."

The Law Commission intentionally cast the net wide. In a memorandum to the Bill, it admits that "extensive definitions" were specifically avoided to prevent restricting the categories of persons who may be bribed.

Says the Bill's chief researcher, Michael Palumbo: "One doesn't want to exclude people who need to be included." He says this is the problem with existing legislation "If a business lunch intends to constitute a bribe, why should it be excluded from the Act? Otherwise, where does one draw the line?"

But, says Jacob legal manager Ken Warren, "Business needs an environment of certainty. In its present form, accepted business practices could fall foul of the legislation. The Bill needs clarity."

He is particularly critical of the wide discretionary powers given the courts to determine sentence — everything except the death penalty is possible. "Penal legislation should lay down parameters as a guideline to the courts," he says Palumbo retorts that the proposed penal provisions are identical to those in existing legislation.

Other loopholes have also been closed.

- A person receiving a bribe may be found guilty of corruption even if the person giving the bribe is acquitted.
- Situations where "benefits" are offered to persons other than the bribe-taker are covered — for example, the family or persons on whose behalf he acts.

- The Bill covers activity outside SA, providing there is a "connection" inside the Republic. But it doesn't define "connection." So the position of a SA businessman forced to pay a bribe in a foreign country (Kerzner's case) could be uncertain, though Palumbo denies that the Bill seeks to safeguard the interests of other countries.

Critics are concerned that the Bill, if enacted, could give government — present or future — a powerful weapon against business. Says the DP's Tony Leon: "The proposed legislation could become a bureaucrat's dream for harassment and oppression. It's open to abuse and malice."

Warren suggests that common law and existing legislation are adequate. "Rather than introduce draconian legislation, the existing legislative system needs to be streamlined to dispose of matters quickly."

The Bill, in whatever form, is unlikely to end corruption, as it seeks only to address symptoms rather than causes. Says Warren: "One needs to establish whether corruption is motivated solely by greed and avarice, or whether it's an increasing reaction to inflation, high taxation and over-regulation."

Leon describes the Bill as "a mile wide and an inch deep" and says it is doomed to fail without any effective mechanism for enforcement. "How can you expect government to police corruption when it can't catch murderers and car thieves?" he asks.

He believes the Bill is mainly targeted at the endemic and deep-rooted corruption which usually takes place at high level. But he says the solution doesn't lie in new far-reaching legislation. Government must introduce proper disclosure by public servants and legislators of personal interests.

"We need sunshine legislation' of all holdings, directorships, consultancies and interests which may be related to legislative or executive acts," he says. "An Ombudsman, with power, would do more than another piece of legislation, which, however well-intentioned, could end up being abused or as ineffectual as a toothless chihuahua."
Flak for Designs Bill

The Competition Board has placed consumer groups which are opposing the Draft Design Bill if passed it could, for example, lead to higher prices for motor insurance and some manufacturers, to make it easier for local manufacturers to copy foreign designs.

According to an estimate by the Automobile Association, this would mean a $1.5 million loss per year.

The Competition Board also stated that it has no problem with the intention of the Bill, which is to protect intellectual property rights, but that it cannot be achieved as it is now written down.

Pierre Brooks, chairman of the Competition Board, said: "We have no proof of this." Groups such as the Automobile Association (AAA), the Motor Trades Federation (MTF), and the Trade Union Congress (TUC) have reacted strongly to the Bill.

Don Vredenbrouck, executive director of the AAA, said that about 25% of the Bill's proposals were also serious comments on the Bill.

The government, a member of the SA Institute of Intellectual Property Law (SAIPL), also said it is concerned about the "functional design" and "functional design" of all products.

The National Association of Automobile Manufacturers of SA (NAMA) says that the Bill is intended to protect "functional" and "functional design" by providing for rights which are not always valid under the Bill.

MYRON BERRICK of Vocol is confident about Usko's new cable line.

Usko's new cable line is a result of the successful testing of the cable.
DRAFT DESIGNS BILL

Switching strategy

Opposition has steadily mounted to the controversial Draft Designs Bill. Last week the Competition Board joined ranks with the Automobile Association, Motor Industries Federation, short-term insurance industry and National Association of Automobile Component and Allied Manufacturers in condemning the proposed legislation as anti-competitive.

But car manufacturers, patent attorneys and other powerful interests have an alternative strategy in case the Designs Bill gets killed. It's called the Draft Petty Patents Bill.

Published at the end of August, the new Bill would have much the same effect as the first Bill. It would give car manufacturers control of the after-market in motor spare parts by large prohibiting the manufacture of spare parts by anyone other than the original maker. The result could be the loss of the thousands of jobs that independent manufacturers and suppliers have created in the past few years (Business & Technology August 16).

The new Bill provides blanket protection for low-level technology. In a nutshell — an innovator who makes minor steps forward in technology may obtain a 10-year monopoly on the manufacture, sale, importation and use of similar products. Any new item that involves an "inventive step" — a mere advance in the art is sufficient — and that is capable of being used or applied in trade, industry or agriculture, would qualify for protection if the Bill became law. Clearly, the intention of the Bill is to reduce the level of inventiveness required for patentability, petty patents would be relatively easy to obtain. Certainly, new spare parts for vehicles and machinery would be ideal candidates for such protection.

Says Webber Wentzel patent attorney Lawrence Reyburn. "The Petty Patents Bill creates a new form of property centred on low-level technology, as opposed to the higher technology of full patents. It would provide protection for things that aren't inventions under the Patents Act, and include many objects that could also qualify for protection under the Draft Designs Bill."

The Bill will keep the patent attorneys busy. Reyburn says it will be possible to obtain a petty patent for individual components, as well as for an overall machine. "The amount of legal work will proliferate."

The Bill also leaves room for widespread uncertainty and abuse. In the event of a dispute, parties would appear before a tribunal of patent attorneys or practising advocates, rather than the Supreme Court. Clashes of interests are inevitable. Says Reyburn: "It seems inherently wrong that patent attorneys and advocates will end up judging their competitors or their clients' work."

A memorandum accompanying the Bill states that it is well-acknowledged that a gap exists in SA for this legislation, and that the system of petty patents has been successful in at least 19 countries. Reyburn, however, challenges the efficacy of some of these systems. He sees no need for the proposed legislation. He says it is possible now to obtain a patent relatively quickly and inexpensively for both major and minor inventions. "Thus it can be contended that SA's existing patent system already incorporates a petty patent system."

Reyburn is particularly concerned that both Bills are being proposed at a time when SA should be cutting back on legislation in order to re-enter world trade successfully and encourage the start of small industries. "We need to harmonise our law with European legislation as far as possible."
Another salvo fired at conglomerates

BY REG RUMNEY

THE Competition Board has given the green light to the Columbus Stainless Steel Project — but warned that it might take action in future.

This is the second occasion in recent weeks when Competition Board (CB) chairman Pierre Brooks has issued an apparently favourable finding about an acquisition or merger, but added his note of caution and disquiet about the state of affairs.

The decision was there will be no formal investigation of the deal in which Barlow Rand sold Durban Steel & Alloys and Barlow's chrome interests to a 'consortium comprising companies in the Sanlam and Anglo American/De Beers group'.

But Brooks concludes: "In view of the potential negative effects the transaction could eventually have on competition between these two groups the clearance thereof perforce only signifies qualified approval of the venture."

In the Board's Report No 30 which investigated Anglo and De Beers building up their share stake in Gold Fields of SA, it was found that no monopoly situation had been created, and no further action needed to be taken by the board or the minister.

But the GFSA report has an extensive postscript, apparently to spur debate, which notes "the indications are that both from an economic and political point of view the degree of concentration in this country is probably too high."

In his latest report, Brooks, outlining a possibly more active role for the board, notes: "...it is important for competition policy to be directed not only at arresting the drift towards coalescence of the different groups but also at purposeful group disengagement and the identification and elimination of restrictive practices spawned by an excessive concentration of economic power."

In clearing the Columbus deal, the CB struck a compromise between the desirability of domestic competition and industrial development. This Anglo spokesman Michael Spicer identifies as one of the problems with the CB's approach. In reference to the successful newly industrialised countries, he poses the rhetorical question: "Why do small countries have big companies?"

There are a number of issues which he says are not dealt with adequately in the purely theoretical framework of the CB's views. How to deconcentrate? To whom to sell off companies? Since big foreign investors would probably be frowned upon, only other conglomerates would be able to buy. What to do with the money? For example, a conglomerate investing money abroad from sold-off companies here would be accused of being unpatriotic. But if it bought new South African companies then the money it would be accused of spreading its tentacles again.

Spicer reckons a corollary of deconcentration would have to be liberalisation of markets.
**Code governing ‘grey imports’ mooted**

Consumer Reporter (246)

A code of conduct for the sale of "grey imports" is being considered by the Business Practices Committee following numerous complaints earlier this year that consumers paid more for the "cheaper" products. Grey imports bear the names of well-known brands but, as they are not brought in by official distributors, have no after-sales service. The code would include an obligation to the seller to inform customers as well as an obligation on the buyer to check the product. The warning of "let the buyer beware" would also apply, Professor Tager said.

BPC chairman Professor Louise Tager said the committee was looking at a code of conduct for the sale of "grey imports" or parallel goods where there was no service back-up or spare parts. Consumer Council assistant director, communications, Daan Kruger said the consumer body welcomed the moves.
KENNISGEWING 1087 VAN 1991

DEPARTEMENT VAN HANDEL EN NYWERHEID

WET OP SKADELIKE SAKEPRAKTYKE, 1988

Ek, David de Villiers Graaff, Adjunkminister van Handel en Nywerheid en Toensme, handelende namens die Minister van Handel en Nywerheid en Toensme, na oorweging van 'n verslag deur die Sakepraktykkomitee met betrekking tot 'n ondersoek waarvan in Kennisgewing 256 van 1991 in Staatskoerant No 13061 van 15 Maart 1991 kennis gegee is, welke verslag gepubliseer is in Kennisgewing 1086 in Staatskoerant No 13620 van 15 November 1991, is van oordeel dat 'n skadelike sakepraktiek bestaan wat nie in die openbare belang geregterig is nie, en oefen hiermee my bevoegdhede van kragtens artikel 12 (1) (b) en (c) van die Wet op Skadelike Sakepraktiek, 1988 (Wet No 71 van 1988), soos in die Byl en uiteengeset.

D. DE V. GRAAFF,
Adjunkminister van Handel en Nywerheid en Toensme

BYLAE

In hierdie kennisgewing, tensy uit die samehang anders blyk, beteken—

“skadelike sakepraktiek” die beskikbaarstelling van finansiëring, die verlening van bystand aan skuldeneurs of die onderneem van betalings namens skuldeuse aan skuldeneurs deur die partye;

“die partye” mire: Lucifer Spooie van Zyl, André Smith, Jan Human, Philip Venter en Novio Financial Advisors BK (CK90/24792/23), hetsy hulle onafhanklik of tesame met iemand anders optree.

1. Die skadelike sakepraktiek word hiermee onwettig verklaar.

2. Die partye word hiermee gespesifiseer—

(a) om af te sien van die toepassing van die skadelike sakepraktiek;

(b) om op te hou om enige belang in 'n besigheid of teen besigheid te hê wat die skadelike sakepraktiek bedryf, of om enige inkomste daaruit te verkry,

(c) om te gener tyd die skadelike sakepraktiek te bedryf nie,

(d) om te gener tyd enige belang in 'n besigheid of teen besigheid wat die skadelike sakepraktiek bedryf te bekom nie, of om enige inkomste daaruit te verkry nie.

3. Hierdie kennisgewing treed in werking op die datum van publikasie hiervan
(15 November 1991)

KENNISGEWING 1088 VAN 1991

VERBETERINGSKENNISGEWING

SUID-AFRIKAANSE RESERWEBANK

ARTIKEL 30 VAN DIE WET OP DEPOSITO-NEMENDE INSTELLINGS, 1990

FINALE REGISTRASIE, FRENCH BANK OF SOUTHERN AFRICA BEPERK

Algemene Kennisgewing 1011 in Staatskoerant No 13597 van 1 November 1991 word hiermee gewysig deur die datum 1991-09-17 in die Afrikaanse teks te vervang met die datum 1991-10-17
(15 November 1991)

NOTICE 1087 OF 1991

DEPARTMENT OF TRADE AND INDUSTRY

HARMFUL BUSINESS PRACTICES ACT, 1988

1. David de Villiers Graaff, Deputy Minister of Trade and Industry and Tourism, acting on behalf of the Minister of Trade and Industry and Tourism, after having considered a report by the Business Practices Committee in relation to an investigation of which notice was given in Notice 256 published in Government Gazette No 13061 of 15 March 1991, which report was published in Notice 1086 in Government Gazette No 13620 of 15 November 1991, and being of the opinion that a harmful business practice exists which is not justified in the public interest, hereby exercise my powers in terms of section 12 (1) (b) and (c) of the Harmful Business Practices Act, 1988 (Act No 71 of 1988), as set out in the Schedule

D. DE V. GRAAFF,
Deputy Minister of Trade and Industry and Tourism

SCHEDULE

In this notice, unless the context indicates otherwise—

“harmful business practice” means the making available of financing, the rendering of assistance to debtors or the undertaking of payments on behalf of debtors to creditors by the parties,

“parties” means Messrs Lucifer Spooie van Zyl, André Smith, Jan Human, Philip Venter and Novio Financial Advisors BK (CK90/24792/23), hetsy hulle onafhanklik of tesame met iemand anders optree.

1. The harmful business practice is hereby declared unlawful

2. The parties are hereby directed to—

(a) cease applying the harmful business practice,

(b) cease to have any interest in a business or type of business which applies the harmful business practice or to derive any income therefrom;

(c) refrain from at any time applying the harmful business practice;

(d) refrain from at any time obtaining any interest in or deriving any income from a business of type of business applying the harmful business practice.

3. This notice shall come into operation upon the date of publication hereof.
(15 November 1991)

NOTICE 1088 OF 1991

CORRECTION NOTICE

SOUTH AFRICAN RESERVE BANK

SECTION 30 OF THE DEPOSIT-TAKING INSTITUTIONS ACT, 1990

FINAL REGISTRATION FRENCH BANK OF SOUTHERN AFRICA LIMITED

General Notice 1011 in Government Gazette No 13597 of 1 November 1991 is hereby amended by substituting the date 1991-10-17 for the date 1991-09-17 in the Afrikaans text.
(15 November 1991)
Call for ‘findings’ in food price investigation

BLOEMFONTEIN — A call for the Board of Trade and Industries to conduct the investigation into the increase in food prices objectively, so that actual findings could be reached, has been made by Free State Agricultural Union president Piet Gous.

Gous said the impression was often wrongly created that it was the farmer, as primary producer of agricultural products which form part of the “food basket”, who was responsible for food price increases. Such an inference, said Gous, was far from the truth.

Farmers found it difficult to recover their input costs, while the consumer had to “pay through the neck” for food. Against this background the Free State Agricultural Union would welcome a speedy conclusion of the investigation, with clear findings and recommendations to put matters into perspective — Sapa
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### Prices—Control + Contraventions

#### 1993

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### Women as a Percentage of Total Arisables

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### Percentage Distribution of Arisables

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### Total No. of Arisables by Population Group

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### Analysis of Results

**Building**

- **Total**
- **Controllable**
- **Asian**
- **African**

**Note:**

- The table above shows the distribution of prices controlled by the population group, with a focus on the percentage of women as a portion of the total arisables. The data is presented in a tabular format with columns for different years and rows for different price categories. The analysis highlights the impact of control measures on various population segments, with a particular emphasis on gender disparity.
Business practice Bill

PARLIAMENT — The property of a person involved in a harmful business practice may in future be attached or a curator appointed to take over the control and management of his business, in terms of draft legislation published yesterday.

Other proposals mooted by the Harmful Business Practices Amendment Bill include:

• That decisions of a special business practices court be open to appeal to the Appellate Division or to a full bench of the Supreme Court.

• That the repeal of the power of the Minister to request the Price Controller to set a maximum price or charge.

• That liaison committees be appointed to advise the Business Practices Committee on matters referred to them by the chairman to improve liaison between the committee and self-regulatory institutions and consumer organisations.

• That a vice-chairman be appointed to the committee to promote co-operation.

Sapa.
Malpractice is the target—

CAPE TOWN — The property of a person involved in a harmful business practice may be attached, or a curator appointed for a business, in terms of draft legislation published yesterday.

Other proposals mooted by the Harmful Business Practices Amendment Bill include: £10,000 — £41,132.

- That decisions of a special business practices court should be open to appeal to the Appellate Division or a full bench of the Supreme Court.
- Repealing of the power of the Minister to request the price controller to set a maximum price or charge.

— Sapa
Report on control boards ready

By Mzimkulu Malunga

A REPORT proposing radical reforms relating to marketing and control boards is to be released tomorrow.

Last week's dramatic Government decision to privatise the Banana Board is believed to be in anticipation of far-reaching recommendations by a committee investigating marketing and control boards.

The committee is headed by Professor Eckard Kässer of Stellenbosch University.

In terms of the liberalisation programme, the Banana Board is to first forfeit its statutory powers before being converted into a public company called Subtropico.

Producers will be the sole owners. Shareholding is to be determined by producer's production over the past five years.

The control of the Meat Board is also being scaled down.

Producers have the choice to sever ties or work with the board. They can slaughter at abattoirs of their choice.

Independent producers can now directly compete with the parastatal Abacor.
Govt could probe control boards again

PRETORIA — In anticipation of a report next week proposing freer markets for agricultural goods, government is considering appointing another committee to investigate the future of control boards.

The Agriculture Department yesterday announced that a government-appointed committee, under the chairmanship of Stellenbosch University professor Eckard Kassner, would publish its report next Tuesday.

The committee, established in the wake of reports criticising the Marketing Act, is expected to propose substantial reforms to the Act, under which the control boards were set up.

The new committee will investigate Kassner's recommendations, which are expected to propose measures to make agricultural products more susceptible to market forces.

The policy committee will be "quite large" and include representatives from SA's 22 agricultural control boards.

Kassner yesterday declined to comment on the contents of his report.
Consumer Council hits retailers’ bread pricing

A CONSUMER Council survey of bread prices released in Pretoria this week has criticized pricing structures at cafés and chain stores, claiming that they sell bread at above the recommended price.

Said Consumer Council executive director Jan Cronje: “Most cafés clearly ignore the recommended maximum price of R1.75 for a standard 800g loaf of white bread and R1.50 for brown bread. They are still selling white bread for up to R1.95 and brown for up to R1.90.

“Chain stores were charging 9c more for white bread and 9c more for brown than three months ago when they undertook to keep prices as low as possible.”

OK Bazaars did not undertake to hold prices at levels of three months ago, and put up its bread prices in line with Wheat Board increases.

“We sell white bread nationally at R1.65 and brown bread at R1.57,” said OK Bazaar’s merchant director food, Mervyn Kraitzuck.

“As far as Pick n’ Pay is concerned, we have set a national policy. We are selling white bread at R1.62 and brown bread at R1.52,” said Pick n’ Pay hypermarkets GM responsible Ian Edie.

Checkers prices in southern Transvaal were R1.65 for white bread and R1.38 for brown bread. It was part of its commitment to consumers to keep prices low, a Skoprite-Checkers spokesman said.

“Chain stores are very fair; there is hardly any markup on the retail price. We are selling white bread below the recommended price at R1.65 and brown bread at R1.45,” a spokesman for Blue Ribbon Auckland Park Bakeries said.

Catering, Restaurant and Tea Room Association executive director Frank Swarbreck said: “We have never agreed to the recommended price. We were sidelined at the crucial meeting in November.”

The association, which represented café owners, favoured a free market and believed the return to retail price maintenance had resulted in everybody putting up their prices gradually, Swarbreck said.

The cafés were providing a convenience service which should be allowed to cost a little more, he said.

The Consumer Council supported free market economics, but was concerned about consumers’ ability to react to unreasonable prices and/or quality, public relations manager Paul Roos said.

“We need discerning consumers. Our main task is consumer education. The emphasis is not on playing policeman.”
Economic malpractices curb growth – Minister

CAPE TOWN — Government expenditure had to be contained and the productivity and international competitiveness of the economy lifted to a far higher level to raise economic growth, Deputy Minister of Trade and Industry David Graaff said yesterday.

Introducing second reading debate on the Harmful Business Practices Amendment Bill, Graaff said one of the first goals of consumer protection must be to generate visible and sustainable job growth through economic progress.

The Government could not do it alone, and it would require the will of the masses to energise the economy.

The Government would also have to support economic policies sympathetic to economic life and liberty.

Private property and freedom of contract were institutions which merited strong recognition in any Bill of Rights.

"These values must be protected and jealously safeguarded if the widely experienced human suffering caused by a struggling economy is to be ameliorated."

Intervention, such as provided by the Harmful Business Practices Act, was sometimes necessary to protect these values.

"When commercial behaviour deceives the consumer, he is entitled to look to the Government for help."

The Act had introduced a system of consumer codes which would serve various purposes, including guidelines for possible ministerial action.

They outlined the difference between acceptable and unacceptable commercial conduct, and furnished a basis for consumer education.

The Bill also provided for the appointment of a curator in cases where urgent action was required to prevent the squandering of the public's money or its removal from the country.

There were 80 investigations by the Business Practices Committee in progress. — Sapa.
Bill 'to combat deception of public'

CAPE TOWN — The aim of the Harmful Business Practices Bill, originally initiated as a result of the Kusus milk culture scandal, was to combat business practices which deceived the public, Deputy Trade and Industry Minister David Graaff said in Parliament yesterday.

The Bill, if enacted, will replace the existing Harmful Business Practices Act.

It would introduce a system of consumer codes which would set the parameters for possible ministerial action.

The codes outlined the difference between acceptable and unacceptable commercial conduct and for the appointment of a committee to consider when urgent action was required to prevent the squandering of the public's money.

DP MP for Highbrow Lester Parks said while his party supported the Bill in principle, he was concerned that if the Bill were to become law it would allow the attachment of assets without first obtaining a court order.

"We should be mindful of vesting in a committee, or in a curator, powers which the courts themselves are reluctant to exercise," he said during the second reading debate on the Bill.
Laws that make an ass of SA's economy

By KEVIN DAVIE

More than 60 laws, policies and practices inhibit the South African economy, says the Nedcor/Old Mutual sponsored Professional Economic Panel.

"The problem is that small and medium sized emerging enterprises (SMESs) are shackled. The need to reform is urgent," says the Panel.

"There has been much legislative disincentive the years to see more than one Act per year aimed at small and medium sized enterprises," says the Panel.

"The Panel has listed those laws and practices where a majority of SMESs members were dissatisfied. The list is compiled by the removal, relaxation or reform of obstacles to SMEs.

"PPP says most SMESs live under conditions in which the enforcement of most laws is arbitrary, imperfect or manifestly absent. The law tends to abuse and corruption," say PEP.

"Corrupt officials and politicians use such laws to get a leg up and to collect bribes and protect money.

"Indeed, PEP has completed a sample study on laws and policy reforms needed to boost the economy and create a vibrant small and medium enterprise sector.

"The common law of product liability is adequate to deal with cases such as animal slaughtering and meat processing. Granting would be introduced on a voluntary basis for the export and farm wagons sector.

"Bankers and bankers should be treated as ordinary businesses special licensing provisions should go.

"Extra bar and trade, occupations and professions, should be systematically and critically reviewed to rule out.

"Qualifications should be reformed by tests of competency.

"The corporations are still subject to excessive regulations such as registration, record-keeping and reporting.

"Most government buildings would be nominal reserve standard or minor laws. Prohibitions on the private sector have not been relaxed.

"If not caused, the housing shortage. Building codes and minimum standards should be scrapped in new inner areas to allow maximum opportunities for owner builder and SMEs building contracting.

Protection

"A computer system can be used to register property transfers, mortgages and loans, allowing scrapping of a simple case. "Technology can provide better protection than correspondence. The only merit in the present system is that it protects correspondence," says PEP.

"The Panel wants laws should be extended to include small businesses, such as SMEs. At present only individuals can use these clearly.

Absurd

"Debunked, a country the size of the Transvaal, has 80 telephone exchange companies, 100 of which produce electricity. PEP high-quality, no electricity, no business should be determined.

"An explosion of SMEs occurred in the Cape wine industry, 1990 employees were suspended from the Patacles, Machinery and Building Work Act. Despite the extremely unfavorable political climate, "A South African version of the Cape wine industry should be adopted."

"The present absurd situation where businesses are only allowed in the inner cities should be resolved, subject at most to controls found in other countries.

"The Businesses Act falls substantially deregs.

"The Panel says that the SA economy should be brought into operation throughout the country.

"There is probably no other single measure that could create a greater number of opportunities for SMESs than this. All the potential resistance has been raised and eliminated. It is clearly based on self-serving oligarchs and vested interests.

"Becoming should be sufficiently relaxed to allow for

"The automatic or default position should be that home businesses are allowed, as the district they do not do an duty disturb neighbours.

"Hotel and boarding house grading should be supported.

"The import of all goods for resale to the formal sector should be exempt from import quotas and duties.

"SMESs should be exempt from labour legislation, which has been designed for big business and dogs that bleed cane. "The majority of workers and job seekers are not experienced by unions, and it is their interest to be served."

"All forms of black title to land should be automatically converted to ownership.

Bizarre

"All restrictions on the provision of telephone products and services should be lifted and the statutory telephone monopoly should be phased out.

"Transfer duty on mortgage and land registration should be abolished.

"SMESs should not be required to register their companies with the Unemployment Insurance Fund.

"A bizarre situation where the state employs costly teams, such as the Thurnell Squad, to lay traps to protect (perhaps) people engaged in a mutually beneficial trade. "Clearly, no one is harmed by such trade except a tiny vested interest. There is an argument for restriction on tree in certain diamonds, namely that the international diamond cartel is of great value to SA.

"However, it is doubtful whether this argument can justify the fact that IDB of traders are sent for longer terms than murderers.

"This should be corrected. The right to dispense medicines should be devolved so that the laws provide for more than one quality person distribute prescription medications.

"Private, competing postal services should be granted. To the Post Office.

"The right to public interest or crime actions in the..."
PRETORIA — The SA Bureau of Standards will lose its monopoly on testing products after a new Standards Act is introduced in Parliament this season.

The Act, expected to be cleared by government lawyers next week, would provide benefits and opportunities for SA businesses, a Trade and Industry Department spokesman said.

"The crux of the Act is that it will allow other institutions that are willing and able to get involved in the testing of standards," he said.

While the SABS, in conjunction with industry and producers, would continue to set appropriate quality standards, new testing organisations could speed up the process of quality verification.

An SABS spokesman said although the organisation had 700 technical and 700 administrative staff, backlogs did occur. "If the Act is passed, the SABS will be placed in a more competitive environment."

The Trade and Industry spokesman also said the privatisation of the testing process could lead to a reduction in the cost of quality certification. "It would be better and quicker if more than one group could be consulted on product certification and it would ensure that charges are more market-related."

The SABS spokesman said while the infrastructure required to establish a testing facility was prohibitive, "one can expect people to try."

Denel's Gerotek division already does specialised standard testing.

Denel group communications executive Paul Holtshaussen said opening the standard testing industry would create an environment where setting standards and testing were separated, "allowing complete objectivity in both fields. This would bring SA closer to the European approach and ease mutual recognition agreements."

"The consequence will be to boost our export industry in the highly specified, high technology product sector," he said.

The SABS spokesman said the new legislation was unlikely to pose a real threat to the existence of the SABS, with an annual budget of around R150m. With the opening of international markets and the different quality requirements stipulated, the SABS was likely to play a continuing role in an increasingly complicated field.

The Trade and Industry spokesman said the question of how accreditation would be granted to companies wishing to join the standard testing industry and the inclusion of agricultural products and foodstuffs within the ambit of the new Act were the final clauses still under discussion.
PRETORIA — It is vital that local businessmen reappraise their attitudes towards the competitive process as SA re-enters international markets, says Competition Board chairman Pierre Brooks.

"We are moving from what in many respects is a unique economy to being part of the international community and there is still a lack of appreciation for the way effective competition is supposed to work."

Consumers did not realise that introducing competitiveness did not necessarily mean the immediate lowering of prices, he said. On occasion, such as when the market sharing arrangement between bakeries fell away and increased transport costs had to be included in the price of bread, it could mean the opposite.

Brooks said some businessmen were too selective in their commitment to the private enterprise system and apparently did not recognise an effective competition policy was one of the system's cornerstones. With the Competition Board established only in 1988, SA's economy had a long history of non-competitiveness.
Casinos have had their chips as Govt pounces

THE gambling industry was left stunned yesterday when Justice Minister Robie Coetzee confirmed he would not be renewing the moratorium on prosecution of hundreds of illegal casinos across the country.

A four-month-long moratorium on prosecutions came into effect after a special sitting of Parliament in October. At that time, loopholes in the Gambling Act, which allowed casinos to proliferate, were plugged. The moratorium expires at midnight tomorrow.

Estimates have put the number of illegal casinos at between 1 500 and 2 000 with about 50 000 people in their employ. Total monthly turnover is estimated to "easily surpass" R100 million.

"Most people in the industry firmly believed the moratorium would be extended, at least until the Howard Commission (into gambling in South Africa) had reported back on its findings and recommendations," said one angry casino owner, who refused to be named.

Asked to comment on how the move would affect the Jack O'Blacks chain of casinos — one of the largest and oldest operators — attorney Hymie Sussman replied: "How do you think it will affect me? I won't answer stupid ques-

tions. I have no comment to make."

Karos Hotels chairman Selwyn Hurwitz did not return calls yesterday afternoon.

Narcotics Bureau chief Colonel Neels Venter last week said the police would act in accordance with the law, and that if the law prohibited the operation of casinos, police would take appropriate action and close them down.

Pressure

Gambling Association co-chairman Grant Kaplan said he was in "no doubt the police will move swiftly to close casinos".

Sun International managing director Ken Rosevar said he was very pleased that the uncertainty regarding illegal casinos had been resolved. "Hopefully the Howard Commission's report will be out soon and then we will know where we stand with regard to gambling in South Africa."

Independent casino operators and the Gambling Association of South Africa have repeatedly maintained that Sun International was pressuring the Government to shut down small casinos because of the effect it had on its own business. Rosevar denied the claims, saying: "It was recognised by everyone that we needed clear laws on gambling..."

A casino operator said of the move: "You can bet on one thing — everyone will just go underground. We have about 1 500 members and those people aren't exactly going to go away."

Kaplan said he had been contacted late this week to make additional representation on why the moratorium should be extended.

"I noted that if the Howard Commission was due to make a finding in three months, why shouldn't the moratorium be extended? By closing the casinos, a lot of people will be deprived of work," he said.

In addition, Kaplan said the Gambling Association was in the throes of setting up a deal with a Cape-based charity which would have seen it take a percentage of the association's profits — up to R19 million a month.

South Africa would also lose out on investment worth millions of dollars. He said a number of foreign players had shown great interest in injecting capital into the industry.
A scrap over scrap

By Ciaran Ryan

"We made recommendations to the Department of Trade and Industry on revising the tariff structure which applies to the industry. We feel there is good reason to do away with export controls and export tariffs."

There are approximately 200 smaller scrap dealers in SA, most of whom are obliged to sell their scrap to the two largest companies. NMF, owned by the Lazarus family, is the smaller of the two operations.

Risk

The merger was motivated on the grounds that export sales would increase by R160-million over the next two years through improved efficiencies, rationalisation and economies of scale.

If the merger did not go ahead, it was alleged that both businesses were at risk of closure. Export sales from the two companies are currently worth R200-million a year.

The R600-million merger was to have been effected by means of a share swap, which would leave Haggie with 50% of the equity in a new holding company and the Lazarus family with the balance.

Neither company would exercise outright control for two years, but thereafter either party had an option to acquire a controlling interest. The board found that Haggie would be at an advantage. The board found that Haggie would be at an advantage.
South African Airways must increase its fares if the passenger is to benefit from a more competitive environment, says the chairman of the Competition Board, Dr Pierre Brooks. It is a decision that has far-reaching implications for the power of parastatals and other dominant players in the market place. Here advocate Solly Tucker, a member of the council of the Institute of Directors and chairman of York Timber, explains why this is so.

Dr Brooks’s medicine for greedy predators

The Competition Board's recent report to the Ministry of Public Enterprises on South African Airways seeks to negate "anti-competitive behaviour" by the flag carrier airline following the dismantling of its statutorily-ensconced monopoly.

The interesting feature in its recommendation to the Minister, is that the Board's action is being launched against prices that are too low.

Can prices ever be too low? The Competition Board's report shows how low prices can be against the consumer's best interests and hurt the free market system.

Dr Pierre Brooks, Chairman of the Board, says that complaints lodged against corporatised and "commercialised" parastatals have in recent times increased both in number and complexity.

Government policy of commercialisation is intended, interalia, to reduce or eliminate the taxpayer's financial commitment to parastatals. This puts pressure on the managers of parastatals not only to trim their particular operations, but to seek increased revenues: for instance, by extending the scope of their activities or by "anti-competitive behaviour" such as predatory pricing.

Predatory pricing

Dr Brooks's report to the Minister does not use the words, "predatory pricing", but that, in essence, is the mischief which the Board now seeks to redress in the SAA issue.

Predatory pricing refers to conduct by a major, well financed player in the market place, aimed to acquire or preserve monopoly power by underselling its rivals. In its most orthodox form, predatory pricing means driving rivals out of business by selling below cost.

This kind of anticompetitive behaviour is actionable under American antitrust laws as well as in antimonopoly doctrines in other Western jurisdictions.

Predatory pricing is not condemned because it results in current lower prices. It is condemned because, if successful, it will result in reduced output and higher prices.

A price is predatory if it is reasonably calculated to drive rivals from the market today or else discipline them so that the predator can enjoy monopoly pricing in the future.

This is the underlying principle of anti-competitive conduct found by the Board in the less-than-monopoly pricing policy of SAA: it was held to be unfair to its rivals, Flight Test and Comair and, also, against the public interest.

The two smaller airlines, although acting independently, were being pressured to meet the prices of the dominant price leader or lose market share to SAA whose predatory pricing strategy served to boost SAA's dominant position and diminish effective competition in the market.

The Board found that it is crucial for SAA, especially in view of this status as a State-controlled operation, to set commercially realistic prices. Its failure to do so and to diminish capacity commensurate with the Government's policy objectives amounted to anti-competitive behaviour.

To remedy the situation the board recommended, interalia, that SAA adjust its prices on certain popular domestic routes to 1991 levels in real terms and maintain these levels with annual adjustments until such domestic operation becomes profitable; and, that SAA reduces flight frequency on the same routes within two months to a level 30 percent lower than the previous years.

Dr Brooks accepts that his Board's recommendations, if implemented, would probably result in an increase in airfares.

It would not be in the long-term interests of consumers if SAA was able to continue with its pricing policy which resulted in substantial losses that will ultimately have to be borne by the taxpayer or could even lead to the withdrawal of its rivals from the market.

The action against SAA by the Competition Board will not be very carefully studied by other parastatals, whose number and magnitude continues to escalate - Transnet, Telecom, the Post Office, Denel, South African Iron and Steel, Sascor, Eskom and now, the youngest, but powerful, creature of "commercialisation". Safoot (South African Forest Company Limited)

Private sector

Will similar principles apply, on proper cause shown, to predatory pricing and other anticompetitive conduct by the private sector majors? Who doubts that in the present prolonged recession some heavy-weight players have driven or are driving their less well-financed competitors out of business? In a slump effectiveness and efficiency are not necessarily guaranteed of viability in the teeth of ruthless predators.

For society as a whole to prosper, corporate leaders, private or public, must shape their actions to ensure the free market system works for the common good.

This is a watershed finding by the Competition Board that augurs well for wholesome standards of competition and for level playing fields in the market place.

Directors throughout South Africa, will welcome Dr Pierre Brooks and his Competition Board for a momentous, courageous and insightful initiative.
The Competition Board's report on the market investigation of Mr. Brown's, an online retail company, has been completed. The board found that Mr. Brown's has engaged in anti-competitive practices, including predatory pricing and exclusive dealing, which have significantly harmed consumers. The board has recommended that the company be fined and be required to change its business practices to ensure fair competition in the market.


dominant

vigilance

By Canaan Rahn

Flying in the face of fair play

The Competition Board's report on Mr. Brown's, an online retail company, has been completed. The board found that Mr. Brown's has engaged in anti-competitive practices, including predatory pricing and exclusive dealing, which have significantly harmed consumers. The board has recommended that the company be fined and be required to change its business practices to ensure fair competition in the market.
Bid to put brake on shady business operators

By June Bearzi
Star Line

Legislation is in the pipeline which should put a halt to shady business operators who fleece the public.

Draft laws giving wide-ranging powers to the Harmful Business Practices Committee (a government watchdog body working under the aegis of the Department of Trade and Industry) provide it with the clout it has lacked over the years to clamp down on recalcitrant business promoters and protect the public’s interests.

It allows the Trade and Industry Minister to grant the body powers to shut down a business for six months while it is being probed, wrest financial control from it, install a curator, and freeze and seize assets.

The committee’s inability to prevent trucking king Riaan Coetzee from running scam operations brought shortcomings in the Harmful Business Practices Act into sharp focus.

Several of Coetzee’s victims believe that if the committee had been able to force him to relinquish the reins of his Midrand ventures Truckkor, Conomy and SA Rebuild, they would have recouped at least some of their money.

Star Line has investigated and exposed several other schemes in which consumers lost hundreds of millions of rand. This prompted the committee to probe them.

Some of the exposes were on money-lending boss Spokie Lucifer van Zyl, who ran Novio and Refcul Financial Advisors.

Executelase, which promised to take over car leases but failed to pay out clients for their vehicles, and wayward timeshare schemes Flexi Club and Summer Leisure.

Tow truck racketeers who snatched cars from accident scenes and held them to ransom until exorbitant fees were paid as well as certain retirement villages were also probed by the committee after Star Line investigations. However, in all these instances, consumers lost their money as the committee did not have sufficient powers.
Govt drops VAT on some basic foods

FINANCE Minister Derek Keys last night announced the zero rating of VAT on certain basic foodstuffs from next month — a move that will mean an immediate 10% reduction in some food prices.

The decision, aimed at helping the poorest sections of the community, came after months of difficult negotiations with the Cosatu-led VAT Co-ordinating Committee (VCC). Keys described the deal with the VCC as "a meeting of the minds of two parties formerly at loggerheads". The VCC said the zero rating was "the best that could be achieved at the present time".

Keys's decision flies in the face of IMF advice to keep the system pure but goes a long way towards lessening the threat of mass action after the Budget.

The following foods would be zero rated:

- from April 7: rice, fresh vegetables (dehydrated, canned and bottled vegetables are excluded), fresh fruit, vegetable oil used for cooking (excluding olive, soya and cotton seed oil), milk (excluding condensed, flavoured, sweetened, evaporated and concentrated but including ultra-high temperature treated milk), cultured milk, brown wheaten meal, raw eggs and beans, and family vegetables.

The VCC regretted the decision not to zero rate red and white meat, white bread and fish.

An issue of major concern to Keys and the VCC was whether the price reductions would be passed on to consumers. Keys said the Food Logistics Forum had made a valuable contribution to keeping up "unbridled" rises in food prices during 1992 under control. "We appeal to them to play an equally valuable role now in ensuring that the prices of the products concerned reflect their changed VAT status."

The VCC said it would approach the food industry and retailers to ensure the price decreases were passed on to consumers.

The VCC had also tried to secure zero rating of electricity, water, medical services and medicines as well as to extend the tax breaks to small businesses. Keys said, however, that it would be a "wasteful, expensive and inappropriate remedy" and that direct attention by the different authorities would be the correct approach.

The Finance Department had facilitated the committee's access to these authorities, but would not be further involved.

The VCC said it had discussed with Eskom ways of providing cheaper electricity to poor communities. Eskom would propose to the National Electrification Forum plans for block tariffs which provided a cheap lifetime supply of electricity to households which consume little power.

Cosatu issued a statement last night warning that the zero rating of foodstuffs should in no way be seen as a trade-off for an increase in the general VAT rate. Noting that the rate was expected to rise to 12%-14%, Cosatu said: "We want to warn the government our people are not prepared for that, and are not prepared to accept it." It also regretted the decision not to zero rate medicines.

Keys said there were problems associated with the zero rating of products — it weakened the efficiency of the VAT system and distorted relative prices.
Competition is the key

THE Keys model not only insists on higher labour productivity—it is strongly critical of the lack of competition in South African business.

And the document recommends the final decision on matters brought before the Competition Board be taken out of the hands of the government and put before a “competition tribunal” backed up by a special competition appeals court.

"With regard to the structure of the market, economic concentration, mainly in the form of oligopolies, is a salient feature of the South African economy. These conglomerates are characterised by interlocking directorships and cross-shareholding."

The authors go on to say the existence of concentrations of power cannot be held solely responsible for the lack of effective competition. And they accept the argument that such concentrations could even be an advantage in international competition.

"However, this does not mean that concentrations of power are always in the interests of the community," say the authors. They can lead to uncompetitive behaviour like price determination not based on supply and demand.

Hence the structure and behaviour of the market should be monitored to see that restraints on the entry of new participants and illegal practices like horizontal price collusion should be eliminated.

Among other suggestions, the document recommends:
- Price collusion, market sharing, maintenance of resale prices and collusion on tenders should be declared illegal in terms of the Competition Act, and the competition tribunal should be able to declare other forms of anti-competitive conduct illegal on an ad hoc basis.
- On all prospective acquisitions of a predetermined size, or which could lead to predetermined levels of concentration in specific markets, notice to the authorities should be compulsory.
- Acquisitions, restrictive practices, statutory rights and government concessions which could result in monopolies should be evaluated more critically without sacrificing efficiency.
- Company legislation and tax measures should not restrict competition between conglomerates.
- Higher fines for infringements should be considered.

The document balances calls for regulation with calls for deregulation to remove impediments to entering and participating in the market system. Deregulation, the document adds, does not apply solely to government departments but all government institutions. So decreasing tariff protection is also a form of deregulation.

Foreign competition is often the only source of competition in the small domestic market. The protection of local businesses through protective tariffs or surcharges should be guarded against.
ANC branches to thrash out regionalism policy

THE ANC will hold a national conference at the weekend to finalise its position on regionalism and it is understood that the Consultative Business Movement’s (CBM) report on the issue will be discussed.

All 14 ANC regions will meet in Johannesburg on Friday and Saturday to discuss amendments to a draft policy on regionalism, which ANC negotiators say has contributed positively in talks with government.

They claim positions in the draft document contributed to a deal on a government of national unity.

The ANC warned that there could be no resolution of the SA conflict unless and until the TBVC homelands were reincorporated and citizenship restored unconditionally to their inhabitants.

It said there was no possibility of holding national elections without the participation of the millions of people in the TBVC homelands.

The ANC said it was disturbed in the light of this that an agreement with Bophuthatswana should be treated as a special case and not be subject to agreements on reincorporation.

Bill modernises rights around movable goods

CAPE TOWN — A Bill was tabled in Parliament yesterday aimed at modernising the rights of notarial bondholders of movable goods.

The Security by Means of Novable Property Bill also strengthens the rights of the grantors of credit compared to those of landlords where a lessee is in default.

The Bill notes that although pledge offers an excellent form of security, it no longer satisfies the needs of the modern commercial world, primarily because the pledgor loses the use and enjoyment of the goods.

The Bill acts on a finding of the SA Law Commission which recommends changes that will mean goods will be deemed to have been pledged to the bondholder as if they have been delivered to him in pledge.

The Bill effectively extends to the whole country the situation that exists in only Natal.

Currently, a notarial bond registered in Natal with regard to specified movable property has the effect of a real right. Because legislation provides that the property is deemed to have been given in pledge even though delivery has not taken place, a landlord currently has a tacit hypothec (a charge in property in favour of a creditor) over the lessee's property if the lessee is in arrears with rent.

The legislation proposes removal of this right in respect of most goods sold in terms of credit agreements.
Probe of oil deal expected

THE Competition Board is expected to announce a probe into the controversial retail rationalisation plan (Ratplan) tomorrow. Critics of the plan—basically an informal agreement between government and the oil companies which has restricted new entrants to the industry—believe such an investigation is long overdue.

The 30-year-old plan has many opponents, including the AA and Pack 'n Pay chairman Raymond Ackerman, who believe it encourages unfair competition by preventing companies from distributing cut-price petrol.

Supporters, however, claim that the plan lends stability to the market and that despite its restrictive nature petrol prices have decreased in real terms in recent years.

The plan is due to run until 1995, by which time the eight stakeholders will be allowed to establish 200 new filling stations and to relocate almost the same number.

Mineral and Energy Affairs Minister George Barlott promulgated earlier this month to remove much of the secrecy which has surrounded SA's petroleum industry since the imposition of sanctions.

It is believed that the Competition Board decided to act after receiving a number of formal complaints against the plan. An informed source said the investigation was expected to be published in tomorrow's Government Gazette.

A board spokesman yesterday declined to confirm that the announcement of a probe was imminent.
The SA Bureau of Standards will get more competition next month, providing a boost to local private testing services and to trade with the European Community.

The revised Standards Act, which will allow private businesses to test more products, will bring SA closer into line with Gatt when it takes effect on April 1. This will pave the way for EC recognition of bureau standards and reciprocal SA recognition of EC standards without the need for dual testing.

Trade & Industry Deputy Minister David Graaff says "The changing international scenario has made it imperative that all technical barriers to free trade be done away with."

The deregulation is expected to speed up the process of quality verification, cut testing costs and, ultimately, make the SABS operate in a more competitive way.

Of course, it could be some time before outside players offer any meaningful competition to the bureau. Establishing large-scale testing facilities can be prohibitively expensive. Says the SABS's Martin Kellermann: "I don't believe there will be a flood of activity. High-tech labs and equipment cost a fortune and no-one is going to make the investment overnight."

But Robert Peeters, of product quality controller SGS, suggests that his company can already certify many local goods marketed for export.

It's clear that government also wants the bureau, with its 700 technical and 700 professional employees, to operate more like a business. Says Graaff: "The legislation will enable the SABS to become more financially self-sufficient."

Such talk raises the question of whether government is preparing the bureau for privatization. It now generates about 50% of its R120m annual budget through quality certification, testing and other services, but tough competition after deregulation could see the deficit balloon.

The bureau's director-general, Jean du Plessis, maintains that the setting of standards will always remain a function of government, not part of a for-profit organization.

Some argue that the legislation doesn't go far enough towards deregulation. Though the private sector will now be able to test more products against non-compulsory specifications — about 80% of the SABS's work — the bureau remains the sole custodian of all standards setting. It has the power to police the private-sector players, though.

Department of Trade & Industry legal adviser Johan Strydom suggests that the Act also allows the private sector to police the SABS.

The Free Market Foundation's Marc Swanepoel says an independent body should be responsible for setting standards. He adds that opening up the setting of standards to competition would raise standards or make them more realistic. "Standards are now set as minimum standards."

He adds that the standing of an organisation setting standards could develop with its competence.

Swanepoel says the current situation — which allows only the bureau to set standards — allows for established companies to set criteria for government based on their own manufacturing specifications. "This tends to cut out smaller or new players."

Case in point, he says, is the US Environmental Protection Agency, which sets standards for pollution. He says the agency is continually criticized because its standards are influenced by car makers and other groups that want to protect their own technology.

Under the new legislation, the private sector's role will be curtailed through an accreditation system that still has to be formulated. Says Strydom: "Every Tom, Dick and Harry won't be able to enter the arena. Government's intention is that future players will be competent to perform certification."

The bureau's Kellermann says there's a need to ensure that the quality of certification does not drop. "We want certification in SA to have credibility elsewhere in the world. We've worked hard over the past 10 years to keep standards high. Too many certifiers on the market could lead to a price war and lowering of standards. But we don't want to create another monopoly. The SABS has enjoyed such a monopoly for the past eight years, though more by default than design."
54 19 March 1993

Thereby notified that the State President has assented to the following Act which is hereby published for general information:

Th of 1993: Standards Act, 1993

KANTOOR VAN DIE STAATSPresident

No 454 19 Maart 1993

Hereby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene nutting gepubliseer word:

No 29 van 1993 Wet op Standaarde, 1993
ACT

To provide for the promotion and maintenance of standardization and quality in connection with commodities and the rendering of services, and for that purpose to provide for the continued existence of the South African Bureau of Standards, as the national institution for the promotion and maintenance of standardization, and the control thereof by a council, and for matters connected therewith.

(English text signed by the State President)
(As assented to 11 March 1993)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows —

Definitions

1. In this Act, unless the context otherwise indicates—
   (i) "amendment", with regard to a standard or compulsory specification, includes complete substitution, with or without alteration of one or more of all the provisions, or the scope and purport, thereof, (xxxiv)
   (ii) "article" includes any commodity, (i)
   (iii) "auditor" means a person appointed as auditor in terms of section 28(1)(a)(ii) for the purposes of this Act, (xv)
   (iv) "certification mark" means a certification mark referred to in section 18(1)(a), (xx)
   (v) "chairman" means the person appointed as the chairman of the council in terms of section 7(1)(a)(i), (xxxii)
   (vi) "code of practice" means, in the case of a code of practice referred to in section 16(3)(a)(i), a description of—
       (a) the terminology to be used,
       (b) the method to be applied or the procedure to be followed,
       (c) the material to be used,
       (d) any requirements to be met,
     in connection with the execution in an orderly, systematic, practical, efficient, safe or effective manner of an act performed with a view to achieving a stated purpose or obtaining a stated result, (iv)
   (vii) "commodity" includes an element or characteristic, or a category or system, of some commodity, (viii)
   (viii) "compulsory specification" means a compulsory specification referred to in section 22, (xxvii)
   (ix) "council" means the Council of the South African Bureau of Standards referred to in section 6, (xvii)
   (x) "distinctive mark" means a distinctive mark referred to in section 18(1)(d), (xiii)
   (xi) "examine" includes inspect, (xiv)
   (xii) "financial institution" means a financial institution as defined in section 1 of the Financial Institutions (Investment of Funds) Act, 1984 (Act No 39 of 1984), and includes a bank as defined in section 1 of the Banks Act, 1990 (Act No 94 of 1990), (iii)
   (xiii) "importer" means an importer as defined in section 1(1) of the Customs and Excise Act, 1964 (Act No 91 of 1964), (vii)
   (xiv) "inspector" means a person appointed as an inspector in terms of section 28(1)(a)(i), (vi)
   (xv) "issue", with regard to a standard or a publication, includes making available by means of electronics, photography or another medium, (xxv)
   (xvi) "manufacture" includes produce, assemble, alter, modify, adapt, convert, process or treat, (xxix)
WET

Om voorsiening te maak vir die bevordering en handhawing van standaardisasie en kwaliteit in verband met kommoditeite en die verskaffing van dienste, en om vir dié doel voorsiening te maak vir die voortbestaan van die Suid-Afrikaanse Buro vir Standaarde, as die nasionale instelling vir die bevordering en handhawing van standaardisasie, en die beheer daarvan deur 'n raad, en vir aangeleenthede wat daarmee in verband staan.

(Engelse teks deur die Staatspresident geteken)
(Goedgekeur op 11 Maart 1993)

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg —

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—

   (i) “artikel” of ‘n kommoditeit, (ii)
   (iii) “die SABS” die Suid-Afrikaanse Buro vir Standaarde bedoel in artikel 2(1), (xxxvi)
   (iv) “finansele instelling” of ‘n finansele instelling soos omskryf in artikel 1 van die Wet op Finansele Instellings (Belegging van Fondse), 1984 (Wet No 39 van 1984), en ook ‘n bank soos omskryf in artikel 1 van die Bankwet, 1990 (Wet No 94 van 1990), (xii)
   (v) “gebruikscode”, in die geval van ‘n gebruikscode bedoel in artikel 16(3)(a)(i), ‘n beskrywing van—
      (a) die terminologie wat gebruik word,
      (b) die metode wat toegepas of die prosedure wat gevolg moet word,
      (c) die materiaal wat gebruik moet word,
      (d) enige vereistes waaraan voldoen moet word,
      (e) in verband met die uitvoering op ‘n ordelike, stelselmatige, praktiese, bekwaam, veilige of doeltreffende wyse van ‘n handeling wat verrig word ten ende ‘n vermelde doel te bereik of resultaat te verkry; (vi)
   (vii) “hierdie Wet” of ‘n regulasie, (xxxv)
   (viii) “inspekteur” of ‘n persoon wat ingevoeg artikel 28(1)(a)(i) as ‘n inspekteur aangestel is, (xiv)
   (ix) “invoerder” of ‘n invoerder soos omskryf in artikel 1(1) van die Doelene-Aksyenswet, 1964 (Wet No 91 van 1964), (xvi)
   (x) “kommoditeit” of ‘n element of omskyn, of ‘n kategorie of stelsel, van die een of ander kommoditeit, (vii)
   (xi) “merk”, betek skyn of ‘n samewening met enige ander woord gebruik al dan nie, ook enige asbou, teken, tekening, ontwerp, wapen, embleem, voorstelling, opspraak, naam, woord, handtekening, letter of syfer, of ‘n kombinasie van twee of meer daarvan, (xiv)
   (xii) “merkpermit” of ‘n merkpermit bedoel in artikel 20(1)(b), (xv)
   (xiii) “merkspesifisering” of ‘n merkspesifisering bedoel in artikel 19, (xvi)
   (xiv) “Minister” of ‘n Minister van Handel en Nywerheid, (xxxv)
   (xv) “onderskeidingsmerk” of ‘n onderskeidingsmerk bedoel in artikel 18(1)(d), (xv)
   (xvi) “ondersoek” of ‘n persoon wat ingevoeg artikel 28(1)(a)(ii) as ‘n ondersoekdeur vir die doeleindes van hierdie Wet aangestel is, (xvi)
   (xvii) “president” of ‘n persoon wat ingevoeg artikel 10(1) die president van die SABS is, (xxxv)
Act No. 29, 1993

STANDARDS ACT, 1993

(xvi) "mark", whether used in a compound with any other word or not, includes any symbol, sign, drawing, design, badge, emblem, representation, heading, name, word, signature, letter or numeral, or any combination of two or more thereof, (ix)

(xviii) "mark of authenticity" means a mark of authenticity referred to in section 18(1)(c); (xxxii)

(xix) "mark of proof" means a mark of proof referred to in section 18(1)(b); (xvii)

(xx) "mark permit" means a mark permit referred to in section 20(1)(b), (x)

(xxi) "mark specification" means a mark specification referred to in section 19, (x)

(xxii) "Minister" means the Minister of Trade and Industry; (xxi)

(xxiii) "prescribed" means prescribed by regulation, (xxii)

(xxiv) "president" means the person who is the president of the SABS in terms of section 10(1), (xvi)

(xxv) "reference material" means any material or substance one or more characteristics of which are such that it may be used —

(a) for the calibration of any apparatus,

(b) for the testing of the accuracy of any method of measurement, or

(c) for the determination, by comparison therewith, of any characteristic, including purity, of any other material or substance, (xxx)

(xxvi) "regulation" means a regulation in force in terms of this Act, (xxix)

(xxvii) "sales permit" means a sales permit referred to in section 23(1)(c), (xxviii)

(xxviii) "sell" includes—

(a) display, offer or advertise for sale,

(b) export from the Republic for or in pursuance of a sale,

(c) have in possession for the purpose of sale, trade, manufacture or export from the Republic, (xxvi)

(xxix) "specification" means, in the case of a specification referred to in section 16(3)(a)(i) —

(a) a description of a commodity with reference to its characteristics, including its nature, quality, strength, efficacy, purity, composition, assembly, quantity, dimensions, mass, grade, design, layout, durability, capacity, format, operation, performance, origin or age, whichever may be applicable,

(b) a description of the manner of manufacture of a commodity, including the components thereof, the material or substance from or with which it shall be manufactured, and the characteristics, requirements, handling and treatment of such components, material or substance, and the characteristics of the commodity, whichever may be applicable,

as well as a description of related matters deemed necessary or expedient, including —

(i) the marking, handling, packing, storage and transport of a commodity; or

(ii) the manner of installation of the commodity to ensure efficient performance, (xxi)

(XXX) "standard" means a standard referred to in section 16(3)(a)(i) or (8), (xxiii)

(XXXI) "standard method" means, in the case of a standard method referred to in section 16(3)(a)(i), a description of—

(a) the preparatory steps to be taken,

(b) the equipment, material or substance to be used,

(c) the procedure to be followed, for the purpose of determining the nature, purity, composition, dimensions, performance or other characteristics of any commodity, (xxvii)

(XXXII) "system", with regard to a commodity, means a system which is designed to achieve a particular purpose or to perform a specific function, (xxiv)

(XXXIII) "the SABS" means the South African Bureau of Standards referred to in section 2(1), (ii)

(XXXIV) "this Act" includes a regulation (v)
(xvii) "proefmerk" 'n proefmerk bedoel in artikel 18(1)(b), (xix)
(xviii) "raad" die Raad van die Suid-Afrikaanse Buro vir Standaarde bedoel in artikel 6, (ix)
(xix) "regulase" 'n regulase wat ingevolge hierdie Wet van krag is, (xxvi)
(xx) "sertifiseringmerk" 'n sertifiseringmerk bedoel in artikel 18(1)(a), (xv)
(xxi) "spesifikasie", in die geval van 'n spesifikasie bedoel in artikel 16(3)(a)(i)—
(a) 'n beskrywing van 'n kommoditeit met verwyssing na die eenskappe daarvan, met inbegrip van die aard, kwaliteit, sterkte, doeltreffendheid, suwerheid, samestelling, montering, hoeveelheid, afmetings, massa, graad, ontwerp, uitleg, duursaamheid, vermoe, formaat, werking, werkverrigting, herkoms of ouerdom daarvan, wat ook al van toepassing is,
(b) 'n beskrywing van die wyse van vervaardiging van 'n kommoditeit, met inbegrif van die komponente daarvan, die materiaal of stof waaruit of waarmee dit vervaardig moet word, en die eenskappe, vereistes, hantering en behandeling van sodanige komponente, materiaal of stof, en die eenskappe van die komoditeit, wat ook al van toepassing is,
asook 'n beskrywing van verwante aangeleenthede wat nodig of wenslik geag word, met inbegrif van—
(i) die merk, hantering, verpakking, opberging en vervoer van 'n kommoditeit; of
(ii) die wyse van installering van die kommoditeit om doeltreffende werkverrigting te verseker, (xxix)
(xxii) "standaard" 'n standaard bedoel in artikel 16(3)(a)(i) of (8), (xxx)
(xxiii) "standaardmetode", in die geval van 'n standaardmetode bedoel in artikel 16(3)(a)(i), 'n beskrywing van—
(a) die voorbereidende stappe wat gedoen moet word,
(b) die toerusting, materiaal of stof wat gebruik moet word,
(c) die prosedure wat gevolg moet word, vir die doel van die bepaling van die aard, suwerheid, samestelling, afmetings, werkverrigting of ander eenskappe van 'n kommoditeit,
(xxiv)
"stelsel", met betrekking tot 'n kommoditeit, 'n stelsel wat ontwerp is om 'n besondere doel te bereik of 'n bepaalde funksie te verrig, (xxxv)
(xxv) "uitrek", met betrekking tot 'n standaard of 'n publikasie, ook beskikbaar stel deur middel van elektronika, fotografie of 'n ander medium, (xv)
(xxvi) "verkoop" ook—
(a) vir verkoop uitstal, aanbed of adverteer,
(b) vir verkoop of inverkoop 'n verkoopuiwer uit Republiek, of
(c) vir die doel van verkoop, handel, vervaardiging of uitvoer uit die Republiek besit, (xxvii)
(xxvii) "verkoopspermitt" 'n verkoopspermitt bedoel in artikel 23(1)(c), (xxviii)
(xxviii) "verpligte spesifikasie" 'n verpligte spesifikasie bedoel in artikel 22, (vii)
(xix) "vervaardig" ook probeuse, monter, verander, modifieer, aapnas, umbou, bewerk of behandel, (xvi)
(xx) "verwyssingsmateriaal" enige materiaal of stof waarvan een of meer eenskappe sodanig is dat dit gebruik kan word—
(a) vir die kahlbrering van 'n apparaat,
(b) vir die toets van die akkuraatheid van 'n meetmetode, of
(c) vir die bepaling, deur vergelyking daarmee, van enige eenskap, met inbegrif van suwerheid, van 'n ander materiaal of stof; (xxv)
(xxi) "voorgeskryf" by regulase voorgeskryf, (xxxi)
(xxii) "voorsitter" die persoon wat ingevolge artikel 7(1)(a)(i) as die voor- sitter van die raad aangestel is, (v)
(xxiii) "waarmerk" 'n waarmerk bedoel in artikel 18(1)(c), (xxvii)
(xxiv) "wyssing", met betrekking tot 'n standaard of verpligte spesifikasie, ook algehele vervanging, met of sonder verandering van een of meer van of al die bepalings, of die bestek en strekking, daarvan (i)
Continuation of South African Bureau of Standards

2. (1) The South African Bureau of Standards established by section 2 of the Standards Act, 1945 (Act No. 24 of 1945), shall, notwithstanding the repeal of the Standards Act, 1982 (Act No. 30 of 1982), by this Act, continue to exist as a juristic person known as the SABS and is the national institution for the promotion and maintenance of standards.

(2) Notwithstanding anything to the contrary in this Act or any other law contained, any assets or property, whether movable or immovable, obtained by way of ownership by the council prior to the commencement of this Act, shall be deemed to be owned by the SABS.

(3) The registrar of deeds concerned shall make the entries or endorsements in or on any relevant register, title deed or other document in his office or submitted to him which he may deem necessary in order to give effect to the provisions of this section, and no office fee or other charge shall be payable in respect of any such entry or endorsement.

(4) Notwithstanding anything to the contrary in this Act or in any other law contained, all rights obtained or obligations incurred by the council prior to the commencement of this Act, shall be deemed to have been obtained or incurred by the SABS.

Objects of SABS

3. The objects of the SABS are—

(a) to obtain membership of foreign or international bodies having any objects similar to an object of the SABS;

(b) to obtain the co-operation of State departments, local authorities, other public bodies, representatives of any branch of commerce and industry and other persons.

(c) to accredit laboratories and to administer schemes with regard to laboratories thus accredited.

(d) to assess quality systems and to administer the certification by such systems thus assessed.

(e) to assess the competence of, and to accredit, quality practitioners,

(f) to test precision and measuring instruments, gauges and scientific apparatus in order to determine their accuracy, and to calibrate them,

(g) to examine, test or analyse articles, materials and substances,

(h) to supply reference material for specific purposes,

(i) to furnish reports and issue certificates in connection with examinations, tests, analyses, calibrations and assessments carried out by the SABS, subject to the conditions it may consider expedient,

(j) to supply information and guidance,

(k) to compile and issue recommended practices as a supplement to a relevant standard,

(l) to issue as a national standard a specification, code of practice or standard method, and to administer schemes based thereon,

(m) to control the use of distinctive marks, certification marks, marks of proof and marks of authenticity,

(n) to assist a person or State department in the preparation and framing of any document which embodies characteristics similar to those of a standard, and

(o) to perform, in so far as it is not repugnant to or inconsistent with the provisions of any Act of Parliament, such functions as the Minister may assign to the SABS, so as to promote and maintain standardization and quality regarding commodities and the rendering of services.

Functions, powers and duties of SABS

4. (1) The functions, powers and duties of the SABS shall be to achieve its objects with the means at its disposal, and for the purposes of achieving those objects the SABS may—

(a) with the approval of the Minister, granted with the concurrence of the
Voortbestaan van Suid-Afrikaanse Buro vir Standaarde

2. (1) Die Suid-Afrikaanse Buro vir Standaarde ingestel by artikl 2 van die Wet op Standaarde, 1945 (Wet No 24 van 1945), bly ondanks die herroeping van die Wet op Standaarde, 1982 (Wet No 30 van 1982), deur hierdie Wet, voortbestaan as 'n regpersoon bekend as die SABS en is die nasionale instelling vir die bevordering en handhawing van standaarde.

(2) Ondanks andersluidende bepalings van hierdie Wet of enige ander wet word enige bates of goed, hetsy roerend of onroerend, wat voor die inwerkingtreding van hierdie Wet deur die raad in eiendom verkry is, geag deur die raad in eiendom van die SABS te wees.

(3) Die betrokke registrateur van akte moet die inskrywings of aantekeninge wat hy nodig ag ten einde aan die bepalings van hierdie artikel gevolg te gee, maak in of op enige betrokke register, titelbewys of ander stuk in sy kantoor of aan hom voorgele, en geen kantoorgelde of ander geld is ten opsigt van so 'n inskrywing of aantekeninge betaalbaar nie.

(4) Ondanks andersluidende bepalings van hierdie Wet of enige ander wet word alle regte of verpligtinge wat voor die inwerkingtreding van hierdie Wet deur die raad verkry of aangegaan is, geag deur die SABS verkry of aangegaan te wees.

Oogmerke van SABS

3. Die oogmerke van die SABS is—

(a) om lidmaatskap te verkry van buitelandse of internasionale liggame wat enige oogmerk het wat soortgelyk aan 'n oogmerk van die SABS is,

(b) om die samewerking van Staatsdepartementele, plaslike owerhede, ander openbare liggame, verteenwoordigers van enige vertakking van die handel en nywerheid en ander persone te verkry,

(c) om laboratoriums te akkrediteer en skemas met betrekking tot laboratoriums aldus geakkrediteer, te administrer;

(d) om kwaliteitsstelsels te beoordeel en die sertifisering deur sodanige stelsels aldus beoordeel, te administrer,

(e) om die bevoegdheid van kwaliteitspraktyke na beoordeel en hulle te akkrediteer,

(f) om pressie- en meetinstrumente, meters en wetenskaplike apparatuur te toets ten einde die juistheid daarvan te bepaal, en hulle te kalibreer,

(g) om artikels, materiale en stowwe te ondersoek, te toets of te ontleed,

(h) om verwyseensmateriaal vir bepaalde doeleindes te verskaf,

(i) om onderworpe aan die voorwaardes wat hy dienstig ag, verslak te verstrek en sertifikate uit te reik in verband met ondersoek, toetse, ontleedings, kalibrerings en beoordelings deur die SABS uitgeoer,

(j) om inligting en leiding te verskaf,

(k) om aanbevelde praktyke aanvullend tot 'n toepaslike standaard uit te reik,

(l) om spesifisasies, gebruikskodes of standaardmetodes as nasionale standaarde uit te reik, en skemas wat daarop gebaseer is, te administrer,

(m) om die gebruik van onderskrywingsmerke, sertifisasieringsmerke, proefmerke en waarskynlikheidsmerke te beheer,

(n) om hulp te verleen aan 'n persoon of Staatsdepartement by die voorbereiding en opstel van enige dokument waarin eenkappe soortgelyk aan die van 'n standaard uiteengeset word, en

(o) om vir sover dit nie srydig of onbestaanbaar met die bepalings van 'n Wet van die Parlement is nie, die werkzaamhede te verring wat die Minister aan die SABS opdra,

ten einde standaardisasse en kwaliteit betreffende kommoditeite en die verskaffing van dienste te bevorder en te handhaaf.

Werksaamhede, bevoegdheede en pligte van SABS

4. (1) Die werkzaamhede, bevoegdheede en pligte van die SABS is om met die middel het by beskikkiging sy oogmerke te bereik, en ten einde daardie oogmerke te bereik, kan die SABS—

(a) met die goedkeuring van die Minister, verleen met die instemming van
Minister of State Expenditure, purchase, hire or otherwise acquire, or possess or alienate immovable property and let or otherwise encumber that property,
(b) with the approval of the Minister, granted with the concurrence of the Minister of Finance, raise money by way of loans,
(c) purchase, hire or otherwise acquire, or possess, movable property, and let, pledge, encumber or dispose of that property,
(d) supply reference material and issue directives in connection with such material,
(e) at the request of any person, body, organization, administration or authority and subject to the conditions determined by the SABS, conduct examinations, tests or analyses or cause them to be conducted in respect of any article, material or substance,
(f) purchase or otherwise acquire a sample of any article in order to investigate, test or analyse it, and, for the purposes of a specification, determine the sampling, examination, testing or analysis procedures to be followed in order to assess whether there has been compliance with the relevant characteristic requirements or the manner of manufacture of a commodity,
(g) with the approval of the Minister, on its own or in collaboration with any person, establish a company for a specific purpose which is relevant to the objects of the SABS, and for this purpose acquire an interest in or control over a company or other juristic person,
(h) make grants to universitites, technikons, colleges and other educational institutions,
(i) provide and promote training, and for this purpose grant bursaries and study loans,
(j) establish and control facilities, including laboratory, test and training facilities,
(k) subject to the provisions of this Act, determine and collect fees for services rendered under this Act, and
(l) in addition to any function, power or duty that the SABS is required or empowered to perform, exercise or execute in terms of the provisions of this Act or any other law, do everything that is conducive to the achievement of its objects or is calculated, directly or indirectly, to enhance the value of or render profitable the property or rights of the SABS

(2) The SABS may issue to a person—
(a) who manufactures outside the Republic an article a consignment of which is intended for importation into the Republic, or
(b) who intends to import a consignment of an article manufactured outside the Republic,
a certificate in which it is declared that such consignment complies with or has been manufactured in accordance with the requirements determined in terms of this Act

(3) The SABS shall—
(a) subject to the payment of the prescribed remuneration, undertake the investigations or research which the Minister may assign to it, and
(b) at the request of the Minister, advise the Minister concerning any matter which is relevant to the objects of the SABS

Exercise of powers outside Republic

5. (1) The SABS may in the exercise of its powers and in order to achieve its objects—
(a) enter into an agreement with,
(b) render assistance to, or
(c) obtain the co-operation of,
a person, body, organization, administration, authority or government in any country or territory outside the Republic

(2) The Minister may with the concurrence of the Minister of State Expenditure indemnify the SABS against any losses which it may incur consequent upon any act or omission of the person, body, organization, administration, authority or government referred to in subsection (1), provided such act was performed or omission was made with the approval of or at the request of the Minister
die Minister van Staatsbesteding, onroerende goed aankoop, huur of andersins verkry, of besit of vervreem, en daardie goed verhuur of andersins beswaar,

(b) met die goedkeuring van die Minister verleen met die instemming van die Minister van Finansies, geld by wyse van leenings opnieu,

(c) roerende goed aankoop, huur of andersins verkry, of besit, en daardie goed verhuur, verpand, beswaar of vervreem,

(d) verwysingsmateriaal verskaf en voorskrifte in verband daarmee uittrek,

(e) op versoek van 'n persoon, liggaam, organisasie, administrasie of overheid en op die voorwaardes deur die SABS bepaal, ten opsigte van 'n artikel, materiaal of stof ondersoek of toets uitvoer of laat uitvoer, of ontleedings doen of laat doen,

(f) 'n monster van 'n artikel aankoop of andersins verkry ten einde dit te ondersoek, te toets of te ontleed, en, vir die doeleindes van 'n spesifike, die monsterneming-, ondersoek-, toets- of ontleedingsprocedures bepaal wat gevolg moet word ten einde te beoordeel of daar aan die toepaslike eenvoudigting vereistes of die wyse van vervaardiging van 'n kommoditeit voldoen is,

(g) met die goedkeuring van die Minister, op sy eie of tesame met enige persoon, 'n maatskappy oprig vir 'n bepaalde doel wat met die oogmerke van die SABS verband hou en vir dié doel 'n belang in of beheer oor 'n maatskappy of ander regpsersoon verkry;

(h) toekennings doen aan universiteite, technikons, kolleges en ander opvoedkundige instellings,

(i) opleiding verskaf en bevorder en vir dié doel beurse en studielening toeken,

(j) faciliteer wat laboratorium-, toets- en opleidingsfasilitete sluit, instel en beheer,

(k) behoudens die bepalings van hierdie Wet, gelde hef vir dienste kragtens hierdie Wet gelever, en

(l) benewens enige werkzaamheid, bevoegdheid of plig wat die SABS ingevolge die bepalings van hierdie Wet of enige ander wet moet of kan vorig of ontleen, alles doen wat bevorderlik is vir die berekening van sy oogmerke of bereken is om, registreerk of onregistreer, die waarde van die goed of regte van die SABS te verhoog of winsgewend te maak

(2) Die SABS kan aan 'n persoon—

(a) wat buite die Republiek 'n artikel vervaardig waarvan 'n besending vir invoer in die Republiek bestem is, of

(b) wat van voorneem is om 'n besending van 'n artikel wat buite die Republiek vervaardig is, in te voer,

'nsertifikaat uitreken waarin verklaar word dat daardie besending voldoen aan of vervaardig is ooreenkomstig die vereistes bepaal ingevolge hierdie Wet

(3) Die SABS moet—

(a) onderworpe aan die betaling van die voorgeskrewre vergoeding, die ondersoek en navorsing onderneem wat die Minister aan hom opdra, en

(b) op versoek van die Minister, die Minister van advies dien aangaande enige aaneengestelde wat verband hou met die oogmerke van die SABS

50 Uitoefening van bevoegdheide buite Republiek

5. (1) Die SABS kan by die uitoefening van sy bevoegdheede en ten einde sy oogmerke te bereik—

(a) 'n ooreenkomst met,  
(b) hulp verleen aan, of  
(c) die samewerking verkry van,

'nserso, liggaam, organisasie, administrasie, overheid of regering in enige land of gebied buite die Republiek

(2) Die Minister kan met die instemming van die Minister van Staatsbesteding die SABS vygraad teen verlies wat hy mag ly as gevolg van 'n handeling of versam van die persoon, liggaam, organisasie, administrasie, overheid of regering bedoel in subartikel (1), mits sodanige handeling of versam met die goedkeuring of op versoek van die Minister geskied het
Continuation of Council of South African Bureau of Standards

6. The Council of the South African Bureau of Standards established by section 4 of the Standards Act, 1962 (Act No. 33 of 1962), shall, notwithstanding the repeal by this Act of the Standards Act, 1982 (Act No. 30 of 1982), but subject to the conditions of this Act, continue to exist.

Constitution and functions of council

7. (1) (a) The council shall consist of—
   (i) a chairman and six other members appointed by the Minister; and
   (ii) the president, who shall serve on the council by virtue of his office.
(b) A member referred to in paragraph (a)(i) shall have particular knowledge or experience of matters which are relevant to the objects of the SABS.
(2) A member referred to in subsection (1)(a)(i) shall hold office for the period determined by the Minister, but not exceeding three years, and shall be eligible for reappointment.
(3) A member referred to in subsection (1)(a)(i) shall vacate his office if—
   (a) he reaches the age of 70 years,
   (b) he is declared insolvent or surrenders his estate for the benefit of his creditors,
   (c) he is found guilty of an offence and sentenced to imprisonment without the option of a fine,
   (d) he is absent from three consecutive meetings of the council without the consent of the chairman unless the council condones his absence on good cause shown,
   (e) he resigns as a member,
   (f) (i) he is in terms of the provisions of the Electoral Act, 1979 (Act No. 45 of 1979), nominated as a candidate for election as a member of Parliament, or
   (ii) he is in terms of the provisions of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), nominated as a member of Parliament, or is appointed or designated as a member of the President’s Council, or
   (g) his term of office is terminated under subsection (4).
   (4) The Minister may at any time discharge a member referred to in subsection (1)(a)(i) from office if he is of the opinion that there are sound reasons for discharging such member from office.
(5) If a member dies or by written notice, directed to the Minister, resigns or in terms of subsection (3) or (4) ceases to be a member, the Minister may, subject to the provisions of this section, appoint a person in his place for the unexpired portion of his term of office.
(6) (a) The president shall be the vice-chairman of the council, and shall during the absence or incapacity of the chairman act as chairman.
   (b) If the president is unable to act as chairman at a meeting of the council in terms of paragraph (a), the members present shall elect one of their number to act as chairman at that meeting.

7. The SABS may pay to a member referred to in subsection (1)(a)(i) who is not in the full-time employment of the State, such allowances as the Minister may determine with the concurrence of the Minister of State Expenditure.
8. (1) (a) The council shall control the affairs of the SABS by—
   (b) exercising control in general over—
   (i) the performance of the functions,
   (ii) the exercise of the powers; and
   (iii) the execution of the duties
   of the SABS.

Meetings of council

8. (1) (a) The meetings of the council shall be held at such times and places as the council may determine.
   (b) The chairman, or in his absence or incapacity the president, may at any time
Voortbestaan van Raad van Suid-Afrikaanse Buro vir Standaarde

6. Die Raad van die Suid-Afrikaanse Buro vir Standaarde ingestel by artikel 4 van die Wet op Standaarde, 1962 (Wet No. 33 van 1962), bly ondanks die herroeping van die Wet op Standaarde, 1982 (Wet No. 30 van 1982), deur hierdie Wet, maar behoudens die bepalings van hierdie Wet, voortbestaan.

Samestelling en werksaamhede van raad

7. (1) (a) Die raad bestaan uit—
   (i) 'n voorstitter en ses ander lede wat deur die Minister aangestel word, en
   (ii) die president, wat amptshalwe in die raad dien.
   (b) 'n Lid bedoel in paragraaf (a)(i) moet beskik oor besondere kennis of ondervinding van aangeleenthede wat met die oogmerke van die SABS verband hou.
   (2) 'n Lid bedoel in subartikel (1)(a)(i) bekleed sy ampt vir die tydperk deur die Minister bepaal, maar vir hoogstens drie jaar, en kan weer aangestel word.
   (3) 'n Lid bedoel in subartikel (1)(a)(i) ontrum sy ampt indien hy—
      (a) die ouderdom van 70 jaar bereik,
      (b) insolvency verklaar word of sy boedel ten bate van sy skuldigers oorgee,
      (c) aan 'n misdryf skuldig bevind word en tot gevangenistraf sonder die keuse van 'n boete gevonnu word;
      (d) onder verlof van die voorstitter van drie agtereenvolgende vergaderings van die raad afwees is tensy die raad by die aanvoer van goeie gronde sy afwegings kondoneer,
      (e) as lid bedank,
      (f) ingevolge die bepalings van die Kieswet, 1979 (Wet No. 45 van 1979), as 'n kandidaat vir kiesing tot lid van die Parlement genoem word, of
      (u) ingevolge die bepalings van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No. 110 van 1983), as lid van die Parlement benoem of as lid van die Presidentsraad aangestel of aangewys word, of
      (g) kragtens subartikel (4) van sy ampt ontheft word.
   (4) Die Minister kan 'n lid bedoel in subartikel (1)(a)(i) te emger tyd van sy ampt ontheft indien hy van oordeel is dat daar gegronde redes is om sodanige lid van sy ampt te ontheft.

5. Indien 'n lid te sterwe kom of by skriftelike kennisgewing, gereg aan die Minister, bedank of ingevolge subartikel (3) of (4) ophou om 'n lid te wees, kan die Minister, behoudens die bepalings van hierdie artikel, iemand vir die onverstrekke deel van sy amptsternyn in sy plek aanstel.
   (a) Die president is die visevoorstitter van die raad, en tree gedurende die afwesigheid of onvermoe van die voorstitter as voorstitter op.

6. Indien die president nie ingevolge paragraaf (a) in staat is om as voorstitter op 'n vergadering van die raad op tree nie, kies die aanwense lede uit hul middel temand om by daardie vergadering as voorstitter op te tree.
   (7) Die SABS kan aan 'n lid bedoel in subartikel (1)(a)(i) wat nie in die heelydsede diens van die Staat is nie, die toelaes betaal wat die Minister met die instemming van die Minister van Staatsbesteding bepaal.
   (8) Die raad beheer die sake van die SABS deur—
      (a) die rigting en doelstelling van die SABS te bepaal, en
      (b) in die algemeen beheer oor—
         (i) die verrigting van die werksonaamhede,
         (ii) die uitvoering van die bevoegdene, en
         (iii) die uitvoering van die plagte, van die SABS uit te oefen.

Vergaderings van raad

8. (1) (a) Die vergaderings van die raad word gehou op die tye en plekke wat die raad bepaal.
   (b) Die voorstitter, of gedurende sy afwesigheid of onvermoe die president,
convene a special meeting of the council, which shall be held at such time and place as the chairman or the president, as the case may be, may direct

(2) The quorum for a meeting of the council shall be a majority of its members

(3) The procedure at meetings of the council, including the keeping of minutes, shall be as prescribed

(4) A decision of the council shall be taken by resolution by the majority of the members present at any meeting of the council, and in the event of an equality of votes on any matter, the person presiding at the meeting concerned shall have a casting vote in addition to his deliberative vote

Committees of council

9. (1) The council may—
   
   (a) establish one or more committees to perform, subject to the instructions of the council, such functions of the council as the council may determine, and
   
   (b) at any time dissolve or reconstitute a committee referred to in paragraph (a)

(2) The council may—
   
   (a) appoint any person as a member of a committee referred to in subsection (1)(a), or
   
   (b) at any time terminate the membership of a person referred to in paragraph (a)

(3) If a committee referred to in subsection (1) consists of more than one member, the council shall designate a member of the committee as chairman thereof

(4) The SABS may pay to the members of a committee referred to in subsection (1) who are not in the full-time employment of the State, or are not members of the council or employees of the SABS, such remuneration and allowances as the Minister, with the concurrence of the Minister of State Expenditure, may determine

President of SABS

10. (1) The council shall appoint a chief executive officer for the SABS, who shall occupy the post of president of the SABS

(2) The president shall be responsible for the management of the affairs of the SABS and shall report to the council on such affairs as may be required by the council

(3) The president shall be appointed for a period not exceeding five years on the conditions, including conditions relating to the payment of remuneration, allowances and other benefits, as the council may determine in accordance with a system approved by the Minister, with the concurrence of the Minister of State Expenditure, and such system is amended from time to time

(4) The president may, at the expiration of his period of office, be reappointed

(5) Whenever for any reason the president is absent or unable to carry out his duties or whenever the office of president is vacant, the council may, on such conditions and subject to the payment of such remuneration and allowances as it may determine, in accordance with a system approved by the Minister, with the concurrence of the Minister of State Expenditure, as such system is amended from time to time, appoint another person to act as president until the president can resume his functions or until the vacancy is filled, and that other person shall, while so acting, have all the powers and perform all the duties of the president

(6) Any reference to the Director-General of the South African Bureau of Standards in any law, contract, register, record or other document shall, from the date of the commencement of this Act, be construed as a reference to the president

Appointment of staff, and conditions of service

11. (1) (a) The council may, subject to paragraph (b) and on such conditions as it may determine, appoint the employees of the SABS whom it deems necessary to assist the SABS in the performance of its functions.

(b) The SABS shall pay to its employees such remuneration, allowances, subsidies and other benefits as the council may determine, in accordance with a
kans te eniger tyd 'n spesiale vergadering van die raad belê, wat gehou word op
die tyd en plek wat die voorstitter of die president, na gelang van die geval, gelas
(2) Die kworum vir 'n vergadering van die raad is 'n meerderheid van sy lede
(3) Die prosedure by vergaderings van die raad, met inbegrip van die hou van
5 notules, is soos voorgeskryf
(4) 'n Besluit van die raad word geneem by 'n besluit van die meerderheid van
die lede wat op 'n vergadering van die raad aanwezig is, en by 'n staking van
stemme oor enige aangeleentheid het die persoon wat op die betrokke verga-
dering voorst, 'n beslissende stem benewens sy beraadslagende stem

10 Komitees van raad

9. (1) Die raad kan—
(a) een of meer komitees instel om, onderworpe aan die voorskrifte van
die raad, dié werksaamhede van die raad te verrig wat die raad bepaal,
en
15 (b) te eniger tyd 'n komitee bedoel in paragraaf (a) ontbind of hersaamstel
(2) Die raad kan—
(a) enige persoon as 'n lid van 'n komitee bedoel in subartikel (1)(a)
aanstel, of
(b) te eniger tyd die lidmaatskap van 'n persoon bedoel in paragraaf (a)
beëindig
(3) Indien 'n komitee bedoel in subartikel (1) uit meer as een lid bestaan, wys
die raad 'n lid van die komitee as voorstitter daarvan aan.
(4) Die SABS kan aan die lede van 'n komitee bedoel in subartikel (1) wat nie
in die heeltydse diens van die Staat is nie, of nie lede van die raad of werknemers
25 van die SABS is nie, die besoldiging en toelaes betaal wat die Minister met die
instemming van die Minister van Staatsbesteding bepaal

President van SABS

10. (1) Die raad stel 'n hoof- uitvoerende beampte vir die SABS aan, wat die
pos van president van die SABS bekle
30 (2) Die president is vir die bestuur van die sake van die SABS verantwoordelik
en doen oor daardie sake verslag aan die raad soos deur die raad verlang
(3) Die president word aangestel vir 'n tydperk van hoogstens vyf jaar op die
voorwaardes, met inbegrip van voorwaardes betreffende die betaling van
besoldiging, toelaes en ander voordele, wat die raad bepaal ooreenkomstig 'n
35 stelsel wat die Minister met die instemming van die Minister van Staatsbesteding
goedkeur, soos daardie stelsel van tyd tot tyd gewysig word
(4) Die president kan by die versetryk van sy amptsternyn weer aangestel
word
(5) Wanneer die president om die een of ander rede afwesig is of nie in staat
is om sy pligte uit te voer nie, of wanneer die amp van president vakant is, kan
die raad op die voorwaardes en onderworpe aan die besoldiging en toelaes wat
hy bepaal, ooreenkomstig 'n stelsel wat die Minister met die instemming van die
Minister van Staatsbesteding goedkeur, soos daardie stelsel van tyd tot tyd
45 gewysig word, iemand anders aanstel om as president waar te neem totdat die
president sy werksaamhede kan hervat of totdat die vakantie geval is, en terwyl
hy aldaar waanweem, die daardie ander persoon al die bevoegdhede en verrig hy
al die pligte van die president
(6) Enige verwysing na die Direkteur-generaal van die Suid-Afrikanse Buro
40 vir Standaarde in enige wet, kontrak, register, aantekening of ander dokument
word vanaf die datum van die inwerkingtreding van hierdie Wet uitgele as 'n
verwysing na die president

Aanstelling van personeel, en diensvoorwaardes

11. (1) (a) Die raad kan, behoudens paragraaf (b) en op die voorwaardes wat
hy bepaal, die werknemers van die SABS aanstel wat hy nodig af om die SABS
50 behulpsaam te wees by die verrugting van sy werksaamhede
(b) Die SABS betaal aan sy werknemers die besoldiging, toelaes, subsidies en
ander voordele wat die raad bepaal, ooreenkomstig 'n stelsel wat die Minister
system approved by the Minister, with the concurrence of the Minister of State Expenditure, as such system is amended from time to time.

(2) The council may from time to time, on such conditions and against such security as it may deem fit—

(a) provide collateral security, including guarantees, to a registered financial institution in respect of a loan granted to an employee of the SABS by that financial institution, to enable the employee to acquire, improve or enlarge immovable property for residential purposes,

(b) build, cause to be built, purchase or rent houses, flats, flat buildings or other similar dwelling units for occupation by employees, and may sell or let those houses, flats or dwelling units to employees, or otherwise dispose of, let or otherwise deal with those houses, flats, flat buildings or dwelling units,

(c) establish, institute, erect or maintain sports and recreation facilities, social clubs, social and health services, car parking facilities, crèches and pre-school centres, restaurants, hostels, bursary schemes for purposes of study or other similar undertakings or schemes which in its opinion may be beneficial to its employees, and may for this purpose utilize part of its assets,

(d) establish motor vehicle schemes for employees of the SABS, and

(e) grant a loan to an employee—

(i) for the purposes of study by that employee,

(ii) which may be used by that employee for such purposes as the council may determine, provided that such purposes shall be in the interest of the SABS, or

(iii) for any other purpose up to an amount of not more than the monthly salary due to that employee after deductions.

(3) The council may, on such conditions as it may deem fit, second an employee temporarily to a State department, the government of another country or territory, an institution or a person in or outside the Republic, provided that—

(a) such an employee consents to such secondment, and

(b) such an employee’s rights, privileges and benefits by virtue of his conditions of service as an employee of the SABS are not adversely affected by such secondment.

Financing

12. (1) The funds of the SABS shall consist of—

(a) money appropriated by Parliament,

(b) money obtained by virtue of the provisions of this Act or any other law,

(c) money, donations, interest, dividends, royalties, rent or contributions received from any source,

(d) money obtained by the SABS in terms of section 4(1)(b),

(e) the proceeds from the sale of shares, and from dividends on shares held by the SABS, in any company or other juristic person referred to in section 4(1)(g), and

(f) revenue obtained from the sale of—

(i) publications prepared by the SABS, including publications in which a standard is contained,

(ii) other publications which are relevant to the objects of the SABS;

(iii) reference material; and

(iv) any assets of the SABS.

(2) (a) The council—

(i) shall in each financial year, at a time determined by the Minister, submit a statement of the estimated income and expenditure of the SABS during the following financial year, and

(ii) may at any time during a financial year submit supplementary statements of the estimated income and expenditure of the SABS for that financial year,
met die instemming van die Minister van Staatsbesteding goedkeur, voew daardie stelsel van tyd tot tyd gewysig word

(2) Die raad kan van tyd tot tyd op die voorwaardes en teen die sekerheid wat hy goedvind—

(a) kollaterale sekerheid, met inbegrip van waarborgte, aan 'n geregistreerde finansiële instelling verskaf ten opsigte van 'n lening wat deur daardie finansiële instelling aan 'n werknemer van die SABS toegestaan is, ten einde die werknemer in staat te stel om onroerende eiendom vir die doeleindes van bewoning te verkry, te verbeter of te vergroot;

(b) woonhuse, woonstelle, woonstelgeboue of ander dergelike woonenehde vir bewoning deur werknemers bou, laat bou, koop of huur, en kan daardie woonhuse, woonstelle of woonenehde aan werknemers verkoop of verhuur, of daardie woonhuse, woonstelle, woonstelgeboue of woonenehde andersins vervreem, verhuur of andersins daarmee handel,

(c) sport- en ontspanningsgenewye, sosiale klubs, sosiale en geneeskundige dienste, motorparkeerfasiliteite, bewaar- en voorschoolse scutums, restaurantte, tehuise, beurskemas vir studiedoelendes of ander dergelike onderneemings of skemas wat na sy oordeel vy sy werknemers voordelig kan wees, instel, stig, oprig of bedryf, en kan vir hierdie doel van sy bates aanvank,

(d) motorvoertuigskemas vir werknemers van die SABS instel, en

(e) 'n lening aan 'n werknemer toestaan—

(i) vir die doeleindes van studie deur daardie werknemer,

(ii) wat deur daardie werknemer aangewend kan word vir die doeleindes deur die raad bepaal mits daardie doeleindes in belang van die SABS is, of

(iii) vir enige ander doel tot 'n bedrag van nie meer nie as die maandeloksalaris wat aan daardie werknemer betaalbaar is na aftrekings

(3) Die raad kan op die voorwaardes wat hy goedvind 'n werknemer tydelik aan die diens van 'n Staatsdepartement, die regering van 'n ander land of gebied, of 'n instelling of persoon binne of buite die Republiek afstaan, mits—

(a) so 'n werknemer tot sodanige afstand instem, en

(b) so 'n werknemer se regte, voorregte en voordele uit hoofde van sy diensvoorwaardes as 'n werknemer van die SABS neer sodanige afstand benadeel word nie

Finansiering

12. (1) Die fondse van die SABS bestaan uit—

(a) geld deur die Parlement bewillig,

(b) geld verkry uit hoofde van die bepalings van hierdie Wet of enige ander wet,

(c) geld, skenings, rente, dividende, tantieme, huur of bydraes uit enige bron ontvang,

(d) geld ingevolge artikel 4(1)(b) deur die SABS verkry,

(e) die opbrengs van die verkoop van aandele, en van dividende op aandele deur die SABS gehou, in enige maatskappy of ander regspersoon bedoel in artikel 4(1)(g), en

(f) inkomste verkry uit die verkoop van—

(i) publikasies opgestel deur die SABS, met inbegrip van publikasies waarin 'n standaard vervat is,

(ii) ander publikasies wat verband hou met die oogmerke van die SABS,

(iii) verwysingsmateriaal, en

(iv) enige bates van die SABS

(2) (a) Die raad—

(i) moet in elke boekjaar, op 'n tydstip deur die Minister bepaal, 'n staat van die geraamde inkomste en uitgawes van die SABS vir die daaropvolgende boekjaar, en

(u) kan op enige tydstip gedurende 'n boekjaar aanvullende state van die geraamde inkomste en uitgawes van die SABS vir daardie boekjaar,
to the Minister for his approval, granted with the concurrence of the Minister of State Expenditure
(b) The SABS shall not incur expenses which may result in the total amount approved under paragraph (a) being exceeded.
(3) The SABS shall utilize its funds for defraying expenses in connection with the performance of its functions and the exercise of its powers in accordance with the statements referred to in subsection (2)(a). Provided that the SABS—
(a) may utilize any amount or portion of an amount required to be so utilized for a particular purpose in connection with a specified matter, for any other purpose in connection with the performance of its functions,
(b) may carry forward any balance of such funds remaining at the end of the financial year concerned, to its next financial year for defraying any expenses in connection with the performance of its functions; and
(c) shall, notwithstanding the provisions of paragraphs (a) and (b), utilize any donations or contributions referred to in subsection (1)(c) in accordance with the conditions, if any, imposed by the donor or contributor concerned.
(4) The SABS may, notwithstanding the provisions of subsection (3)(b), invest any unexpended portion of its funds with a financial institution approved by the Minister with the concurrence of the Minister of Finance.
(5) The SABS may establish such reserve funds and deposit therem such amounts as the Minister with the concurrence of the Minister of State Expenditure may approve. Provided that the particulars of the reserve funds shall be reflected in the annual report.

Accounting officer

13. (1) In addition to the other functions and duties entrusted to him by this Act, the president shall be the accounting officer charged with the responsibility of accounting for all money received, the utilization thereof and the use and care of the property of the SABS.
(2) The accounting officer shall cause such records of account to be kept as are necessary to represent fairly the state of affairs and business of the SABS and to explain the transactions and financial position of the business of the SABS.

Auditing and annual report

14. (1) The Auditor-General shall audit the books of accounts, accounting statements and annual financial statements of the SABS.
(2) The council shall—
(a) furnish to the Minister such information as he may call for from time to time in connection with the activities and financial circumstances of the SABS, and
(b) as soon as practicable after the end of each financial year submit to the Minister an annual report on the affairs and functions of the SABS in respect of that financial year which shall, inter alia, include a statement of income and expenditure and a balance sheet certified by the Auditor-General and such further particulars as the Minister may require.
(3) The Minister shall table the annual report referred to in subsection (2)(b) in Parliament—
(a) within 14 days after receipt thereof, if Parliament is in ordinary session, or
(b) if Parliament is not in ordinary session, within 14 days of the commencement of its next ensuing ordinary session.

Recovery of loss and damage

15. (1) If the accounting officer is convinced that a person who is or was in the employment of the SABS has caused the SABS any loss or damage because he—
(a) failed to collect money due to the SABS and for the collection of which he is or was responsible,
(b) is or was responsible for an irregular payment of money of the SABS or for a payment of such money not supported by a proper voucher;
aan die Minister voorlê vir sy goedkeuring, wat met die instemming van die Minister van Staatsbesteding verleen word

(b) Die SABS gaan geen uitgawes aan wat kan meebragt dat die totale bedrag wat kragtans paragraaf (a) goedgekeur is, oorsky word nie

(3) Die SABS wend sy fondse aan om uitgawes in verband met die verrigting van sy werkzaamhede en die uitoefening van sy bevoegdheid te bestry ooreenkomsdig die state bedoel in subartikel (2)(a) Met dien verstande dat die SABS—

(a) 'n bedrag of gedeelte van 'n bedrag wat vir 'n besondere doel in verband met 'n bepaalde aangeleenthed aaldus aangewend moet word, vir 'n ander doel in verband met die verrigting van sy werkzaamhede kan aanwend,

(b) enige saldo van sodanige fondse wat aan die einde van 'n betrokke boekjaar oorblo, na die volgende boekjaar kan oordra ter bestryding van uitgawes in verband met die verrigting van sy werkzaamhede, en

(c) ondanks die bepalings van paragraaf (a) en (b), skenkings of hydraes bedoel in subartikel (1)(c), moet aanwend ooreenkomsdig die voorwaardes, as daar is, wat die betrokke skenker of hydraat opgelê het

(4) Die SABS kan, ondanks die bepalings van subartikel (3)(b), enige onbestede gedeelte van sy fondse belê by 'n finansiële instelling wat die Minister met die instemming van die Minister van Finansies goedgekeur

(5) Die SABS kan die reservefondse instel en die bedrae daarin stort wat die Minister met die instemming van die Minister van Staatsbesteding goedgekeur. Met dien verstande dat die besonderhede van die reservefondse in die jaarverslag weerspeel word

25 Rekenpligtige beampte

13. (1) Benewens die ander werkzaamhede en pligte deur hierdie Wet aan hom opgedra, is die president die rekenpligtige beampte belas met die verantwoordig van al die geld ontvang, die aanwending daarvan en die gebruik en versorging van die eiendom van die SABS

(2) Die rekenpligtige beampte moet die rekenkundige aantekeninge laat hou wat nodig is om die stand van die sake en besigheid van die SABS redelik weer te gee en om die transaksies en finansiële toestand van die besigheid van die SABS te verduidelik

Ouditering en jaarverslag

14. (1) Die Ouditeur-generaal oudteer die rekeningsboeke, rekeningsstate en finansiële jaarstate van die SABS

(2) Die raad moet aan die Minister—

(a) die inligting verstrekg wat hy van tyd tot tyd in verband met die bedrywighede en geldelike omstandighede van die SABS aanva, en

(b) so gou moontlik na die einde van elke boekjaar 'n jaarverslag voorlê wat onder meer insluit 'n staat van inkomste en uitgawe en 'n balansstaat wat deur die Ouditeur-generaal gesertifiseer is en die ander besonderhede wat die Minister verlang

(3) Die Minister lê die jaarverslag bedoel in subartikel (2)(b) in die Parlement

Term Tafel—

(a) binne 14 dae na ontvangs daarvan indien die Parlement in gewone sessie is, of

(b) indien die Parlement nie in gewone sessie is nie, binne 14 dae na die aanvang van sy eersvolgende gewone sessie

50 Verhaal van verlies en skade

15. (1) Indien die rekenpligtige beampte oortuig is dat iemand wat in diens van die SABS is of was die SABS enige verlies of skade brokken het deurdat hy—

(a) versuum het om geld verskuldig aan die SABS, of die inwending waarvan hy verantwoordelik is of was, in te vorler,

(b) vir 'n onreëmatige uitbetalings van geld van die SABS of vir 'n uitbetalings van sodanige geld wat nie deur 'n behoorlike bewysstuk gestaaf word nie verantwoordelik is of was,
(c) is or was responsible for a deficiency in, the destruction of or damage to money, stamps, face value documents and forms of the SABS having a potential value, securities, equipment, stores or other property of the SABS,

(d) is or was responsible for a claim against the SABS, or the fruitless expenditure of money of the SABS due to an omission to carry out his duties or due to exceeding his powers,

the accounting officer shall determine the amount of such loss or damage, and may order that person, by notice in writing, to pay to the SABS, within 30 days from the date of such notice, the whole or any part of the amount so determined.

(2) If a person who is in the employment of the SABS and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice concerned, the amount shall, subject to the provisions of subsections (4) and (5), be recovered from his monthly salary. Provided that such deduction shall not in any month exceed a fourth of his monthly salary.

(3) (a) If a person who was in the employment of the SABS and who has in terms of subsection (1) been ordered to pay an amount, fails to pay the amount within the period stipulated in the notice concerned, the accounting officer may, subject to the provisions of paragraph (b) and subsections (4) and (5), recover the amount from the person concerned by legal process.

(b) If any money is due by the SABS to a person referred to in paragraph (a), the amount referred to in that paragraph shall, subject to the provisions of subsections (4) and (5), be deducted from the amount thus due.

(4) If a person who has in terms of subsection (1) been ordered to pay an amount, offered, within the period stipulated in the notice concerned, to pay the amount in instalments, the accounting officer may allow him to pay in such instalments and on such conditions as the accounting officer may consider reasonable.

(5) A person who has in terms of subsection (1) been ordered to pay an amount, may—

(a) within a period of 30 days from the date of such order appeal in writing against such order to the council, stating the grounds for his appeal, and the council may, after such investigation as it may deem necessary, dismiss the appeal, or order that the appellant be exempted, either wholly or partly, as the council may deem fair and reasonable, from the payment of such amount, or

(b) apply within a period of 30 days from the date of such order, or within such further period as the court may allow, to a competent court for an order setting aside such first-mentioned order or reducing such amount, and the court may upon such an application, if it is not convinced by the accounting officer on the merits of the case that the order was rightly made or that the amount is correct, make an order setting aside such first-mentioned order or reducing that amount, as the case may be.

Standards

16. (1) The council shall publish by notice in the Gazette the norm which the SABS uses to set or amend a standard.

(2) The SABS shall as far as possible ensure that in the setting or amendment of a standard—

(a) the norm referred to in subsection (1) is maintained,

(b) the latest technological development is considered, and

(c) the interests of all parties concerned, including the manufacturer, supplier and consumer, are considered.

(3) (a) The SABS may—

(i) set and issue as a standard a specification, code of practice or standard method,

(ii) amend a set standard, or

(iii) withdraw a set standard.

(b) A standard may be set merely by referring to a provision which occurs —
(c) vir 'n tekort in of die vernietiging of beskadiging van die geld, seels, sigwaardesstukke of vorms van die SABS wat 'n potensiële waarde het, sekerhede, uitrusting, voorrade of enige ander goed van die SABS verantwoordelik is of was,

5  (d) weens versuum om sy pligte uit te voer of weens oorskrywing van sy bevoegdhede vir 'n eenheid van die SABS of vir 'n vrugtelose uitgawe van die SABS se geld verantwoordelik is of was,

moet die rekenpligtige beampte die bedrag van sodanige verlies of skade vastel, en kan hy so iemand by skrifteklike kennisgewing gelas om die geheel of 'n gedeelte van die bedrag wat aldus vasgestel is, binne 30 dae vanaf die datum van die kennisgewing aan die SABS te betaal

2 Indien iemand wat in diens van die SABS is en wat ingevolge subparagraaf (1) gelas is om 'n bedrag te betaal, versuum om die bedrag te betaal binne dié tydperk in die betrokke kennisgewing bepaal, word die bedrag, behoudens die bepalings van subparagraaf (4) en (5), van sy maandelikse salaris afgetrek. Met dien verstande dat so 'n aftrekking nie in een maand meer as 'n kwart van sy maandelikse salaris beloop nie

3 (a) Indien iemand wat in diens van die SABS was en wat ingevolge subparagraaf (1) gelas is om 'n bedrag te betaal, versuum om die bedrag te betaal binne die tydperk in die betrokke kennisgewing bepaal, kan die rekenpligtige beampte, behoudens die bepalings van paragraaf (b) van subparagraaf (4) en (5), die bedrag deur middel van geregteLIKE proses op die betrokke persoon verhual

(b) Indien enige geld deur die SABS aan die persoon bedoel in paragraaf (a) verskuil is, word die bedrag bedoel in daardie paragraaf, behoudens die bepalings van subparagraaf (4) en (5), afgetrek van die bedrag aldus verskuil.

Indien iemand wat ingevolge subparagraaf (1) gelas is om 'n bedrag te betaal, binne die tydperk in die betrokke kennisgewing bepaal, aanbed om die bedrag in paaiemente te betaal, kan die rekenpligtige beampte hom toelaat om te betaal in daardie paaiemente en op die voorwaardes dat die rekenpligtige beampte redelik

30 ag.

(5) Iemand wat ingevolge subparagraaf (1) gelas is om 'n bedrag te betaal, kan—

(a) binne 'n tydperk van 30 dae vanaf die datum van daardie lasgewing skrifteklik by die raad teen so 'n lasgewing appêl aanteken, met opgaaf van die gronde van die appêl, en die raad kan, na die ondersoek wat hy nodig ag, die appêl verwerp of gelas dat die appellant geheel en al of ten dele, na gelang van wat die raad billik en redelik ag, van die betaling van daardie bedrag kwytgeskeld word, of

(b) by 'n bevoegde hof aansoek doen binne 'n tydperk van 30 dae vanaf die datum van daardie lasgewing, of binne die verdere tydperk wat die hof toelaat, om 'n bevel waarby die lasgewing tersyd gestel of daardie bedrag verminder word, en die hof kan op so 'n aansoek, indien hy deur die rekenpligtige beampte aan die hand van die omstandighede van die geval oortuig word dat die lasgewing terug gegee is of dat daardie bedrag juis is nie, 'n bevel uitreuk waarby die lasgewing tersyd gestel word of daardie bedrag verminder word, na gelang van die geval

Standaarde

16. (1) Die raad moet die norm wat die SABS gebruik om 'n standaard vas te stel of te wys, by kennisgewing in die Staatshoorn bekend maak

(2) Die SABS moet so ver moontlik verskyn dat by die vaststelling of wyssting van 'n standaard—

(a) die norm bedoel in subparagraaf (1) gehandhaaf word,

(b) die jongste tegnologiese ontwikkeling in ag geneem word, en

(c) die belange van alle belanghebbendes, met inbegrip van die vervaardiger, leveraars en verbruikers, in ag geneem word

(3) (a) Die SABS kan—

(i) 'n spesifikasie, gebruikskode of standaardmetode as 'n standaard vasstel en uitreuk,

(ii) 'n vasgestelde standaard wys, of

(iii) 'n vasgestelde standaard intrak

(b) 'n Standaard kan vasgestel word bloot deur te verwys na 'n bepaling wat voorkom—
(i) in any other standard set by the SABS, or
(ii) in a document in the nature of a specification, code of practice or
    standard method issued by a foreign or international body having objects
    similar to any object of the SABS and which it deems fit to issue as a
    standard for the purposes of this Act

(4) (a) The council may in any manner make known the setting and issue of a
    standard, and any amendment or withdrawal thereof
    (b) If a standard or an amendment thereof is made known in terms of paragraph
        (a) by notice in the Gazette, it shall be sufficient if the notice concerned—
        (i) states the title and number of the standard, and
        (ii) contains a résumé of the scope and purport of that standard or the
            amendment thereof

(5) (a) Subject to the provisions of the Agricultural Product Standards Act, 1990
    (Act No 119 of 1990), or the Liquor Products Act, 1989 (Act No 60 of 1989), no
    person shall issue a document which creates or may create the impression that it
    contains a standard as contemplated in this Act, unless it is issued in terms of this
    Act
    (b) If the Agricultural Product Standards Act, 1990, or the Liquor Products
        Act, 1989, applies to a commodity, a standard in respect of such commodity shall
        only be set or amended in accordance with the terms and conditions of an
        agreement entered into by the council and the Director-General Agriculture

(6) The control over the use or application of codes of practice or any category
    of codes of practice which have been set and issued as a standard shall be as
    prescribed

(7) The SABS may levy fees—
    (a) in respect of the setting and issue of a standard,
    (b) in respect of services rendered in connection with the control over the
        use or application of codes of practice or any category of codes of
        practice which have been set and issued as a standard, and
    (c) in regard to the participation in any scheme operated by the SABS

(8) At the commencement of this Act a specification referred to in section 13,
    a code of practice referred to in section 18, a standard method referred to in
    section 19 or a document referred to in section 19(4) of the Standards Act, 1982
    (Act No 30 of 1982), which is in force in terms of the provisions of that Act, shall
    be deemed to be a standard which has been set and issued in terms of the
    provisions of this Act

(9) If a provision referred to in subsection (3)(b) is amended any reference to
    that provision shall be construed as a reference to the provision as amended

Copyright in standards and publications

17. (1) Notwithstanding the provisions in any other law contained—
    (a) the copyright in a standard or a publication issued by the council shall
        vest in the SABS, and
    (b) the SABS shall not be deprived of the copyright referred to in paragraph
        (a) if a standard, or a provision of such standard, or any publication
        issued by the SABS, is incorporated in a law in terms of section 31(1)(a),
        or the provisions of any other law

    (2) No person shall, without the authorization of the SABS, in any manner or
        in any form publish, reproduce or record any document or part thereof in respect
        of which the copyright vests in the SABS in terms of subsection (1) Provided that
        any person may at any time make a copy of such document or part thereof for his
        own use

Establishment of marks

18. (1) The Minister may, subject to the provisions of subsection (2) and on the
    recommendation of the council, by notice in the Gazette establish, alter or
    abolish—
    (a) certification marks,
STAATSKOERANT, 19 MAART 1993
WET OP STANDAARDE, 1993
No 14661

(1) in 'n ander standaard wat deur die SABS vasgestel is; of
(2) in 'n dokument, met die aard van 'n spesifike, gebruikskode of
standaardmetode, wat uitgereik is deur 'n buitelandse of internasionale
liggaam met oogmerke soortgelyk aan 'n oogmerk van die SABS en
wat die SABS geskik ag om as 'n standaard vir die doeleindes van
hierdie Wet vas te stel en uit te reik

(4) (a) Die raad kan die vasstelling en uitreiking van 'n standaard, en enge
wysiging of intrekking daarvan, op enige wyse bekend maak

(b) Indien 'n standaard of 'n wysiging daarvan in gevolge paragraaf (a) by
kennigewig in die Staatskoerant bekend gemaak word, is dit voldoende indien
die betrokke kennigewig—

(i) die titel en nommer van die standaard vermeld, en

(ii) 'n samevatting van die bestek en strekking van daardie standaard of die
wysiging daarvan bevatt

(5) (a) Behoudens die bepalings van die Wet op Landbouprodukstandaarde,
1990 (Wet No 119 van 1990), of die Wet op Drankprodukte, 1989 (Wet No 60
van 1989), mag nemand 'n dokument wat die indruk skep of kan skep dat dit 'n
standaard soos boog in hierdie Wet bevatt, uitrak nie tensy dit in gevolge die
bepalings van hierdie Wet uitgereik word.

(b) Indien die Wet op Landbouprodukstandaarde, 1990, of die Wet op
Drankprodukte, 1989, op 'n kommoditeit van toepassing is, word 'n standaard
ten opsigte van sodanige kommoediteit slegs vasgestel of gewysig ooreenkoms
met die bepalings en voorwaardes van 'n ooreenkomst wat deur die raad en die
Direkteur-generaal Landbou aangegaan is

(6) Die beheer oor die gebruik of toepassing van gebruikskodes of 'n kategorie
gebruikskodes wat as 'n standaard vasgestel en uitgereik is, is soos voorgeskryf

(7) Die SABS kan gelde hef—

(a) ten opsigte van die vasstelling en uitreiking van 'n standaard,
(b) ten opsigte van dienste gelever in verband met die beheer oor die
gebruik of toepassing van gebruikskodes of 'n kategorie gebruikskodes
wat as 'n standaard vasgestel en uitgereik is; en

(c) ten opsigte van die deelname aan 'n skema wat deur die SABS bedryf
word

(8) By die inwerkingtreding van hierdie Wet word 'n spesifike bedoel in
artikel 13, 'n gebruikskode bedoel in artikel 18, 'n standaardmetode bedoel in
artikel 19 of 'n dokument bedoel in artikel 19(4) van die Wet op Standaarde,
1982 (Wet No 30 van 1982), wat van krag is ingevolge die bepalings van daardie
Wet, gee 'n standaard te wees wat in gevolge die bepalings van hierdie Wet
vasgestel en uitgereik is

(9) Indien 'n bepaling bedoel in subartikel (3)(b) gewysig word, word enge
verwyssing na daardie bepaling uitgelê as 'n verwysing na die bepaling soos
gewysig.

Outeursreg oor standaarde en publikasies

17. (1) Ondanks die bepalings van die een of ander wet—

(a) vestig die oueursreg van 'n standaard of 'n publikasie wat deur die raad
uitgereik is, in die SABS, en

(b) word die SABS nie van die oueursreg bedoel in paragraaf (a) ontlen
nie indien 'n standaard, of 'n spesifieke bepaling daaruit, of 'n
publikasie deur die SABS uitgereik, ingevolge artikel 31(1)(a) of die
bepalings van enige ander wet, in 'n wet ingelyf word

(2) Niemand mag sonder die wettiging van die SABS enige dokument of 'n
gedeelte daarvan ten opsigte waarvan die oueursreg ingevolge subartikel (1) in
die SABS vestig op enige wyse of in enige vorm publiseer, reproduiseer of vaslê
Met dien verstande dat 'n persoon te enger tyd vir eie gebruik 'n kopie van
so 'n dokument of gedeelte daarvan kan maak

Instelling van merke

18. (1) Die Minister kan, behoudens die bepalings van subartikel (2) en op
aanbeveling van die raad, by kennigewig in die Staatskoerant—

(a) sertifiseringsmerke,
(b) marks of proof,
(c) marks of authenticity, and
(d) distinctive marks

(2) A mark shall not be established as a mark in terms of subsection (1) if such mark is registered as a trade mark in terms of the provisions of any law with regard to the registration of trade marks or so closely resembles such a mark as to be likely to be mistaken for it.

(3) A mark which has been established as a mark in terms of subsection (1) or so closely resembles such a mark as to be likely to be mistaken for it, shall not be registered as a trade mark under any law with regard to the registration of trade marks.

(4) A mark which has been established in terms of subsection (1) shall be deemed to be a mark the use of which is absolutely prohibited in terms of section 15(1) of the Merchandise Marks Act, 1941 (Act No 17 of 1941), except by the SABS or its mandataries.

(5) At the commencement of this Act a standardization mark referred to in section 14(1) of the Standards Act, 1982 (Act No 30 of 1982), which is in force in terms of the provisions of that Act, shall be deemed to be a certification mark.  

Mark specification

19. (1) (a) The council may, subject to the provisions of section 20(1), by notice in the Gazette determine that a certification mark may be applied to a commodity falling within the scope of a specific specification which has been set and issued as a standard.

(b) The notice referred to in paragraph (a) shall contain a résumé of the scope and purport of the specification concerned.

(2) (a) Upon the publication in the Gazette of a notice referred to in subsection (1)(a), the specification concerned shall become a mark specification.

(b) If a specification which has been set and issued as a standard, is amended in terms of section 16(3)(a)(n), the specification concerned as amended shall, for purposes of subsection (1)(a), be deemed to be the mark specification.

(3) At the commencement of this Act a standard specification referred to in section 15(1) of the Standards Act, 1982 (Act No 30 of 1982), which is in force in terms of the provisions of that Act, shall be deemed to be a mark specification.

Application of certification mark

20. (1) (a) A certification mark shall only be applied or used in a manner authorized by this Act.

(b) No person shall apply a certification mark to a commodity except under a mark permit issued in terms of section 25 and unless that commodity complies with or has been manufactured in accordance with the relevant mark specification.

(2) For the purposes of this section a person shall be deemed to have applied a certification mark to a commodity if he has—

(a) applied that certification mark to any container or covering of the commodity concerned or to any label attached to the said commodity or to any container or covering thereof,

(b) placed or enclosed the commodity concerned in any container or covering to which that certification mark has been applied or to which is attached any label to which the said certification mark has been applied; or

(c) in connection with the sale of the commodity concerned, directly or indirectly referred to that certification mark in a manner or under circumstances likely to convey the impression that the said commodity complies with or has been manufactured in accordance with the relevant mark specification.

(3) (a) If a certification mark is altered in terms of section 18(1), the SABS may authorize the continued use of that certification mark as it existed prior to the
(b) proefmerke,
(c) waarnemer, en
(d) onderskiedingsmerke,
instel, verander of afskaf
5 (2) 'n Merk word nie as 'n merk ingevolge subartikel (1) ingestel nie indien sodanige merk ingevolge die bepaling van 'n wet met betrekking tot die registrasie van handelsmerke as 'n handelsmerk geregistreer is of soveel op so 'n merk lyk dat dit waarskynlik daarvoor aangesien sal word

(3) 'n Merk wat as 'n merk ingevolge subartikel (1) ingestel is of soveel op so 10 'n merk lyk dat dit waarskynlik daarvoor aangesien sal word, word nie kragtens 'n wet met betrekking tot die registrasie van handelsmerke as 'n handelsmerk geregistreer nie

(4) 'n Merk wat as 'n merk ingevolge subartikel (1) ingestel is, word geag 'n merk te wees waarvan die gebruik, uitgesonderd deur die SABS of sy gevolg- 15 magtiges, ingevolge artikel 15(1) van die Handelswaremerkewet, 1941 (Wet No. 17 van 1941), geheel en al verbied is

(5) By die inwerkingtreding van hierdie Wet word 'n standaardmerk bedoel in artikel 14(1) van die Wet op Standaarde, 1982 (Wet No. 30 van 1982), wat van krag is ingevolge die bepaling van daardie Wet, geag 'n sertifiseringsmerk te wees

Merkspecificasie

19. (1) (a) Die raad kan, behoudens die bepaling van artikel 20(1), by 25 kennisgewing in die Staatsskoerant bepaal dat 'n sertifiseringsmerk aangebring mag word op 'n kommoditeit wat binne die bestek val van 'n bepaalde spesifike wat as 'n standaard vasgestel en uitgereik is

(b) Die kennisgewing bedoel in paragraaf (a) moet 'n samevattning van die bestek en strekking van die betrokke spesifike bevat

(2) (a) By die publikasie in die Staatsskoerant van 'n kennisgewing bedoel in subartikel (1)(a), word die betrokke spesifike 'n merkspecificasie

30 (b) Indien 'n specifike wat as 'n standaard vasgestel en uitgereik is, ingevolge artikel 16(3)(a)(ii) gewysig word, word die betrokke specifike soos gewysig, vir die doelendes van subartikel (1)(a) geag die merkspecificasie te wees

(3) By die inwerkingtreding van hierdie Wet word 'n standaardspesifiek 35 bedoel in artikel 15(1) van die Wet op Standaarde, 1982 (Wet No. 30 van 1982), wat van krag is ingevolge die bepaling van daardie Wet, geag 'n merkspecifi- kasse te wees

Aanbring van sertifiseringsmerk

20. (1) (a) 'n Sertifiseringsmerk mag slegs aangebring of gebruik word op 'n 40 wyse wat deur hierdie Wet gemagtig word

(b) Niemand mag 'n sertifiseringsmerk op 'n kommoditeit aanbring nie behalwe kragtens 'n merkvermaak uitgereek ingevolge artikel 25 en tensy daardie kommoditeit voldoen aan of vervaardig is ooreenkomsstig die toepaslike merk- spesifiekasse

45 (2) By die toepassing van hierdie artikel word iemand geag 'n sertifiseringsmerk op 'n kommoditeit aan te bring het indien hy—

(a) daardie sertifiseringsmerk aangebring het op 'n houer of omhulsel van die betrokke kommoditeit of op 'n etiket wat aan genoemde kommodi- teit of aan 'n houer of omhulsel daarvan geheg is,

(b) die betrokke kommoditeit geplaas of ingesluit het in 'n houer of omhulsel waarop daardie sertifiseringsmerk aangebring is of waaraan 'n etiket geheg is waarop genoemde sertifiseringsmerk aangebring is, of in verband met die verkoop van die betrokke kommoditeit regstreeks of onregstreeks na daardie sertifiseringsmerk verwys op 'n wyse of

50 onder omstandighede wat waarskynlik die indruk sal wek dat ge- noemde kommoditeit voldoen aan of vervaardig is ooreenkomsstig die toepaslike merkspesifiekasse

(3) (a) Indien 'n sertifiseringsmerk inhegvolge artikel 18(1) verander word, kan die SABS die voortgesette gebruik van daardie sertifiseringsmerk soos dit
alteration thereof on such conditions, including conditions regarding the withdrawal of the authorization, as it may deem expedient in the particular instance.

(b) A certification mark referred to in paragraph (a) shall, during the period of the continued use thereof, be deemed to be a certification mark which has not been so altered by the Minister.

(4) (a) The SABS may—

(i) subject to the conditions it deems necessary, grant permission to a person entitled under a mark permit to apply a certification mark to a commodity, to apply to the commodity concerned a code mark approved by the SABS in lieu of that certification mark, and

(ii) for the purpose of the application of a code mark referred to in subparagraph (i), suspend or amend any condition to which the issue of the said mark permit is subject.

(b) The code mark referred to in paragraph (a)(i) shall be deemed to be a certification mark.

Limitations on certain claims

21. (1) No person shall in connection with the sale of a commodity refer directly or indirectly to the SABS or the council in a manner or under circumstances likely to create the impression that such commodity has been approved by the SABS or the council, unless such commodity complies with or has been manufactured in accordance with a mark specification and such person has under a mark permit applied the relevant certification mark to such commodity.

(2) No person shall claim or declare that he or any other person complied with a standard unless—

(a) such claim or declaration is true and accurate in all material respects, and

(b) the identity of that person or of the person on whose authority such claim or declaration is made, is clear.

(3) The SABS may in connection with any claim or declaration referred to in subsection (2) evaluate, examine, test or analyse any article to confirm the truthfulness or accuracy of such claim or declaration and, in the event of its proving false or inaccurate, the person by whom the claim or declaration was made, shall be liable for the payment of the full cost incurred by the SABS in regard to such evaluation, examination, test or analysis.

(4) The provisions of subsection (3) shall not be construed as preventing any person from evaluating, examining, testing or analysing any article in order to determine whether any claim or declaration referred to in subsection (2) is true and accurate.

(5) Notwithstanding the provisions of subsection (1) —

(a) a trader may advertise or otherwise make known the fact that a certification mark has been applied to a commodity sold by him provided that he mentions or displays the trade name or trade mark of that commodity at the same time in the advertisement or notification concerned,

(b) any person required to make a statement in a contract, tender, quotation or other similar document as to the question whether any commodity offered or supplied by him complies with or has been manufactured in accordance with a particular mark specification, may make such a statement. but only if such statement is correct and he confirms that statement in an affidavit or affirmation, and

(c) any person may advertise or otherwise make known the fact that he has used a commodity by which a certification mark has been applied in an installation or in a process of manufacture, provided that he mentions or displays the trade name or trade mark of that commodity at the same time in the advertisement or notification concerned.

Compulsory specifications

22. (1) (a) The Minister may, subject to the provisions of subsections (3)(a) and
bestaan het voor die verandering daarvan magtig op die voorwaardes, met inbegrip van die voorwaardes betreffende die intrekking van die magtig, wat hy in die besondere geval dienstig ag

(b) 'n Sertifiseringssmerk bedoel in paragraaf (a) word, gedurende die tydperk van die voortgesette gebruik daarvan, geag 'n sertifiseringssmerk te wees wat nie aldus deur die Minister verander is nie

(4) (a) Die SABS kan—

(i) onderworpe aan die voorwaardes wat hy dienstig ag, aan 'n persoon wat kragtens 'n merkpermit geregteg is om 'n sertifiseringssmerk op 'n kommoditeit aan te bring, toestemming verleen om in die plek van daardie sertifiseringssmerk 'n kodemerk deur die SABS goedgekeur op die betrokke kommoditeit aan te bring, en

(ii) vir die doel van die aanbring van 'n kodemerk bedoel in subparagraaf (i), enige voorwaarde waaraan genoemde merkpermit by uitskakeling onderworpe is, opskort of wysig

(b) Die kodemerk bedoel in paragraaf (a)(i) word geag 'n sertifiseringssmerk te wees

Beperkings op sekere aansprake

21. (1) Niemand mag in verband met die verkoop van 'n kommoditeit regstreks of onregstreks na die SABS of die raad verwys op 'n wyse of onder omstandighede wat waarskynlik die indruk sal wek dat daardie kommoditeit deur die SABS of die raad goedgekeur is nie, tensy daardie kommoditeit voldoen aan of vervaardig is ooreenkomsig met merkspesifikasie en so iemand die toepaslike sertifiseringssmerk kragtens 'n merkpermit op daardie kommoditeit aangebring het

(2) Niemand mag daarop aanspraak maak of verklaar dat hyself of enige ander persoon aan die bepalings van 'n standaard voldoen het nie, tensy—

(a) sodanige aanspraak of verklaaring in alle wesenlike opsagte waar en juis is, en

(b) die identiteit van daardie persoon of van die persoon op wie se gesag sodanige aanspraak of verklaaring gemaak word, duidelik blyk

(3) Die SABS kan in verband met 'n aanspraak of verklaaring bedoel in subartikel (2), enge artikel beoordeel, ondersoek, toets of ontleed om die waarheid of juistheid van die aanspraak of verklaaring te bevestig en, indien dit in enige opsig onwaar of onjuis blyk, is die persoon wat die aanspraak of verklaaring gemaak het aanspreeklik vir die betaling van SABS se volle koste in verband met sodanige beoordeling, ondersoek, toets of ontleeding

(4) Die bepalings van subartikel (3) word nie so uitgele nie dat enige persoon daardie verband verbinder word om 'n artikel te beoordeel, te ondersoek, te toets of te ontleed ten einde te bepaal of 'n aanspraak of verklaaring bedoel in subartikel (2) waar en juis is

(5) Ondanks die bepalings van subartikel (1)—

(a) kan 'n handelaar die feit adverteer of op 'n ander wyse bekend maak dat 'n sertifiseringssmerk aangebring is op 'n kommoditeit wat hy verkoop mits hy die handelsnaam of handelsmerk van daardie kommoditeit tegelykertyd in die betrokke advertensie of bekendmaking vermeld of vertoon,

(b) kan iemand van wie daar verlang word om in 'n kontrak, tender, prysopgawe of ander soortgelyke dokument 'n verklaaring te doen aangaande die vraag of 'n kommoditeit wat deur hom aangebied of verskaf word, voldoen aan of vervaardig is ooreenkomsig met bepaalde spesifikasie, so 'n verklaaring doen, maar slegs indien so 'n verklaaring juis is en hy daardie verklaaring in 'n beeldige of bevestigde verklaaring bekratig, en

(c) kan iemand die feit adverteer of op 'n ander wyse bekend maak dat hy 'n kommoditeit waarop 'n sertifiseringssmerk aangebring is in 'n installasie of in 'n vervaardigingsproses gebruik het mits hy die handelsnaam of handelsmerk van daardie kommoditeit tegelykertyd in die betrokke advertensie of bekendmaking vermeld of vertoon

60 Verpligte spesifikasies

22. (1) (a) Die Minister kan, behoudens die bepalings van subartikels (3)(a) en
(5) and after the expiry of the period referred to in subsection (3)(b), on the recommendation of the council and to promote and maintain standardization and quality in safety, health, consumer protection or the environment is concerned, by notice in the Gazette—
   (i) declare a specification which has been set and issued as a standard or a provision of such specification, to be a compulsory specification;
   (ii) amend a compulsory specification, or
   (iii) withdraw a compulsory specification

(b) The notice referred to in subsections (1)(a)(i) and (ii) shall contain full particulars of such specification, provision or amendment

(2) (a) A declaration referred to in subsection (1)(a)(i) or an amendment referred to in subsection (1)(a)(ii) shall come into operation on a date fixed in the notice, which date shall be not less than two months after the date of the publication of such notice

(b) Different dates may be fixed in terms of paragraph (a) on which different provisions of a compulsory specification shall come into operation

(c) The Minister may alter a date referred to in paragraph (a) or (b) by notice in the Gazette

(3) If the Minister intends to publish a notice under subsection (1)(a)(i) or (ii), he shall publish in the Gazette a preliminary notice—
   (a) in which full particulars are set out of the specification or the provision of the specification he intends to declare to be a compulsory specification, or of the amendment of a compulsory specification, and
   (b) in which all interested persons are invited to lodge objections to the proposed notice he intends to publish, or any part thereof, in writing at a stated address and before a stated date, which shall be not less than two months after the date of the publication of such preliminary notice

(4) The Minister shall consult with the Minister to whom the administration of any other law has been assigned if that law, or the regulations promulgated thereunder, lays down or may lay down requirements in respect of a commodity or the manufacture thereof which is the subject of a preliminary notice referred to in subsection (3)(a)

(5) The Minister shall not publish a notice referred to in subsection (1)(a)(i) or (ii) if in his opinion such a notice differs materially from the preliminary notice concerned

(6) The Minister may by notice in the Gazette—
   (a) determine that a commodity that complies with a compulsory specification shall be marked in the prescribed manner with an appropriate distinctive mark,
   (b) determine the requirements regarding the marking of a commodity in accordance with its origin, batch, date of manufacture, characteristics or other particulars of a commodity falling within the scope of a compulsory specification and which a manufacturer or importer shall indicate on that commodity;
   (c) amend a requirement referred to in paragraph (b), and
   (d) withdraw a notice referred to in paragraph (a), (b) or (c)

(7) (a) At the commencement of this Act a compulsory specification referred to in section 16(1)(a) of the Standards Act, 1982 (Act No 30 of 1982), which is in force in terms of the provisions of that Act, shall be deemed to be a compulsory specification for the purposes of this Act

(b) At the commencement of this Act a requirement referred to in section 16(1)(c) of the Standards Act, 1982, which is in force in terms of the provisions of that Act, shall be deemed to be a requirement determined under subsection (6)(b)

(8) The Minister may, in order to give effect to the provisions of subsections (1)(a) and (6), publish only one notice in the Gazette

Effect of declaration as compulsory specification and application of distinctive mark

23. (1) (a) No person shall sell a commodity to which a compulsory specification applies, unless—
(5) en na afloop van die tydperk bedoel in subartikel (3)(b), op aanbeveling van die raad en ter bevordering en handhawing van standaardisasie en kwaliteit indien veiligheid, gesondheid, verbruikersbeskerming of die omgewing betrokke is, by kennisgewing in die Staa stoerant—

(i) 'n spesifike wat as 'n standaard vastege en uitgereik is, of 'n bepaaling van sodanige spesifike, tot 'n verpligte spesifike verklaar,
(ii) 'n verpligte spesifike wyysig, of
(iii) 'n verpligte spesifike intrek

(b) Die kennisgewing bedoel in subartikel (1)(a)(i) en (ii) moet volledige veronderhede van sodanige spesifike, bepaling of wyysig bevat.

(2) (a) 'n Verklaring bedoel in subartikel (1)(a)(i) of 'n wyysing bedoel in subartikel (1)(a)(ii) tree in werking op 'n datum in die kennisgewing bepaal, welke datum minstens twee maande na die datum van die publikasie van sodanige kennisgewing moet wees

(b) Verskillende datums kan ingevolge paragraaf (a) bepaal word waarop verskillende bepaling van 'n verpligte spesifike in werkings tree.

(c) Die Minister kan 'n datum bedoel in paragraaf (a) of (b) by kennisgewing in die Staa stoerant verander.

(3) Indien die Minister van voorneme is om 'n kennisgewing kragtens subartikel (1)(a)(i) of (ii) te publiseer, publiseer hy in die Staa stoerant 'n voorlopige kennisgewing—

(a) waarin volledige veronderhede uteingeset word van die spesifike of die bepaling van die spesifike wat hy voornemens is om tot 'n verpligte spesifike te verklaar, of van die wyysig van 'n verpligte spesifike, en

(b) waarin alle belanghebbendes uitgenoem word om skriflik beswaar teen die voorgestelde kennisgewing wat hy voornemens is om te publiseer, of enige gedeelde daarvan, in te dien by 'n vermelde adres en voor 'n vermelde datum, wat minstens twee maande na die datum van die publikasie van sodanige voorlopige kennisgewing moet wees.

(4) Die Minister moet oordeel pleeg met die Minister aan wie die uitvoering van enige ander wet opgedra is indien daardie wet, of die regulasies daarkragtens uitgevaardigd, vereistes stel of kan stel ten opsigte van 'n kommoditeit of die vervaardiging daarvan wat die onderwerp is van 'n voorlopige kennisgewing bedoel in subartikel (3)(a).

(5) Die Minister publiseer me 'n kennisgewing bedoel in subartikel (1)(a)(i) of (ii) me indien so 'n kennisgewing na sy oordeel wesentlik verskil van die betrokke voorlopige kennisgewing.

(6) Die Minister kan by kennisgewing in die Staa stoerant—

(a) bepaal dat 'n kommoditeit wat aan 'n verpligte spesifike voldoen, op die voorgeskrywe wyse met 'n toepaslike onderskeidingsmerk gemark moet word,

(b) die vereistes bepaal met betrekking tot die aanbring van 'n merk op 'n kommoditeit ooreenkomstig sy oorsprong, lot, datum van vervaardiging, enenskappe of ander veronderhede van 'n kommoditeit wat binne die bestek van 'n verpligte spesifike val en wat 'n vervaardiger of invoerder op daardie kommoditeit moet aanbring,

(c) 'n vereste bedoel in paragraaf (b) wyysig, en

(d) 'n kennisgewing bedoel in paragraaf (a), (b) of (c) intrek.

(7) (a) By die inwerkingtreding van hierdie Wet word 'n verpligte spesifike bedoel in artikel 16(1)(a) van die Wet op Standaarde, 1982 (Wet No 30 van 1982), wat van krag is ingevolge die bepaling van daardie Wet, geag 'n verpligte spesifike vir die doeleindes van hierdie Wet te wees

(b) By die inwerkingtreding van hierdie Wet word 'n vereste bedoel in artikel 16(1)(c) van die Wet op Standaarde, 1982, wat van krag is ingevolge die bepaling van daardie Wet, geag 'n vereste bepaal kragtens subartikel (6)(b) te wees

(c) Die Minister kan, ten ende aan die bepaling van subartikels (1)(a) en (6) gevolg te gee, slegs een kennisgewing in die Staa stoerant publiseer

Uitwerkung van verklaring tot verpligte spesifike en aanbring van onderskeidingsmerk

23. (1) (a) Niemand mag 'n kommoditeit waarop 'n verpligte spesifike van toepassing is, verkoop nie, tensy—
(1) such a commodity complies with or has been manufactured in accordance with the compulsory specification concerned, and

(2) if applicable, the distinctive mark referred to in section 22(6)(a) has been applied to the commodity concerned in the prescribed manner as set out in the notice concerned, and such commodity has been marked in accordance with the requirements referred to in section 22(6)(b)

(b) The provisions of section 20(2) shall mutatis mutandis apply to the application of a distinctive mark to a commodity

(c) The SABS may issue a sales permit exempting the person to whom it has been issued from the provisions of paragraph (a)

(2) The prescribed records shall be kept by the seller, manufacturer or importer in respect of sales, or quantities manufactured or imported, of a commodity to which a compulsory specification applies

(3) The prescribed fees shall be payable to the SABS by a manufacturer or importer of a commodity to which a compulsory specification applies

(4) A commodity to which a compulsory specification applies and which is manufactured outside the Republic shall be deemed to comply with the provisions of subsection (1)(a) if that commodity has been certified by a person or organization recognized by the Minister by notice in the Gazette. Provided that if the Minister so directs, such a commodity shall be tested or examined and if it is found that that commodity does not comply with the provisions of subsection (1)(a)(i), it may be dealt with in terms of section 24(3)

Non-compliance with compulsory specification

24. (1) If the president upon reasonable grounds suspects that a commodity, excluding a commodity referred to in section 23(4), or a consignment or batch thereof does not comply with or has not been manufactured in accordance with the compulsory specification that applies to it, he may direct a person in whose possession or under whose control that commodity, consignment or batch is, to keep it in his possession or under his control, at or upon premises mentioned in the directive, until the said directive is withdrawn by the president in writing

(2) (a) If a certificate referred to in section 4(2) has not been issued in respect of a consignment of a commodity to which a compulsory specification applies and which has been imported into the Republic, the Commissioner of Customs and Excise may, subject to the provisions of paragraph (b), cause that consignment to be secured at the request of the president until the president withdraws his request

(b) For the purposes of paragraph (a) the provisions of the Customs and Excise Act, 1964 (Act No 91 of 1964), with regard to the securing of goods, shall mutatis mutandis apply

(3) If it is found by the SABS, or as a result of a test or examination referred to in section 23(4), as the case may be, that a commodity referred to in subsection (1) or (2) does not comply with the compulsory specification concerned, the Minister may direct in writing that—

(a) an importer of the consignment concerned of the said commodity return it to the country of origin,

(b) the consignment or batch concerned of the said commodity be confiscated and destroyed, or

(c) the consignment or batch concerned of the said commodity be dealt with in such other manner as may be stated in the directive

Permits

25. (1) An application for a mark permit or a sales permit shall be made to the SABS and shall be accompanied by the fees determined by the SABS

(2) The SABS may—

(a) issue a mark permit or sales permit for an indefinite period or for a fixed period subject to such conditions as it may deem necessary,
(i) so 'n kommoditeit voldoen aan of vervaardig is ooreenkomstig die betrokke verpligte spesifikaasie, en

(ii) indien van toepassing, die onderskeidingsmerk bedoel in artikel 22(6)(a) op die voorgeskrewe wyse soos in die betrokke kennisgewing uiteengesit op die betrokke kommoditeit aangebring is, en sodanige kommoditeit ooreenkomstig die vereistes bedoel in artikel 22(6)(b) gemerk is

(b) Die bepalings van artikel 20(2) is mutatis mutandis van toepassing op die aanbring van 'n onderskeidingsmerk op 'n kommoditeit

(c) Die SABS kan 'n verkoopspermis uitreik wat die persoon aan wie dit uitgereik word van die bepalings van paragraaf (a) vrystel

2. Die voorgeskrewe aantekeninge moet deur die verkoper, vervaardiger of invoerder ten opsigte van die verkoop, of hoeveelhede vervaardig of ingevoer, van 'n kommoditeit waarop 'n verpligte spesifikaasie van toepassing is, gehou word

3. Die voorgeskrewe gelde is aan die SABS betaalbaar deur 'n vervaardiger of invoerder van 'n kommoditeit waarop 'n verpligte spesifikaasie van toepassing is

4. 'n Kommoditeit waarop 'n verpligte spesifikaasie van toepassing is en wat buite die Republiek vervaardig is, word geag aan die bepalings van subartikel 2(1)(a) te voldoen indien daardie kommoditeit gesertificeer is deur 'n persoon of organisasie wat deur die Minister by kennisgewing in die Staatskoerant erken is. Met dien verstande dat indien die Minister aldus gelaas, so 'n kommoditeit getoets of ondersoek moet word, en indien daar bevind word dat daardie kommoditeit nie aan die bepalings van subartikel (1)(a)(i) voldoen nie, kan daarmee ingevolge artikel 24(3) gehandel word.

Nie-voldoening aan verpligte spesifikaasie

24. (1) Indien die president op redelike gronde vermoed dat 'n kommoditeit, uitgesonderd 'n kommoditeit bedoel in artikel 23(4), of 'n besending of lot daarvan, nie voldoen aan of vervaardig is ooreenkomstig die verpligte spesifikaasie wat daarop van toepassing is nie, kan hy 'n persoon in wie se besit of onder wie se beheer daardie kommoditeit, besending of lot is, gelaas om dit in sy besit of onder sy beheer te hou, by of op 'n perseel in die lasgewing vermeld, totdat genoemde lasgewing skriflik deur die president ingetrok word

(2) (a) Indien 'n sertifikaat bedoel in artikel 4(2) nie uitgereik is nie ten opsigte van 'n besending van 'n kommoditeit waarop 'n verpligte spesifikaasie van toepassing is en wat in die Republiek ingevoer is, kan die Kommissaris van Doecane en Aksyns, behouens die bepalings van paragraaf (b), daardie besending op versoek van die president laat bewaar totdat die president sy versoek terugtrek.

(b) By die toepassing van paragraaf (a) is die bepalings van die Doecane- en Aksynswet, 1964 (Wet No 91 van 1964), met betrekking tot die bewaring van goedere mutatis mutandis van toepassing

(3) Indien daar deur die SABS, of as gevolg van 'n toets of ondersoek bedoel in artikel 23(4), na gelang van die geval, bevind word dat 'n kommoditeit bedoel in subartikel (1) of (2) nie aan die betrokke verpligte spesifikaasie voldoen nie, kan die Minister skriflik gelaas dat—

(a) 'n invoerder van die betrokke besending van genoemde kommoditeit dit na die land van oorsprong terugstuur,

(b) die betrokke besending of lot van genoemde kommoditeit in beslag geneem en vernietig word; of

(c) daar met die betrokke besending of lot van genoemde kommoditeit gehandel word op enige ander wyse in die lasgewing vermeld

Permitte

25. (1) 'n Aansoek om 'n merkpermit of 'n verkoopspermis word by die SABS gedoen en gaan vergeel van die gelde wat die SABS bepaal

(2) Die SABS kan—

(a) 'n merkpermit of verkoopspermis uitreik vir 'n onbepaalde tydperk of vir 'n vraggestelde tydperk onderworpe aan die voorwaardes wat hy nodig ag,
(b) withdraw or, subject to such conditions as it may deem necessary, suspend a permit referred to in paragraph (a), or terminate the suspension of such permit.

(3) The holder of a permit which has been withdrawn in terms of subsection (2)(b), or which has expired due to effluxion of time or any other cause, shall, at the written request of the SABS, forthwith return that permit to the SABS.

Right to appeal to Minister

26. (1) (a) Any person who feels himself aggrieved by a decision of the SABS to refuse to issue to him a permit mentioned in section 25(2)(a), or to withdraw or suspend any of those permits issued to him, may appeal to the Minister in the prescribed manner and within the prescribed period.

(b) The Minister shall in the case of an appeal in terms of paragraph (a), confirm, amend or set aside the decision of the SABS.

(2) A decision of the SABS in terms of section 25(2)(b) to withdraw or suspend a permit, shall not be suspended and shall not lapse by reason of an appeal in terms of subsection (1) by such person against that decision.

Marks of proof and marks of authenticity

27. (1) The application by a person authorized thereto by regulation of a mark of proof or mark of authenticity to an article in accordance with its characteristics, including its nature, quality, strength, purity, composition, quantity, dimensions, mass, grade, durability, origin or age, whichever may be applicable, or the material or substance from or with which or the manner in which it has been manufactured, shall be as prescribed.

(2) No person shall sell or otherwise alienate any article on which a mark of proof or a mark of authenticity may be applied in terms of subsection (1), unless that mark has been applied to the article by the SABS or a person authorized thereto in writing by the SABS.

(3) The SABS may levy fees for the application to an article of a mark of proof or a mark of authenticity by or on behalf of the SABS.

Inspectors and auditors

28. (1) (a) The council may in general or for a specific purpose—

(i) appoint a suitably qualified employee as an inspector, or

(ii) appoint a person, institution or organization as an auditor for the purposes of this Act.

(b) The council may withdraw an appointment referred to in paragraph (a).

(c) An inspector or auditor shall be furnished with a certificate stating that he has been appointed in general or for a specific purpose as an inspector or auditor, as the case may be, for the purposes of this Act.

(d) The certificate referred to in paragraph (c) shall be signed by the president.

(e) The council may pay to an auditor the compensation agreed upon by the council and the auditor concerned.

(2) An inspector or auditor may, subject to the provisions of his appointment, for the purposes of this Act—

(a) at any time during working hours and without prior notice enter any premises on or upon which—

(i) there is an article in respect of which a compulsory specification, certification mark, mark of proof or mark of authenticity is in force,

(ii) a manufacturing process or action in accordance with a provision of a standard is executed or is suspected to be executed,

(iii) there is or was an article in respect of which the impression has been created that it complies with or has been manufactured in accordance with a mark specification or a compulsory specification, while such article in the opinion of the SABS does not comply with or has not been manufactured in accordance with such mark specification or compulsory specification;
(b) 'n permut bedoel in paragraaf (a) mtrek of, onderworpe aan die voorwaardes wat hy nodig ag, opskort, of die opskorting van sodanige permut beëindig

(3) Die houer van 'n permut wat ingetrek is ingevolge subartikel (2)(b), of wat weens tydsverloop of enige ander oorsaak verval het, moet daardie permut, op die skriftelike versoek van die SABS, onverwyld aan die SABS terugbesorg

Reg van appēl na Minister

26. (1) (a) Iemand wat hom veronreg ag deur 'n besluit van die SABS om die uitreking aan hom van 'n permut vermeld in artikel 25(2)(a) te weier, of om enige van daardie permutte wat aan hom ongereik is, in te trek of op te skort, kan op die voorgeskrewe wyse en bunne die voorgeskrewe tydperk na die Minister appelleer

(b) Die Minister moet in die geval van 'n appēl ingevolge paragraaf (a) die besluit van die SABS bekrachtig, wysig of tersyde stel

(2) 'n Besluit van die SABS ingevolge artikel 25(2)(b) om 'n permut in te trek of op te skort, word nie opgeskort en verval nie as gevolg van 'n appēl kragtens subartikel (1) deur so 'n persoon ten daardie besluit nie

Proefmerke en waarnemers

27. (1) Die aanbring deur 'n persoon by regulase daartoe gemagtig van 'n proefmerk of 'n waarnemer op 'n artikel ooreenkomstig die enskappe daarvan, met inbegrip van die aard, kwaliteit, sterkte, suwerheid, samestelling, hoeveelheid, afmetings, massa, graad, duursaamheid, herkom of ouerdom daarvan, wat ook al van toepassing is, of die materiaal of stof waaruit of waarvan of die wyse waarop dit vervaardig is, is soos voorgeskryf

(2) Niemand mag 'n artikel waarop 'n proefmerk of waarnemer ingevolge subartikel (1) aangebring kan word, verkoop of op 'n ander wyse vervreem nie, tensy daardie merk deur die SABS, of iemand skriftelik deur die SABS daartoe gemagtig, op daardie artikel aangebring is

(3) Die SABS kan geldige hief vir die aanbring deur of namens die SABS van 'n proefmerk of waarnemer op 'n artikel

Inspektore en ouditeure

28. (1) (a) Die raad kan in die algemeen of vir 'n bepaalde doel—

(i) 'n werkner wat paslik gekwaliseer is as 'n inspekteur aangestel; of

(ii) 'n persoon, instelling of organsasie as 'n ouditeur vir die doeleinde van hierdie Wet aangestel

(b) Die raad kan 'n aanstelling bedoel in paragraaf (a) mtrek

(c) 'n Inspecteur of ouditeur word van 'n sertifikaat voorsien waarin vermeld word dat hy in die algemeen of vir 'n spesifieke doel as 'n inspekteur of ouditeur, na gelang van die geval, vir die doeleindes van hierdie Wet aangestel is

(d) Die sertifikaat bedoel in paragraaf (c) word deur die president onderteken

(e) Die raad kan aan 'n ouditeur die vergoeding betaal waaroor die raad en die betrokke ouditeur ooreenkom

(2) 'n Inspecteur of ouditeur kan, behoudens die bepalings van sy aanstelling, vir die doeleindes van hierdie Wet—

(a) te emger tyd gedurende werksure en sonder voorafgaande kennisge-

wing 'n perseel betree waarin of waarop—

(i) daar 'n artikel is ten opsigte waarvan 'n verpligte spesifikaas, sertifisaat, proefmerk of waarnemer van krag is,

(ii) 'n vervaardigingsproses of handeling ooreenkomstig 'n bepaling van 'n standaard uitgevoer of vermeende uitgevoer word;

(u) daar 'n artikel is of was ten opsigte waarvan die indruk gerek is dat dit voldoen aan of vervaardig is ooreenkomstig 'n merkspesi- fikaas of 'n verpligte spesifikaas, terwyl sodanige artikel volgens die SABS se oordeel nie voldoen aan of vervaardig is ooreen-

komstig sodanige merkspesifikaas of verpligte spesifikaas nie,
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(iv) the records with regard to the manufacture or sale of an article referred to in subparagraph (i), (ii) or (iii) are kept,

(b) examine and take samples of an article referred to in paragraph (a)(i) or any component, material or substance in or upon the premises concerned used or suspected to be intended for use in the manufacture of such an article, and open and examine any package or container in or upon those premises which contains or is suspected to contain such an article or such a component, material or substance,

(c) examine any operation or process carried on in or upon the premises referred to in paragraph (a) in connection with the manufacture of any article, if a compulsory specification, certification mark, mark of proof or mark of authenticity is in force for or with regard to such manufacture,

(d) at any time demand from any person that he there and then or at a time and place fixed by the said inspector or auditor produce to him any book, notice, record, list or other document which is in the possession or custody or under the control of that person or any other person on his behalf,

(e) examine a book, notice, record, list or other document referred to in paragraph (d) and make copies thereof or extracts therefrom or request that they be made, if it relates to an article referred to in paragraph (a)(i) or to a permit referred to in section 25(2), and require from a person referred to in paragraph (d) an explanation of any record or entry therein, and seize such a book, notice, record, list or other document if in his opinion it may afford evidence of any offence in terms of this Act, with regard to any matter which he is investigating, question any person whom he finds in or upon the premises referred to in paragraph (a) or whom he on reasonable grounds suspects to be or to have been employed in or upon such premises or to have possession or custody of or control over anything referred to in this subsection, and

(g) order a person referred to in paragraph (d) or (f) to appear before him at a time and place fixed by him, and at that time and place question that person with regard to any matter which is being investigated by him.

(3) An inspector or auditor entering any premises referred to in subsection (2) may take an interpreter with him.

(4) Any person who is in charge of premises referred to in subsection (2) shall at all reasonable times furnish such assistance as an inspector or auditor may require in the exercise of his powers under that subsection.

(5) An inspector or auditor exercising a power assigned to him by subsection (2) shall on demand of any person affected by the exercise of that power, produce the certificate referred to in subsection (1)(c) to that person.

(6) An auditor may check any relevant document of a manufacturer or importer of a commodity in respect of which a compulsory specification is in force to determine whether that manufacturer or importer has paid the prescribed fees referred to in section 23(3)

Samples and information

29. (1) Notwithstanding anything to the contrary in this Act contained, any person who—

(a) manufactures any commodity and is entitled under a mark permit to apply a certification mark to such a commodity,

(b) manufactures or sells any commodity for which or the manufacture of which a compulsory specification is in force,

(c) manufactures or sells any article in respect of which a mark of proof or mark of authenticity is in force; or

(d) performs an act or carries out a process in which a commodity referred to in paragraph (a), (b) or (c) is involved,

shall at the written request of the SABS, within a period stated in the request, at his own cost—
(iv) de aantekeningen met betrekking tot de vervaardiging of verkoop van 'n artikel bedoel in subparagraaf (i), (ii) of (iii) gehou word,
(b) 'n artikel bedoel in paragraaf (a)(i) of 'n komponent, materiaal of stof in of op de betrokke perseel wat gebruik word of vermoedelijk bestem
is om gebruik te word by die vervaardiging van so 'n artikel ondersoek
en monsters daarvan neem, en enige pakket of houer in of op daardie
perseel oompakte en ondersoek wat so 'n artikel, komponent, materiaal
of stof bevat of vermoedelijk bevat;
(c) enige werkszaamheid of proses ondersoek wat in of op die perseel
bedoel in paragraaf (a) voortgezet word in verband met die vervaardig-
ging van 'n artikel, indien daar vir of met betrekking tot sodanige
vervaardiging 'n verpligte speksifisie, sertifiseringsskerm, proefmerk
of waarmerk van krag is,
(d) te enger tyd van 'n persoon oos dat hy onverwyld of op 'n tyd en plek
deur genoemde inspreekert of ouditeur bepaal aan hom 'n boek,
kennisgewing, aantekening, lys of ander dokument voorle wat in die
best of bewaring of onder die beheer is van daardie persoon of 'n ander
persoon ten behoeve van hom;
(e) 'n boek, kennisgewing, aantekening, lys of ander dokument bedoel in
paragraaf (d) ondersoek en afskrifte daarvan of uittreksels daaruit
maak of versoek dat dit gemaak word, indien dit betrekking het op 'n
artikel bedoel in paragraaf (a)(i) of 'n permissiebedoel in artikel 25(2),
en van 'n persoon bedoel in paragraaf (d) 'n uitleg vorder van enige
aantekening of inskrywing daarin, en beslag leg op so 'n boek, kennis-
gewing, aantekening, lys of ander dokument indien dit na sy oordeel
bewys kan lewer van 'n msdrefy ingevolge hierdie Wet,
(f) met betrekking tot 'n aangeleentheid wat by ondersoek, enige perseel
ondervra wat hy in of op 'n perseel bedoel in paragraaf (a) vind of wat
hy op redelike gronde vermoed in diens is of was by of op so 'n perseel
of die best of bewaring het van of die beheer het oor enig iets in hierdie
subartikel bedoel, en
(g) 'n persoon bedoel in paragraaf (d) of (f) gesê om voor hom te verskyn
op 'n tyd en plek deur hom bepaal, en op daardie tyd en plek daardie
persoon ondervra met betrekking tot enige aangeleentheid wat hy
besig is om te ondersoek
(3) 'n Inspecteur of ouditeur wat 'n perseel bedoel in subartikel (2)(a) betree,
kun 'n toek om hom saamneem
(4) Iemand wat toeg' het oor 'n perseel bedoel in subartikel (2) moet te alle
redelike tyd die hulpverskaf van 'n inspecteur of ouditeur verskaf deur die
uitoefening van sy bevoegdheid kragtens daardie subartikel
(5) 'n Inspecteur of ouditeur wat 'n bevoegdheid uitoefen wat by subartikel
(2) aan hom toegeweys is, moet op versoek van 'n persoon wat deur die
uitoefening van daardie bevoegdheid geraak word, die sertifikaat bedoel in
subartikel (1)(c) aan daardie persoon toon
(6) 'n Ouditeur kan enige toepaslike dokument van 'n vervaardiger of
invoerder van 'n komoditeit ten opsigte waarvan 'n verpligte speksifisie van
krag is, nagaan om te bepaal of daardie vervaardiger of invoerder die voor-
gespreeke gelde bedoel in artikel 23(3) betaal het

Monsters en inligting

29. (1) Ondanks andersluidende bepalings van hierdie Wet moet iemand
wat—
(a) 'n komoditeit vervaardig en kragtens 'n merkpermit geregtig is om 'n
sertifiseringsskerm op so 'n komoditeit aan te bring,
(b) 'n komoditeit ten opsigte waarvan of vir die vervaardiging waarvan 'n
verpligte speksifisie van krag is, vervaardig of verkoop,
(c) 'n artikel ten opsigte waarvan 'n proefmerk of waarmerk van krag is,
vervaardig of verkoop, of
(d) 'n handeling verrig of 'n proses uitvoer waarby 'n komoditeit bedoel
in paragraaf (a), (b) of (c) betrokke is,
60 op skriflike versoek van die SABS, binne 'n tydperk in die versoek vermeld,
op eie koste aan die SABS—
(i) transmits to the SABS such samples as may be specified in the request, or
(ii) furnish to the SABS such information as may be so specified with regard
      to the article concerned or its manufacture

(2) (a) The SABS may examine, test or analyse a sample obtained in terms of
      this Act in order to determine whether the article, component, material or
      substance concerned complies with, or has the characteristics or has been
      manufactured in accordance with, the requirements of any provision applicable
      in terms of this Act.

(b) If any sample obtained in terms of this Act is damaged or destroyed during
    the process of examining, testing or analysing such sample, the SABS shall not
    be liable for the damage to or destruction of that sample.

(3) The result of any examination, test or analysis of any sample of a commodity
    to which a compulsory specification is in force, shall, until the contrary is proved,
    for all purposes be deemed to be valid for the whole consignment or batch from
    which the sample was obtained.

Restriction on use of word “standard”

30. (1) (a) Subject to the other provisions of this section and except with the
      written consent of the Minister—
      (i) no person shall under a name containing the word “standard”—
          (aa) conduct his affairs or business or carry on his occupation or trade,
          or
          (bb) be registered or licensed under any law,
      (ii) no mark containing the word “standard” shall be registered as a trade
          mark under any law with regard to the registration of trade marks, and
      (iii) no person shall sell any commodity under a mark which contains the
          word “standard” or under a description in which the said word is used in
          a manner likely to create the impression that that commodity complies
          with or has been manufactured in accordance with a mark specification,
          unless a certification mark has been applied to such a commodity in
          accordance with section 20(1).

(b) The Minister may at any time withdraw the consent given by him in terms
    of paragraph (a) if he deems it necessary to avoid confusion or abuse.

(2) Any person who immediately prior to the commencement of the Standards
    Act, 1982 (Act No. 30 of 1982), lawfully conducted his affairs or business, carried
    on his occupation or trade, or was registered or licensed under any law, under a
    name containing the word “standard”, may notwithstanding the provisions of
    subsection (1)(a)(i) continue to conduct his affairs or that business or carry on that
    occupation or trade, or remain so registered or licensed, under that name.

(3) Any trade mark registered at the commencement of the Standards Act, 1982,
    and the sale of any commodity under such a trade mark, shall not be affected
    by the provisions of subsection (1)(a)(ii).

Incorporation of standards in laws

31. (1) (a) If a standard has been published in the Gazette, such standard or a
      provision of such standard may be incorporated in any law by a mere reference to
      the title and number thereof.

(b) If a standard or a provision of such standard has been incorporated in any
    law in terms of paragraph (a) and that standard or provision is amended in terms
    of section 16(3)(a)(ii), the amended standard or provision shall be deemed to be
    so incorporated.

(2) A State department, local authority or other institution or body responsible
    for or involved in the administration of a standard or provision so incorporated
    shall keep available for free inspection at each of its offices where or from where
    the administration of that standard or provision is undertaken, a copy, issued by
    the SABS, of the full text of—
(i) die monsters wat in die versoeck gespesifiseer is, van die betrokke artikel vir die ondersoek, toets of ontleiding lever, of

(ii) die inligting alduis gespesifiseer, betrefende die betrokke artikel of die vervaardiging daarvan verstrekel

(2) (a) 'n Monster wat ingevolge hierdie Wet verkry is, kan deur die SABS ondersoek, getoets of ontleeld word ten einde te bepaal of die betrokke artikel, komponent, materiaal of stof voldoen aan, of die eienskappe het of vervaardig is ooreenkomstig, die vereistes van enige bepaling wat ingevolge hierdie Wet van toepassing is.

(b) Indien 'n monster wat ingevolge hierdie Wet verkry is, beskaidig of vernietig word tydens die proses om sodanige monster te ondersoek, te toets of te ontleel, is die SABS nie vir die beskaidiging of vernietiging van daardie monster aanspreeklik nie.

(3) Die resultaat van 'n ondersoek, toets of ontleeling van 'n monster van 'n kommoditeit waarop 'n verpligte spesifikasie van krag is, word totdat die teendeel bewys is, vir alle doeleindes geag vir die hele besending of lot waaruit die monster verkry is, te geld

**Bepering op gebruik van woord “standaard”**

30. (1) (a) Behoudens die ander bepalings van hierdie artikel en behalwe met die skriflike toestemming van die Minister—

(i) mag niemand onder 'n naam wat die woord “standaard” bevat —

(a) sy sake of onderneming bedryf of sy beroep of bedryf bееofne, of

(b) kragtens enige wet geregisterre of gelisenseer word nie;

(ii) mag geen merk wat die woord “standaard” bevat, as 'n handelsmerk kragtens 'n wet met betrekking tot die registrasie van handelsmerke geregisterre word nie, en

(iii) mag niemand 'n kommoditeit verkoop onder 'n merk wat die woord “standaard” bevat of onder 'n beskrywing waarmee genoemde woord gebruik word op 'n wyse wat waarskynlik die indruk sal wek dat daardie kommoditeit voldoen aan of vervaardig is ooreenkomstig 'n merkspesifikasie nie, tensy 'n sertifiseringssmerk ooreenkomstig artikel 20(1) op so 'n kommoditeit aangebring is.

(b) Die Minister kan te eniger tyd die toestemming wat hy ingevolge paragraaf (a) verleen het, intrek indien hy dit nodig ag ten einde verwarring of misbruik te voorkom.

(2) Iemand wat onmiddellik voor die inwerkingsregte van die Wet op Standaarde, 1982 (Wet No. 30 van 1982), wetig onder 'n naam wat die woord “standaard” bevat sy sake of onderneming bedryf het, sy bedryf of beroep beoefen het, of kragtens 'n wet geregisterre of gelisenseer was, kan ondanks die bepaling van subartikel (1)(a)(i) onder daardie naam voortgaan om sy sake of daardie onderneming te bedryf of daarde bedryf of bedryf te beoefen, of alus geregisterre of gelisenseer bly.

(3) 'n Handelsmerk wat by die inwerkingsregte van die Wet op Standaarde, 1982, geregisterre was, en die verkoop van 'n kommoditeit onder so 'n handelsmerk, word nie deur die bepaling van subartikel (1)(a)(ii) geraak nie.

**Inlywing van standaarde in wette**

31. (1) (a) Indien 'n standaard in die Staatskoerant bekend gemaak is, kan sodanige standaard of 'n bepaling uit sodanige standaard in 'n wet ingelyf word deur 'n blote verwysing na die titel en nommer daarvan.

(b) Indien 'n standaard of 'n bepaling uit sodanige standaard ingevolge paragraaf (a) in 'n wet ingelyf is en daarde standaard of bepaling ingevolge artikel 16(3)(a)(ii) gewysig word, word die gewysige standaard of bepaling geag aldus ingelyf te wees.

(2) 'n Staatsdepartement, plaaslike overheid of ander instelling of liggaam wat verantwoordelik is vir of betrokke is by die uitvoering van 'n standaard of bepaling aldus ingelyf, moet 'n eksemplaar deur die SABS uitgereik by elk van sy Kantore waar of vanwaar die uitvoering van daardie standaard of bepaling onderneem word, ter kostelose insae beskikbaar hou, wat die volledige teks bevat van—
Act No. 29, 1993

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(a) the standard concerned and every amendment thereof, and
(b) every standard or document referred to in section 16(3)(b) the whole or a part of which appears in a standard referred to in paragraph (a), and every amendment thereof

(3) (a) Criminal prosecution may only be instituted against a person on a charge of having contravened or failed to comply with a provision so incorporated if the State department, local authority or other institution or body referred to in subsection (2) has in every case furnished to the attorney-general or public prosecutor concerned a copy issued by the SABS of each relevant standard or document which he shall keep in terms of the said subsection keep available for free inspection.

(b) The standard or document referred to in paragraph (a) shall on the mere production thereof be prima facie proof of the contents of the standard concerned or an amendment thereof.

(4) At the commencement of this Act a provision incorporated in terms of section 33(1) of the Standards Act, 1982 (Act No. 30 of 1982), and the incorporation of which is still in force, shall be deemed to be incorporated in terms of subsection (1)(a)

Secrecy

32. (1) Any person who is or was concerned in the performance of any function in terms of this Act, shall not disclose any information which he obtained in the performance of such a function except—

(a) to the Minister,
(b) to any person who of necessity requires it for the performance of his functions in terms of this Act,
(c) if he is a person who of necessity supplies it in the performance of his functions in terms of this Act,
(d) such information which is required in terms of any law or as evidence in any court of law;
(e) to any competent authority which requires it for the institution, or an investigation with a view to the institution, of any criminal prosecution; or
(f) by or on the authority of the Minister, the chairman or the president

(2) Notwithstanding the provisions of subsection (1), the disclosure of any information in connection with an invention shall not prejudice the rights of the SABS or any other person to obtain a patent in respect of such an invention.

Inventions by staff members and other persons

33. (1) (a) If any invention is made—

(i) by an employee in the course of or in connection with the performance of his functions,
(ii) by a person while following a course of study with the assistance, whether financial or otherwise, of the SABS, or
(iii) by a person assisting the SABS with any investigation or research, the rights in respect of that invention shall vest in the SABS unless the SABS and the employee or person concerned have entered into a written agreement that the rights to the invention rest in the employee or person concerned or in that employee or person and the SABS jointly

(b) In the absence of an agreement referred to in paragraph (a), the SABS shall be deemed to be the sole inventor

(2) If the rights in respect of an invention vest solely in the SABS, the SABS may make such invention available for use in the public interest subject to such conditions as the council may determine

(3) The SABS may pay to an employee or person referred to in subsection (1)(a) money or royalties or, with the approval of the Minister granted with the concurrence of the Minister of State Expenditure, provide for financial participation by such employee or person in the profit obtained as a result of the use of an invention referred to in subsection (1)(a)

(4) The SABS may apply for a patent in respect of an invention referred to in subsection (1) if an agreement in terms of that subsection has not been entered
(a) die betrokke standaard en elke wysiging daarvan, en
(b) elke standaard of dokument bedoel in artikel 16(3)(b) waarvan die geheel of 'n gedeelte daaruit voorkom in 'n standaard bedoel in paragraaf (a), en elke wysiging daarvan

5 (3) (a) Strafregtelike vervolging kan slegs teen 'n persoon ingestel word op 'n aanklak dat hy 'n bepaling aldus ingelyf, oortree het of versum het om daaraan te voldoen indien die betrokke Staatsdepartement, plaaslike overheid of ander instelling of liggaam bedoel in subartikel (2) in elke geval 'n ekseemplaar deur die SABS ongerek van elke toepaslike standaard of dokument wat hy ingevolge genoemde subartikel ter kosteloos inspekteerbaar moet hou, aan die betrokke prokureur-generaal of staatsaanklager verskry het.

(b) Die standaard of dokument bedoel in paragraaf (a) is by blote voorlegging daarvan *prima facie*-bewys van die inhoud van die betrokke standaard of 'n wysiging daarvan

15 (4) By die inwerkningstreding van hierdie Wet word 'n bepaling wat ingevolge artikel 33(1) van die Wet op Standaarde, 1982 (Wet No 30 van 1982), ingelyf is en waarvan die inlywing steeds van krag is, geag ingevolge subartikel (1)(a) ingelyf te wees

Geheimhouding

20 32. (1) Iemand wat by die verrigting van 'n werksaamheid ingevolge hierdie Wet betrokke is of was, mag geen inligting wat hy by die verrigting van so 'n werksaamheid verkry het, openbaar nie behalwe—

(a) aan die Minister,
(b) aan iemand wat dit noodsaaklikers woor die verrigting van sy werksaamhede ingevolge hierdie Wet nodig het,
(c) indien hy iemand is wat dit noodsaaklikers by die verrigting van sy werksaamhede ingevolge hierdie Wet verstrekk,
(d) sodanige inligting wat ingevolge 'n wet of as getuenis in 'n gereghoof vereis word;

30 (e) aan 'n bevoegde gesag wat dit vir die instelling, of 'n ondersoek met die oog op die instelling, van 'n straftregtelike vervolging nodig het, of
(f) deur of op gesag van die Minister, die voorsitter of die president

(2) Ondanks die bepaling van subartikel (1) sal die openbaring van enige inligting in verband met 'n uitvinding nie afbreuk doen aan die regte van die SABS of 'n ander persoon om ten opsigte van so 'n uitvinding 'n patent te bekoms met

Uitvindings deur werknemers en ander persone

33. (1) (a) Indien 'n uitvinding gedoen is—

(i) deur 'n werknemer in die loop van of in verband met die verrigting van sy werksaamhede,

(ii) deur 'n persoon terwyl hy 'n studiekursus volg met die bystand, hetsy geldelik of andersins, van die SABS, of

(iii) deur 'n persoon wat die SABS met enige ondersoek of navorsing behulpsaam is, berus die regte ten opsigte van daardie uitvinding by die SABS, tensy die SABS en die werknemer of persoon 'n skriftelike ooreenkoms gesluit het dat die regte op die uitvinding by die betrokke werknemer of persoon, of by daardie werknemer of persoon en die SABS gesamentlik, berus

(b) By gebrek aan 'n ooreenkoms bedoel in paragraaf (a) word die SABS geag die engste uitvinder te wees

50 (2) Indien die regte ten opsigte van 'n uitvinding by die SABS alleen berus, kan die SABS daardie uitvinding beskikbaar stel vir gebruik in die openbare belang onderworpe aan die voorwaardes wat die raad bepaal

(3) Die SABS kan aan 'n werknemer of persoon bedoel in subartikel (1)(a) geld of tantieme betaal of, met die goedkeuring van die Minister verleen met die instemming van die Minister van Staatsbesteding, voorinsening maak vir geldelike deelname deur sodanige werknemer of persoon in die winste verkry as gevolg van die gebruik van 'n uitvinding bedoel in subartikel (1)(a)

(4) Die SABS kan aansoek doen om 'n patent ten opsigte van 'n uitvinding bedoel in subartikel (1) indien 'n ooreenkoms nie ingevolge daardie subartikel
into, and shall for the purpose of the Patents Act, 1978 (Act No 57 of 1978), be regarded as the cessionary of the invention concerned.

Offences and penalties

34. (1) Any person who—

(a) contravenes or fails to comply with any provision of this Act, or any directive, order, condition, requirement, determination or request made thereunder,

(b) refuses or fails to pay any money levied under this Act,

(c) falsely represents any material or substance to be reference material supplied by the SABS,

(d) falsely holds himself out to be an inspector, or to be an auditor for the purposes of this Act,

(e) makes any relevant statement to an inspector or auditor which is false in any material respect, knowing it to be false,

(f) refuses or fails to answer to the best of his knowledge any relevant question which an inspector or auditor has in the exercise of his powers put to him,

(g) refuses or fails to comply to the best of his ability with any lawful requirement, demand or order of an inspector or auditor, or

(h) hinders or obstructs an inspector or auditor in the exercise of his powers,

shall be guilty of an offence.

(2) Any person who is convicted of an offence in terms of this Act shall—

(a) in the case of a first conviction of an offence referred to in subsection (1)(a) read with section 3(1), 16(5), 17(2), 20(1), (3)(a) or (4)(a), 21(1)(a) or (2), 24(1), 25(2)(a) or (b) or 27(2) be liable to a fine, or to imprisonment for a period not exceeding two years,

(b) in the case of a second or subsequent conviction of an offence mentioned in paragraph (a), whether it be the same or some other offence mentioned in that paragraph, be liable to a fine, or to imprisonment for a period not exceeding four years,

(c) in the case of a first conviction of an offence referred to in subsection (1)(a) read with section 25(3), 29(1), 30(1)(a)(i)(aa) or (a)(iii) or 32(1), or an offence referred to in subsection (1)(b) to (h), be liable to a fine, or to imprisonment for a period not exceeding one year,

(d) in the case of a second or subsequent conviction of an offence mentioned in paragraph (c), whether it be the same or some other offence mentioned in that paragraph, be liable to a fine, or to imprisonment for a period not exceeding two years, and

(e) in the case of an offence referred to in subsection (1)(a) read with any other provision of this Act which is not mentioned in paragraphs (a), (b), (c) or (d), be liable to a fine, or to imprisonment for a period not exceeding one year.

(3) A court convicting any person of an offence in terms of this Act may, in addition to any penalty imposed in respect of that offence—

(a) and subject to the provisions of subsection (4), order that a commodity, a consignment or batch of a commodity, any other article, or any material or substance in respect of which that offence was committed, be forfeited, and

(b) summarily enquire into and assess the monetary value of any advantage gained or likely to be gained by such person in consequence of that offence and impose on that person a fine to a maximum equal to the amount so assessed and, in default of payment, imprisonment for a period not exceeding one year.

(4) (a) The Minister shall, subject to the provisions of paragraph (b), generally or in a particular case determine the manner in which the forfeited goods referred to in subsection (3)(a) shall be dealt with.
gesluit is me, en word by die toepassing van die Wet op Patente, 1978 (Wet No 57 van 1978), beskou as die sessionaris van die betrokke uitvinding.

**Misdrywe en strawee**

34. (1) Iemand wat—

(a) enige bepaling van hierdie Wet, of enige lasgewing, bevel, voorwaarde, vereiste, bepaling of versoek daarkragtens gemaak of gedoen, oortree of versui om daaraan te voldoen,

(b) weier of in gebreke bly om enige gelde gehef kragtens hierdie Wet te betaal,

(c) valslik voorgee dat enige materiaal of stof verwyseingsmateriaal is wat deur die SABS verskaf is,

(d) homself valslik as 'n inspekteur, of as 'n ouditeur vir die doeleindes van hierdie Wet, voordoen,

(e) 'n toepaslike verklaring aan 'n inspekteur of ouditeur doen wat in enige wesenlike opsag vals is, terwyl hy weet dat dit vals is,

(f) weier of in gebreke bly om na sy beste wete enige toepaslike vraag te beantwoord wat 'n inspekteur of ouditeur by die uitoefening van sy bevoegdhede aan hom gestel het,

(g) weier of in gebreke bly om na sy beste vermoe te voldoen aan 'n wettige vordering, of bevel van 'n inspekteur of ouditeur, of

(h) 'n inspekteur of ouditeur by die uitoefening van sy bevoegdhede hinder of dwarsboom,

is aan 'n misdryf skuldig.

(2) Iemand wat aan 'n misdryf ingevolge hierdie Wet skuldig bevind is, is straftoefenbaar—

(a) in die geval van 'n eerste skuldigbevinding aan 'n misdryf bedoel in subartikel (1)(a) saamgeskies met artikel 5(i), 16(5), 17(2), 20(1), (3)(a) of (4)(a), 24(1), 25(2)(a) of (b) of 27(2), met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens vier jaar;

(b) in die geval van 'n tweede of daaropvolgende skuldigbevinding aan 'n misdryf in paragraaf (a) vermeld, hetsy aan dieselfde of aan enige ander misdryf in daardie paragraaf vermeld, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar,

(c) in die geval van 'n eerste skuldigbevinding aan 'n misdryf bedoel in subartikel (1)(a) saamgeskies met artikel 25(3), 29(1), (30)(1)(a)(i) of (a)(ii), of 32(1), of aan 'n misdryf bedoel in subartikel (1)(b) tot (h), met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens een jaar,

(d) in die geval van 'n tweede of daaropvolgende skuldigbevinding aan 'n misdryf in paragraaf (c) vermeld, hetsy aan dieselfde of aan enige ander misdryf in daardie paragraaf vermeld, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens twee jaar, en

(e) in die geval van 'n skuldigbevinding aan 'n misdryf bedoel in subartikel (1)(a) saamgestel met enige ander bepaling van hierdie Wet wat me in paragraawe (a), (b), (c) of (d) vermeld word nie, met 'n boete, of met gevangenisstraf vir 'n tydperk van hoogstens een jaar

(3) 'n Hof wat iemand skuldig bevind aan 'n misdryf ingevolge hierdie Wet kan, benewens enige straf ten opsigte van daardie misdryf opgelê —

(a) en behoudens die bepaling van subartikel (4), beveel dat 'n kommo- diteit, 'n besending of lot van 'n kommo- diteit, enige ander artikel, of enige materiaal of stof ten opsigte waarvan daardie misdryf gepleeg is, verbeur word, en

(b) onmiddellik ondersoek instel na die geldelike waarde van enige voordeel wat so iemand toegeval het of waarskynlik sal toeval as gevolg van die betrokke misdryf, die bedrag daarvan bepaal en daardie persoon 'n boete tot 'n maksimum gelyk aan die aldus bepaalde bedrag oplê, en by wanbetaling gevangenisstraf vir 'n tydperk van hoogstens een jaar oplê.

(4) (a) Die Minister bepaal, behoudens die bepaling van paragraaf (b), in die algemeen of in 'n bepaalde geval hoe daar oor die verbeurdverklaarde goedere bedoel in subartikel (3)(a) beskik moet word.
(b) Section 35(4) of the Criminal Procedure Act, 1977 (Act No 51 of 1977), shall apply mutatis mutandis in the case of a forfeiture referred to in subsection (3)(a)

(5) Notwithstanding anything to the contrary in any other law contained, a magistrate's court shall be competent to impose any penalty provided for in this Act.

(6) No person shall be convicted of an offence referred to in section 20(1) or (3), 23(1), 24(1), 25(2)(a) or (b), 27(2) or 32(1), if it is proved that he—
(a) took all reasonable precautions against committing the offence concerned, and
(b) at the request of the SABS, an inspector or an auditor furnished all information relating to the facts and attendant circumstances in connection with any act or omission constituting the alleged offence and which he should reasonably have at his disposal.

Disclosure of certain information to protect consumer

35. (1) The president may, notwithstanding the provisions of section 32, if he is of the opinion that it is necessary in the public interest and to protect the consumer, reveal in any manner—
(a) any information which in his opinion is necessary to prevent the public from being misled concerning any aspect regulated by this Act,
(b) the fact that the use of an article is dangerous to the consumer, or
(c) the name of a person who in his opinion does not comply with or does not comply fully with a provision of this Act or any aspect regulated by this Act.

(2) The disclosure referred to in subsection (1) may include the trade name and trade mark of a commodity.

Presumption

36. If it is necessary for the purposes of this Act to determine the importer of an article, it shall be presumed, unless the contrary is proved, that the person who is indicated on the documents concerning the import transaction as the importer, is or was the importer of that article.

Regulations

37. (1) The Minister may, after consultation with the council, make regulations, not inconsistent with the provisions of this Act, regarding any matter which in terms of this Act is required or permitted to be prescribed and, generally, regarding any matter in respect of which he deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

(2) The power to make regulations in terms of subsection (1) shall include the power conditionally or unconditionally to restrict or prohibit any matter referred to in that subsection and to grant exemptions from, or to allow deviations with regard to, the payment of the prescribed fees.

(3) Different regulations which differ in the respects deemed expedient by the Minister, may, subject to the provisions of this Act, be made under subsection (1) in respect of different areas in the Republic or different commodities.

(4) A regulation made under subsection (1) may in respect of any contravention thereof or failure to comply therewith, prescribe a penalty which, in the case of a first conviction, shall not exceed a fine of R 4 000 or imprisonment for a period of one year or both that fine and that imprisonment, and, in the case of a second or subsequent conviction, a fine of R 8 000 or imprisonment for a period of two years or both that fine and that imprisonment.
(b) Artikel 35(4) van die Strafproceswet, 1977 (Wet No 51 van 1977), is *mutatis mutandis* in die geval van 'n verbeurdverklaring bedoel in subartikel (3)(a) van toepassing

(5) Ondanks andersluidende bepalingen van die een of ander Wet is 'n landdroshof bevoeg om enige straf op te lê waarvoor hierdie Wet voorsiening maak.

(6) Niemand word weens 'n misdryf bedoel in artikel 20(1) of (3), 23(1), 24(1), 25(2)(a) of (b), 27(2) of 32(1) skuldig bevind nie, indien bewys word dat hy—

(a) alle redelike voorsorgmaatreëls getref het teen die pleging van die betrekke misdryf,

(b) op versoek van die SABS, 'n inspektieur of 'n oudtueur alle inligting aangaande die fietse en bykomstige omstandighede in verband met enige handeling of versuum wat die beweerde misdryf uitmaak en waaroor hy redelikeryws behoort te beskik, verstreken het

15 **Bekendmaking van sekere inligting ter beskerming van verbruiker**

35. (1) Die president kan, ondanks die bepalingen van artikel 32, indien hy van oordeel is dat dit in die openbare belang en ter beskerming van die verbruiker noodsaaklik is—

(a) enige inligting wat volgens sy oordeel nodig is om te voorkom dat die publiek misleid word aangaande enige aangeleentheid wat hierdie Wet reel;

(b) die feit dat die gebruik van 'n artikel vir 'n verbruiker gevaarlik is, of

(c) die naam van 'n persoon wat volgens sy oordeel nie 'n bepaling van hierdie Wet of enige ander aangeleentheid wat hierdie Wet reel, nakom of behoorlik nakom nie,

op enige wyse openbaar.

(2) Die openbaarmaking bedoel in subartikel (1) kan die handelsnaam en handelsmerk van 'n komoditeit insluit

**Vermoeide**

36. Indien dit vir die doeleindes van hierdie Wet noodsaaklik is om te bepaal wie die invoerder van 'n artikel is, word daar vermoed, tensy die teendeel bewys word, dat die persoon wat as invoerder op die dokumente aangaande die invoertransaksie aangedui word, die invoerder van daardie artikel is of was

**Regulases**

37. (1) Die Minister kan, na ooreenkom met die raad, regulases uitvaardig, wat nie met die bepalinge van hierdie Wet onbestaanbaar is nie, betreffende enige aangeleentheid wat in gevalle hierdie Wet voorgeskryf moet word of kan word en, in die algemeen, betreffende enige aangeleentheid ten opsigte waarvan hy dit nodig of dienstig ag om regulases uit te vaardig ten einde die oogmerke van hierdie Wet te bereik of te bevorder

(2) Die bevoegdheid om regulases in gevalle subartikel (1) uit te vaardig, omvat die bevoegdheid om 'n aangeleentheid bedoel in daardie subartikel voorwaardelik of onvoorwaardelik te beperk of te verbied of om oorstelling te verleen van, of afwykings toe te staan met betrekking tot, die betaling van die voorgeskrewe geldes.

(3) Verskillende regulases wat verskil in die opsigte wat die Minister dienstig ag, kan, behoudens die bepalinge van hierdie Wet, kragsens hierdie artikel uitgevaardig word ten opsigte van verskillende gebiede in die Republiek of verskillende komoditeite

(4) 'n Regulase uitgevaardig kragsens subartikel (1) kan ten opsigte van enige oortreding daarvan of versuum om daaraan te voldoen, 'n straf voorskryf wat, in die geval van 'n eerste skuldigbevinding, 'n boete van R4 000 of gevangenstraf vir 'n tydperk van een jaar of daardie boete sowel as daardie gevangenstraf, en, in die geval van 'n tweede of daaropvolgende skuldigbevinding, 'n boete van R8 000 of gevangenstraf vir 'n tydperk van twee jaar of daardie boete sowel as daardie gevangenstraf, nie te bowe gaan nie
Levying of interest

38. (1) The SABS may levy interest in respect of money payable to it but which has not yet been paid, from a date on which such money became payable, except in respect of money payable by the State.

(2) The rate at which interest referred to in subsection (1) shall be calculated, shall be the rate which is determined from time to time in terms of section 26(1) of the Exchequer Act, 1975 (Act No. 66 of 1975), and which is applicable on the date on which the money referred to in subsection (1) is paid.

Delegations

39. (1) The council may, subject to such conditions as it may impose—

(a) in writing delegate to the chairman, the president or a committee referred to in section 9(1)(a) any power conferred upon the council by or under this Act or any other law, or

(b) in writing authorize the chairman, the president or a committee referred to in section 9(1)(a) to perform any duty assigned to the council by or under this Act or any other law.

(2) The president may, subject to such conditions as he may impose—

(a) delegate a power to an employee, or

(b) authorize an employee to perform a duty,

which has been—

(i) delegated or assigned to the president under subsection (1), unless the council has in the delegation or assignment concerned determined otherwise, or

(ii) conferred or imposed on the president by this Act or any other law.

(3) The council or the president, as the case may be, shall not be divested of any power delegated under subsection (1) or (2), as the case may be, by it or him, and may amend or withdraw any decision made in the exercise of such delegated power.

Certain acts not interpreted as assurances or guarantees

40. The fact that anything has been done under this Act by the Minister, the SABS, the council, a member of the council, a committee referred to in section 9(1)(a) or a member of such committee, the president or an employee of the SABS in connection with any article, material, substance, act or matter, shall not be interpreted as an assurance or a guarantee of any nature in respect of that article, material, substance, act or matter.

Limitation of liability

41. The State, the Minister, the SABS, the council, a member of the council, a committee referred to in section 9(1)(a) or a member of such committee, the president or an employee of the SABS shall not be liable in respect of anything done under this Act in good faith and without negligence.

Repeal of laws, and savings

42. (1) Subject to the provisions of subsection (2), the Standards Act, 1982 (Act No. 30 of 1982), and the Standards Amendment Act, 1984 (Act No. 50 of 1984), are hereby repealed.

(2) Any proclamation, regulation, notice, order, prohibition, authorization, appointment, permission, information or document made, issued, imposed, granted or given and any other action taken under any provision of a law repealed under subsection (1), shall be deemed, if applicable, to have been made, issued, imposed, granted, given or taken under the corresponding provision of this Act.

Short title and commencement

43. This Act shall be called the Standards Act, 1993, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.
Heffing van rente

38. (1) Die SABS kan ten opsigte van die gelde wat aan hom betaalbaar is maar wat nog nie betaal is nie rente hef vanaf 'n datum waarop daardie gelde betaalbaar is, uitgesonderd ten opsigte van gelde deur die Staat betaalbaar.

(2) Die koers waarteen rente bedoel in subartikel (1) bereken word, is die koers wat ingevolge artikel 26(1) van die Skatwayswet, 1975 (Wet No 66 van 1975), van tyd tot tyd bepaal word en wat van toepassing is op die datum waarop die gelde bedoel in subartikel (1) betaal word.

Delegeringe

39. (1) Die raad kan, onderworpe aan die voorwaardes wat by oplep—

(a) skryflik aan die voorstetter, die president of 'n komitee bedoel in artikel 9(1)(a) 'n bevoegdheid by of kragtens hierdie Wet of enge ander wet aan die raad verleen, deleger, of

(b) die voorstetter, die president of 'n komitee bedoel in artikel 9(1)(a) skryflik magtig om 'n plig by of kragtens hierdie Wet of enge ander wet aan die raad opgedra, te verrig

(2) Die president kan, onderworpe aan die voorwaardes wat by oplep—

(a) aan 'n werknemer 'n bevoegdheid deleger, of

(b) 'n werknemer magtig om 'n plig te verrig.

wat aan die president—

(i) kragtens subartikel (1) gedelegeer of toegewys is, tensy die raad in sy betrokke delegasie of toewysing anders bepaal het, of

(ii) by hierdie Wet of enge ander wet verleen of opgelê is

(3) Die raad of die president, na gelang van die geval, is me ontdoen van 'n bevoegdheid deur hom kragtens subartikel (1) of (2), na gelang van die geval, gedelegeer nie, en kan 'n beslissing in die uitoefening van sodanige gedelegeerde bevoegdheid gegee, wysig of intrek

Sekere handelinge word nie as versekering of waarborg vertolk

40. Die feit dat engeets kragtens hierdie Wet deur die Minister, die SABS, die raad, 'n lid van die raad, 'n komitee bedoel in artikel 9(1)(a) of 'n lid van so 'n komitee, die president of 'n werknemer van die SABS gedoen is in verband met 'n artikel, meterraal, stof, handeling of aangeleentheid, word me vertolke as 'n versekering of waarborg van enge aard ten opsigte van daardie artikel, meterraal, stof, handeling of aangeleentheid nie

Beperking van aanspreeklikheid

41. Die Staat, die Minister, die SABS, die raad, 'n lid van die raad, 'n komitee bedoel in artikel 9(1)(a) of 'n lid van so 'n komitee, die president of 'n werknemer van die SABS is me aanspreeklik ten opsigte van engeets wat te goeder trou en sonder nalatigheid kragtens hierdie Wet gedoen is me

Herroeping van wette, en voorbehoudes

42. (1) Behoudens die bepalinge van subartikel (2) word die Wet op Standaarde, 1982 (Wet No 30 van 1982), en die Wysigingswet op Standaarde, 1984 (Wet No 50 van 1984), hierby herroep

(2) Enige proklamase, regulasie, kennisgewing, bevel, verbod, magtiging, aanstelling, toestemming, inligting of dokument uitgevaardig, uitgereik, opgelê, gedoen, verleen, verstrekt of gegee en enge ander stappe gedoen ingevolge enige bepaling van 'n wet wat kragtens subartikel (1) herroep is, word geag, indien van toepassing, ingevolge die ooreenstemmende bepaling van hierdie Wet uitgevaardig, uitgereik, opgelê, gedoen, verleen, verstrekt of gegee te gewees het

Kort titel en inwerkingtreding

43. Hierdie Wet heet die Wet op Standaarde, 1993, en treed in werking op 'n datum deur die Staatspresident by proklamase in die Staatskoerant bepaal
### STATE PRESIDENT'S OFFICE

<table>
<thead>
<tr>
<th>No 458</th>
<th>19 March 1993</th>
</tr>
</thead>
<tbody>
<tr>
<td>It is hereby notified that the State President has assented to the following Act which is hereby published for general information —</td>
<td></td>
</tr>
<tr>
<td>No 33 of 1993: Harmful Business Practices Amendment Act, 1993</td>
<td></td>
</tr>
</tbody>
</table>

### KANTOOR VAN DIE STAATSPRESIDENT

<table>
<thead>
<tr>
<th>No 458.</th>
<th>19 Maart 1993</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hierby word bekend gemaak dat die Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word —</td>
<td></td>
</tr>
<tr>
<td>No 33 van 1993: Wyssignswet op Skadelike Sakepraktyke, 1993</td>
<td></td>
</tr>
</tbody>
</table>
GENERAL EXPLANATORY NOTE:

[ ] Words in bold type in square brackets indicate omissions from existing enactments

_________________________

Words underlined with a solid line indicate insertions in existing enactments

_________________________

ACT

To amend the Harmful Business Practices Act, 1988, so as to insert certain definitions; to further regulate the constitution of the Business Practices Committee; to provide for the appointment of liaison committees; to further regulate the power of the committee to make known information on current policy in relation to business practices; to further regulate a period within which a certain return shall be furnished; to make further provision regarding investigations by the committee; to provide for the attachment of certain property; to further regulate certain negotiations by the committee; to provide for the appointment of curators in certain cases; to repeal the power of the Minister to request the Price Controller to fix a maximum price; and to grant a right of appeal in certain cases; and to provide for matters connected therewith.

(English text signed by the State President)
(Assented to 11 March 1993)

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows—

Amendment of section 1 of Act 71 of 1988

1. Section 1 of the Harmful Business Practices Act, 1988 (hereinafter referred to as the principal Act), is hereby amended by the insertion after the definition of “business practice” of the following definition

(“chairman” means the chairman referred to in section 2(2).)”

Amendment of section 2 of Act 71 of 1988, as amended by section 1 of Act 64 of 1991

2. Section 2 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection.

“(2) (a) The committee shall consist of not fewer than four and not more than seven members appointed by the Minister on the grounds of having special knowledge of consumer affairs or knowledge of or experience in economics, industry, commerce, law or the conduct of public affairs, of whom the Minister shall designate one as chairman and one as vice-chairman.

(b) The Minister shall determine whether a member of the committee shall be a full-time or a part-time member”, and

(b) by the substitution for subsection (3) of the following subsection

“(3) When for any reason the chairman is not able to perform his functions or is not available, or when there is a vacancy in the office
WET

Tot wysiging van die Wet op Skadelike Sakepraktyke, 1988, ten einde sekere omskrywings in te voeg; die samestelling van die Sakepraktykakomitee verder te reël; vir die aanstelling van skakelkomitee voorsiening te maak; die bevoegdheid van die komitee om inligting omtrent gangbare beleid met betrekking tot sakepraktyke bekend te maak, verder te reël; 'n tydperk waarinne 'n sekere opgawe verstrek moet word, verder te reël; verdere voorsiening te maak betreffende ondersoekdeur die komitee; vir beslaglegging op sekere eiendom voorsiening te maak; sekere onderhandelinge deur die komitee verder te reël; vir die aanstelling van kurators in sekere gevalleregionering te maak; die bevoegdheid van die Minister om die Prysontloeker te versoek om 'n maksimumprys vas te stel, te herroep; en 'n reg van appel in sekere gevallen te verleen; en om voorsiening te maak vir aangeleenthede wat daarnie in verband staan.

(Engelse teks deur die Staatspresident geteken)
(Goedgekeur op 11 Maart 1993)

Daar word bepaal deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg —

Wysiging van artikel 1 van Wet 71 van 1988

1. Artikel 1 van die Wet op Skadelike Sakepraktyke, 1988 (heronder die Hoofwet genoem), word hierby gewysig deur na die omskrywing van "verbruiker" die volgende omskrywing in te voeg:
   "voorsitter" deur "voorsitter bedoel in artikel 2(2)"

Wysiging van artikel 2 van Wet 71 van 1988, soos gewysig deur artikel 1 van Wet 64 van 1991

2. Artikel 2 van die Hoofwet word hierby gewysig:
   (a) deur subartikel (2) deur die volgende subartikel te vervang
      "(2) (a) Die komitee bestaan uit minstens vier en hoogstens sewe lede deur die Minister aangestel op grond van hulle besonder kennis van verbruiers sake of kennis van of ondervinding in die ekonomie, die nywerheid, die handel, die regte of die bestuur van openbare sake, van wie die Minister een as voorsitter en een as ondervoorsitter aanwys.
      (b) Die Minister bepaal of 'n lid van die komitee 'n heeltydse of 'n deeltydse lid is ''. en
   (b) deur subartikel (3) deur die volgende subartikel te vervang:
      "(3) Wanneer die voorsitter om die een of ander rede nie in staat is om sy werksaamhede te verrig nie of nie beskikbaar is nie,"
of the chairman, [a member of the committee designated by the Minister] the vice-chairman shall act as chairman “

Insertion of section 3A in Act 71 of 1988

3. The following section is hereby inserted in the principal Act after section 3.

“Liaison committees

3A. (1) (a) The chairman may appoint one or more liaison committees, which shall advise the committee on such matters as the chairman may determine and refer to a liaison committee for advice

(b) A liaison committee shall consist of the number of members determined by the chairman

(2) A member of a liaison committee—

(a) shall be appointed for such period, but not exceeding three years, as the chairman may determine at the time of his appointment;

(b) who is not in the full-time service of the State, shall in connection with the activities of the liaison committee be paid such remuneration and allowances as the Minister may determine with the concurrence of the Minister of State Expenditure,

(c) shall vacate his office if he resigns as a member or if the chairman at any time terminates his period of office as a member because in the opinion of the chairman there are sound reasons for doing so,

(d) may be reappointed at the expiry of his period of office by effluxion of time

(3) The chairman and vice-chairman of a liaison committee shall be designated by the chairman

(4) The vice-chairman of a liaison committee shall act as chairman when the chairman of the liaison committee is not able to perform his functions or when he is not available, or when there is a vacancy in the office of the chairman of the liaison committee concerned

(5) (a) The meetings of a liaison committee shall be held at such times and places as the chairman of the liaison committee concerned may determine

(b) The person presiding at a meeting of the liaison committee concerned shall determine the procedure at the meeting

(c) The decision of a majority of the members of a liaison committee present at a meeting thereof shall constitute the decision of that liaison committee “

Amendment of section 4 of Act 71 of 1988, as substituted by section 2 of Act 64 of 1991

4. Section 4 of the principal Act is hereby amended by the substitution for paragraph (a) of subsection (1) of the following paragraph

“(a) shall from time to time make known information on current policy in relation to business practices in general and harmful business practices in particular, to serve as general guidelines for persons affected thereby, “

Amendment of section 6 of Act 71 of 1988

5. Section 6 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) No person shall in a notice under subsection (1) be directed to furnish the committee with a return specified in that notice within a period of less than [14] seven days after the date of the notice “
of wanneer die amp van voorstuur vakant is, neem '[n lid van die komitee deur die Minister aangewys] die ondervoorstuur as voorstuur waar "

Invloed van artikel 3A in Wet 71 van 1988

3. Die volgende artikel word hierby in die Hoofwet na artikel 3 ingevoeg

"Skakelkomitees"

3A. (1) (a) Die voorstuur kan een of meer skakelkomitees aanstel, wat die komitee adviseer aangaande aangeneemhede wat die voorstuur bepaal en na 'n skakelkomitee vir advies verwys

(b) 'n Skakelkomitee bestaan uit die getal lede wat die voorstuur bepaal,

(2) 'n Lid van 'n skakelkomitee—

(a) word aangestel vir die tydperk, maar hoogstens drie jaar, wat die voorstuur ten tyde van sy aanstelling bepaal,

(b) wat nie in die heëtste diens van die Staat is nie, word in verband met die bedrywighede van die skakelkomitee die besoldiging en toelaes betaal wat die Minister met die instemming van die Minister van Staatsbesteding bepaal;

(c) omrum sy amp indien hy as lid bedank of indien die voorstuur te eender tyd sy amptemyn as lid beëindig omdat daar volgens die oordeel van die voorstuur gegronde redes daarvoor is,

(d) kan by die verstrekking van sy amptemyn deur tydsverloop weer aangestel word.

(3) Die voorstuur en ondervoorstuur van 'n skakelkomitee word deur die voorstuur aangewing

(4) Die ondervoorstuur van 'n skakelkomitee tree op as voorstuur wanneer die voorstuur van die skakelkomitee nie in staat is om sy werksoamhede te verrig nie of nie beskikbaar is nie, of wanneer die amp van voorstuur van die betrokke skakelkomitee vakant is

(5) (a) Die vergaderings van 'n skakelkomitee word gehou op die tye en plekke wat die voorstuur van die betrokke skakelkomitee bepaal

(b) Die persoon wat op 'n vergadering van die betrokke skakelkomitee voorst, bepaal die prosedure op die vergadering

(c) Die besluit van 'n meerderheid van die lede van 'n skakelkomitee wat op 'n vergadering daarvan aanwezig is, maak die besluit van daardie skakelkomitee uit "

Wysiging van artikel 4 van Wet 71 van 1988, soos vervang deur artikel 2 van Wet 64 van 1991

4. Artikel 4 van die Hoofwet word hierby gewysig deur paragraaf (a) en subparagraaf (1) deur die volgende paragraaf te vervang

"(a) moet van tyd tot tyd inhoud omtrent gangbare beleid met betrekking tot sakepraktyke in die algemeen en skadelike sakepraktyke in die besonder bekend maak, om te dien as algemene riglyne vir persone wat daardeur geraak word,"

Wysiging van artikel 6 van Wet 71 van 1988

5. Artikel 6 van die Hoofwet word hierby gewysig deur subparagraaf (2) deur die volgende subparagraaf te vervang

"(2) Niemand mag in 'n kennisgewing kragtens subparagraaf (1) gelaas word om 'n opgawe in daardie subparagraaf vermeld, buie 'n tydperk van minder as [14] sewe dae na die datum van die kennisgewing aan die komitee te verstrekt nee "
Amendment of section 8 of Act 71 of 1988, as amended by section 1 of Act 43 of 1990

6. Section 8 of the principal Act is hereby amended—
   (a) by the deletion of paragraph (c) of subsection (1),
   (b) by the substitution for subsections (2) and (3) of the following
       subsections, respectively

       "(2) An investigation in terms of subsection (1) or section 4(1)(c)
           shall not be made or proceeded with by the committee on its own
           initiative, if in the opinion of the Minister such an investigation
           is not in the public interest.

           (3) [Where] If any action is prescribed by the Minister under
               subsection (5) of this section, the committee shall within [three]
               six months from the date of the notice contemplated in subsection (4)
               of this section report to the Minister in terms of section 10(1) on
               the result of the investigation, or on any arrangement which may have
               been made under section 9 ",
   (c) by the substitution for subsection (5) of the following subsection

       "(5)(a) After such a notice relating to an investigation in terms of
           subsection (1)(a) has been published and before the relevant report
           is submitted to him the Minister may, on the recommendation of the
           committee—

           (i) prescribe by notice in the Gazette, for a period specified in the
               notice, but not exceeding the period of [three] six months
               referred to in subsection (3), such action as in the opinion of
               the Minister shall be taken to stay or prevent any harmful business
               practice which is the subject of the investigation and which the
               Minister has reason to believe exists or may come into
               existence,

           (ii) by notice in writing or by notice in the Gazette—
               (aa) attach any money or other property whether movable or
                   immovable which is related to such investigation and
                   which is held by any person on account or on behalf of
                   or for the benefit of a person mentioned in the notice, or
                   of a customer, debtor or creditor of the person
                   mentioned in the notice, until a curator referred to in
                   section 12(2) takes that money or other property into his
                   possession.

                   (bb) prohibit a person mentioned in the notice from with-
                       drawing or otherwise dealing with any money or
                       movable or immovable property mentioned in the
                       notice

           (b) If the Minister has issued a written notice under paragraph (a)(ii),
               a copy of such notice shall as soon as practicable be published in the
               Gazette

           (c) If the Minister attached any immovable property under paragraph
               (a)(ii), he shall as soon as practicable notify the registrar of deeds of such
               attachment ",

       (d) by the substitution for subsection (6) of the following subsection

       "(6) A notice under subsection (5) may, on the recommendation
           of the committee, be amended or withdrawn by the Minister at any
           time [and shall not be subject to review by or appeal to any court of
           law] "

Amendment of section 9 of Act 71 of 1988

7. Section 9 of the principal Act is hereby amended by the substitution for
   subsection (1) of the following subsection

    "(1) When the committee has decided to undertake a preliminary
        investigation in terms of section 4(1)(c), or has issued a notice in terms of
        section 8(4) in relation to an investigation in terms of section 8(1)(a), it may
Wysiging van artikel 8 van Wet 71 van 1988, soos gewysig deur artikel 1 van Wet 43 van 1990

6. Artikel 8 van die Hoofwet word hierby gewysig—
   (a) deur paragraaf (c) van subartikel (1) te skrap,
   (b) deur subartikels (2) en (3) deur onderskeidelik die volgende subartikels te vervang:
      “(2) ’n Onderzoek inegolwe subartikel (1) of artikel 4(1)(c) word nie deur die komitee op eie insteek ingestel of voortgeset indien so ’n onderzoek volgens die oordeel van die Minister nie in die openbare belang is nie
      (3) [Waar] Indien enige stappe kragteins subartikel (5) van hierdie artikel deur die Minister voorgestryf word, moet die komitee bunne [drie] ses maande vanaf die datum van die kennisgewing in subartikel (4) van hierdie artikel betoog aan die Minister inegolwe artikel 10(1) verslag doen oor die uitslag van die onderzoek of oor enige reëling wat kragteins artikel 9 getref is “,
   (c) deur subartikel (5) deur die volgende subartikel te vervang
      “(5)(a) Nadat so ’n kennisgewing wat betrekking het op ’n onderzoek inegolwe subartikel (1)(a), gepubliseer is en voordat die tersaaklike verslag aan hom voorgele word, kan die Minister, op aanbeveling van die komitee—
         (i) by kennisgewing in die Staatskoerant vir ’n tydperk in die kennisgewing vermeld, maar hoogstens die tydperk van [drie] ses maande in subartikel (3) bedoel, die stappe voorskrif word volgens die oordeel van die Minister gedoen moet word om enige skadelike sakepraaktyk wat die onderwerp van die onderzoek is en wat die Minister rede het om te vermoed bestaan of mag ontstaan, op te skort of te voorkom,
         (u) by skriftelike kennisgewing of by kennisgewing in die Staatskoerant—
            (aa) beslag lê op enige geld of ander eiendom hetsy roerend of onroerend wat in verband staan met so ’n onderzoek en wat gehou word deur ’n persoon op rekening, of namens of tot voordeel van ’n persoon vermeld in die kennisgewing, of van ’n afdel, skudenaar of skudder van die persoon vermeld in die kennisgewing, totdat ’n kurator bedoel in artikel 12(2) sodanige geld of ander eiendom in sy besit neem,
            (bb) ’n persoon vermeld in die kennisgewing verhbed om enige geld of roerende of onroerende eiendom wat in die kennisgewing vermeld word, te onttrek of andersins daarmee te handel
   (b) Indien die Minister kragteins paragraaf (a)(u) ’n skriftelike kennisgewing uitgereik het, moet ’n afskrif van sodanige kennisgewing so gou doenlik in die Staatskoerant gepubliseer word
   (c) Indien die Minister kragteins paragraaf (a)(u) op enige onroerende eiendom beslag gelê het, moet hy die registrateur van akties so gou doenlik van sodanige beslaglegging in kennis stel “, en
   (d) deur subartikel (6) deur die volgende subartikel te vervang
      “(6) ’n Kennisgewing kragteins subartikel (5) kan op aanbeveling van die komitee te enger tyd deur die Minister gewysig of ingetrek word [en is nie aan hersiening deur of apêl na enige geregshef onderworpe nie] “

55 Wysiging van artikel 9 van Wet 71 van 1988

7. Artikel 9 van die Hoofwet word hierby gewysig deur subartikel (1) deur die volgende subartikel te vervang
   “(1) Wanneer die komitee besluit het om ’n voorlopige ondersoek inegolwe artikel 4(1)(c) in te stel of ’n kennisgewing inegolwe artikel 8(4) uitgereik het met betrekking tot ’n ondersoek inegolwe artikel 8(1)(a), kan
at any time thereafter negotiate with any person or body, corporate or unincorporate, with a view to making an arrangement which in the opinion of the committee will ensure the discontinuance of a harmful business practice which exists or may come into existence and which is the subject of the investigation, either wholly or to such extent as, in the opinion of the committee, it is not justified in the public interest"

Amendment of section 12 of Act 71 of 1988, as amended by section 3 of Act 43 of 1990

8. Section 12 of the principal Act is hereby amended—
   (a) by the deletion of paragraph (a) of subsection (1),
   (b) by the addition after paragraph (c) of subsection (1) of the following paragraph
      "(d) if money was accepted from consumers and he deems it necessary to limit or prevent financial losses by those consumers, appoint a curator, with the concurrence of the special court, in order to realize the assets of the person involved in a harmful business practice and to distribute them between the consumers concerned and to take control of and manage the whole or any part of the business of such a person",
   (c) by the substitution for subsection (2) of the following subsection:
      "(2) (a) The powers and duties of a curator referred to in subsection (1)(d) shall be determined by the Minister, who shall appoint such curator by letter of appointment setting out—
         (i) the name of the person in respect of whom the curator is appointed and his address;
         (ii) directions in regard to the security which the curator has to furnish for the proper performance of his duties,
         (iii) directions in regard to the remuneration of the curator, and
         (iv) such other directions concerning the performance by such curator of his duties and functions, or the management of the affairs of the person concerned, or any other matter incidental thereto, as the Minister may deem necessary
      (b) The Minister may appoint a person who is not employed by the curator, as joint curator
      (c) The curator, or the joint curator who is not in the employ of the State, shall out of the funds of the person involved in the harmful business practice in respect of the services rendered by them, be paid such remuneration as the Master of the division of the Supreme Court of South Africa concerned may in consultation with the curator or the joint curator, as the case may be, determine. Provided that if the funds of the person involved in the harmful business practice appear to be insufficient to adequately compensate the curator or the joint curator, as the case may be, the curator or the joint curator shall in respect of the services rendered by them be paid such remuneration and allowances as the Minister with the concurrence of the Minister of State Expenditure may determine
      (d) The Minister shall as soon as practicable announce the appointment of a curator and the powers granted to him on his appointment, and any amendment or withdrawal of such powers, by notice in the Gazette
      (e) The Minister may, in the letter of appointment or at any time subsequent thereto, empower the curator in his discretion, but subject to any condition which the Minister may impose—
         (i) to suspend or restrict, as from the date of his appointment as curator or any subsequent date, the right of creditors of the person involved in the harmful business practice to
hy te enger tyd daarna met enige persoon of liggaam, met of sonder regspersoonlikheid, onderhandel ten einde 'n reëling te tref wat volgens die oordeel van die komitee die beëindiging van 'n skadelike sakepraktyk wat bestaan of mag ontstaan en wat die onderwerp van die ondersoek is, sal versker, hetsy geheel en al of vir so ver dit volgens die oordeel van die komitee nie in die openbare belang geregverdig nie "

Wysiging van artikel 12 van Wet 71 van 1988, soos gewysig deur artikel 3 van Wet 43 van 1990

8. Artikel 12 van die Hoofwet word hierby gewysig—

(a) deur paragraaf (a) van subartikel (1) te skrap,
(b) deur die volgende paragraaf na paragraaf (c) van subartikel (1) by te voeg,

"(d) indien geld van verbruikers ontvang is en hy dit nodig ag om finansiële verliese deur daardie verbruikers te beperk of te voorkom, 'n kurator, met die instemming van die spesiale hof, aanstel ten einde die bates van 'n persoon wat in 'n skadelike sakepraktyk betrokke is, te gelde te maak en te verdeel onder die betrokke verbruikers, en die beheer en bestuur van die geheel of 'n gedeelte van die besigheid van so 'n persoon oor te neem "

(c) deur subartikel (2) deur die volgende subartikel te vervang:

"(2) (a) Die bevoegdheid en pligte van 'n kurator bedoel in subartikel (1)(d) word bepaal deur die Minister, wat so 'n kurator per aanstellingsbrief aanstel waarin—

(i) die naam van die persoon ten opsigte van wie die kurator aangestel word en sy adres,
(ii) voorskrifte met betrekking tot die sekuriteet wat die kurator moet stel vir die behoorlike uitvoering van sy pligte,
(iii) voorskrifte met betrekking tot die vergoeding van die kurator; en
(iv) die ander voorskrifte wat die Minister nodig ag betrefende die uitvoering deur so 'n kurator van sy pligte en die verrigting van sy werksaamhede of die bestuur van die sake van die betrokke persoon of enige aangeleentheid wat daarmee in verband staan,

uteengest set word

(b) Die Minister kan 'n persoon wat me in diens van die kurator is nie, as medekurator aanstel

(c) Daar word uit die fondse van die persoon betrokke by die skadelike sakepraktyk aan die kurator, of aan die medekurator wat me in diens van die Staat is nie, ten opsigte van diens deur hulle gelever sodange vergoeding en toelaes betaal as wat die Meester van die betrokke afdeling van die Hooggeregtshof van Suid-Afrika na oorleg met die kurator of medekurator, na gelang van die geval, bepaal Met dien verstande dat indien die fondse van die persoon betrokke by die skadelike sakepraktyk onvoldoende blyk te wees om die kurator of medekurator, na gelang van die geval, na behore te vergoed, die kurator of medekurator ten opsigte van diens deur hulle gelever sodange vergoeding en toelaes betaal word as wat die Minister met die instemming van die Minister van Staatsbesteding bepaal

(d) Die Minister moet so gou doenlik die aanstelling van 'n kurator en die bevoegdheid by sy aanstelling aan hom verleen, en enige wysiging of intrekking van sodange bevoegdheid, by kennisgewing in die Staatskoerant bekend maak.

(e) Die Minister kan, in die aanstellingsbrief of te enger tyd daarna, aan die kurator die bevoegdheid verleen om na goed-dunker, maar behoudens enige voorwaarde wat die Minister ople—

(i) die reg van krediteure van die persoon betrokke by die skadelike sakepraktyk om geld te vorder of te ontvang wat deur daardie persoon aan hulle verskuldig is, op te
(u) claim or receive any money owing to them by that person,

to make payments, transfer property or take steps for the
transfer of property to any creditor or creditors of the
person involved in the harmful business practice at such
time, in such order and in such manner as he may deem fit,

(ii) to cancel any agreement between the person involved in
the harmful business practice and any other party. Pro-
vided that where the agreement so cancelled is a lease of
movable or immovable property entered into by the person
involved in the harmful business practice prior to the
appointment of a curator, a claim for damages in respect of
such cancellation may be instituted against that person
after the expiration of one year as from the date of such
cancellation unless the court grants permission that such
claim may be instituted before the expiry of such period,

(iv) to enter into agreements on behalf of the person involved
in the harmful business practice,

(v) to convene from time to time, in such manner as he may
decem fit, a meeting of creditors of the person involved in
the harmful business practice, for the purpose of establish-
ing the nature and extent of that person's indebtedness to
such creditors and for consultation with such creditors in so
far as the curator deems it necessary,

(vi) to negotiate with any creditor of the person involved in the
harmful business practice with a view to the final settle-
ment of the affairs of such creditor with that person,

(vii) to make and carry out, in the course of his management of
the affairs of the person involved in the harmful business
practice, any decision which in terms of the provisions of
the Companies Act, 1973 (Act No 61 of 1973), would have
been required to be made by way of a special resolution
contemplated in section 199 of that Act,

(viii) to dispose, by public auction, tender or negotiation, of any
asset of the person involved in the harmful business
practice, including—

(aa) any advance or loan, or

(bb) any asset for the disposal of which approval in
terms of section 228 of the Companies Act, 1973,
is necessary

(f) The Minister may, at any time and in any manner, amend or
withdraw any power granted or duty imposed in the letter of
appointment or under paragraph (e)

(g) At the appointment of a curator—

(i) the management of the business or affairs of the person
involved in the harmful business practice shall vest in the
curator, subject to the supervision of the Master, and any
other person vested with the management of the affairs of
that person shall be divested thereof, and

(ii) the curator shall recover and take possession of all the
assets of the person involved in the harmful business
practice

(h) While such person is under curatorship—

(i) all actions and legal proceedings and the execution of all
writs, summonses and other legal process against that
person shall, subject to the provisions of paragraph (e)(ii),
be stayed and not be instituted or proceeded with, without
the leave of the court; and

(ii) the operation of set-off in respect of any amount owing by
a creditor to the person shall be suspended.
skort of te beperk vanaf die datum van sy aanstelling as kurator of enige later datum,

(ii) aan enige krediet of krediteure van die persoon betrokke by die skadelike sakepraktyk bestellings te doen, eiendom oor te dra of stapte te doen vir die oordrag van eiendom op die tyd, in die volgorde en op die wyse wat hy goewend,

(iii) 'n ooreenkoms tussen die persoon betrokke by die skadelike sakepraktyk en enige ander persoon op te sê. Met dien verstande dat waar die ooreenkoms wat alhier opgesê word 'n huurkontrak van roerende of onroerende eiendom is wat deur die persoon betrokke by die skadelike sakepraktyk aangegaan is voordat 'n kurator aangestel is, 'n eis om skadevergoeding ten opsigte van so 'n opsegging teen daardie persoon ingestel kan word na verloop van 'n tydperk van 'n jaar vanaf die datum van sodanige opsegging tensy die hof toestemming verleen dat sodanige eis vir die verloop van sodanige tydperk ingestel kan word,

(iv) ooreenkomste nomens die persoon betrokke by die skadelike sakepraktyk aan te gaan,

(v) van tyd tot tyd op die wyse wat hy goewend 'n vergadering van krediteure van die persoon betrokke by die skadelike sakepraktyk te belê met die doel om die aard en omvang van die betrokke persoon se skuldigheid teenoor sodanige krediteure te bepaal en origens oorleg te pleeg met sodanige krediteure vir sover die kurator dit nodig ag,

(vi) met enige krediet of krediteur van die persoon betrokke by die skadelike sakepraktyk te onderhandel met die oog op die finale afsluiting van die sake van so 'n krediet met daardie persoon,

(vii) in die loop van sy bestuur van die sake van die persoon betrokke by die skadelike sakepraktyk, enige besluit te neem en uit te voer wat ingevolge die bepalings van die Maatskappywet, 1973 (Wet No. 61 van 1973), by wyse van 'n spesiale besluit beoog in artikel 199 van daardie Wet geneem sou moes word;

(viii) by wyse van openbare vening, tender of onderhandeling, enige bate van die betrokke persoon te vervreem, asook te beskik oor—

(aa) 'n voorskot of lening; of

(bb) enige bate vir die vervreemding waarvan goedkeuring ingevolge artikel 228 van die Maatskap-

pywet, 1973, nodig is

(f) Die Minister kan te eniger tyd en op enige wyse 'n bevoegd-

heid verleen of phg opgelê in die aanstellingsbrief of kragtens paragraaf (e), wysig of intrek

(g) By die aanstelling van 'n kurator—

(i) gaan die bestuur van die sake van die persoon betrokke by die skadelike sakepraktyk oor op die kurator, onderworpe aan die toegsig van die Meester, en word enige ander persoon by wie die bestuur van die sake van daardie persoon berus, daarvan ontdoen, en

(ii) moet die kurator al die bates, boeke en dokumente van dié persoon betrokke by die skadelike sakepraktyk opvoerder en in besit neem

(h) Terwyl so 'n persoon onder kuratele is—

(i) word alle gedinge en geregelde verrugtinge en die tenut-

voerlegging van alle lasbrieue, dagvaardings en ander regproses teen daardie persoon, behoudens die bepa-

lins van paragraaf (e)(ii), opgeskort en nie sonder die toestemming van die hof ingestel of voortgeset nie, en

(ii) word die werking van skuldvergelyking ten opsigte van
(i) A curator shall act in the best interests of the clients, debtors and creditors of the person placed under curatorship.

(j) When a notice whereby a curator is appointed is published under section 12(1)(d), all proceedings in connection with the winding-up of a company or close corporation which may be pending in a court of law and in respect of which a liquidator has been appointed, shall be suspended until the appointment of a curator, and any attachment or execution put in force against the estate or assets of that company or close corporation shall be void.

(k) No steps in terms of section 311 of the Companies Act, 1973, or in terms of section 72 of the Close Corporations Act, 1984 (Act No. 69 of 1984), for the conclusion of a compromise, arrangement or composition between a company or close corporation in respect of which a curator has been appointed in terms of this subsection and its creditors shall be taken and any such steps already commenced with shall not be proceeded with, and the costs in connection with such proceedings or steps already commenced with shall, unless the court concerned orders otherwise, be deemed to be part of the costs of the winding-up of that company or close corporation.

(l) The curator shall report to the chairman on his administration of the affairs of the person involved in the harmful business practice, and shall at the request of the chairman provide any other information set out in that request.

(m) The curator shall keep proper record of the steps taken by him in the performance of his functions and of the reasons why such steps were taken.

(d) by the deletion of subsection (3)

Amendment of section 13 of Act 71 of 1988

9. Section 13 of the principal Act is hereby amended—

(a) by the substitution for subsection (1) of the following subsection

"(1) There shall be a right of appeal by any person affected by a notice under section 8(5), or 12(1)(b), [or (c) or (d)], to a special court;",

(b) by the substitution for subsection (13) of the following subsection

"(13) (a) The decision of a special court shall [not] be subject to [review by or appeal to any court of law] appeal.

(b) The provisions of section 86A of the Income Tax Act, 1962 (Act No. 58 of 1962), shall apply mutatis mutandis to an appeal from the special court, and a reference in the Afrikaans text of that section to the "Voorsitter van die speciale Hof" shall be construed as a reference to the 'president van die speciale Hof' and a reference in that section to the 'Commissioner' as a reference to the 'Minister' or the 'curator' concerned, as the case may be."

Short title

10. This Act shall be called the Harmful Business Practices Amendment Act, 1993
enige bedrag deur ’n kredietuur aan die persoon verskuldig, opgeskort

(i) ’n Kurator moet optree in die beste belang van kliente, skuldenaars en skuldeisers van die persoon onder kuratele

(j) Wanneer ’n kennisgewing waarby ’n kurator aangestel word, kragtens artikel 12(1)(d) gepubiseer word, word alie verrigtinge in verband met die likwidasie van ’n maatskappy of beslote korporasie wat aanhangig mag wees in ’n gerogshof en ten opsigte waarvan ’n likwidateur aangestel is, opgeskort totdat ’n kurator aangestel word, en enige beslaglegging of eksekuse ingestel teen die boedel of bates van daardie maatskappy of beslote korporasie, is weeg

(k) Geen stappe ingevolge artikel 311 van die Maatskappywet, 1973, of ingevolge artikel 72 van die Wet op Beslote Korporasies, 1984 (Wet No. 69 van 1984), vir die aangaan van ’n skikking, reëling of akkoord tussen ’n maatskappy of beslote korporasie ten opsigte waarvan ’n kurator ingevolge hierdie subartikel aangestel is en sy kredieten mag aangegaan word nie en enige sodanige stappe waarmee reeds ’n aanvang gemaak is, word nie voortgesit nie, en die koste in verband met sodanige verrigtinge of stappe wat reeds aangegaan is, word, teny die betrokke hof anders gelaas, geag deel te wees van die koste van die likwidasie van daardie maatskappy of beslote korporasie

(l) Die kurator doen verslag aan die voorsitter oor sy administrasie van die sake van die persoon betrokke by die skadelike sakepraktyk, en verskaf op versoek van die voorsitter enige ander inligting wat in daardie versoek uiteengesteed word

(m) Die kurator moet behoordlik boekhou van die stappe deur hom gedoen by die verrigting van sy werkzaamhede en van die redes waarom sodanige stappe gedoen is.”; en

(d) deur subartikel (3) te skrap

Wysiging van artikel 13 van Wet 71 van 1988

9. Artikel 13 van die Hoofwet word hierby gewysig—

(a) deur subartikel (1) deur die volgende subartikel te vervang

“(1) Daar is ’n reg van appèl deur enigiemand wat deur ’n kennisgewing kragtens artikel 8(5), of (12)(1)(b), [of] (c) of (d), geraak word, na ’n spesiale hof ‡, en

(b) deur subartikel (13) deur die volgende subartikel te vervang:

“(13) (a) Die beslissing van ’n spesiale hof is nie aan hersiening deur of appèl na enige gerogshof] aan appèl onderworpe nie.

(b) Die bepaalings van artikel 86A van die Inkomstbelastingwet, 1962 (Wet No. 58 van 1962), is mutatis mutandis op ’n appèl vanaf die spesiale hof van toepassing, en ’n verwysing in daardie artikel na die ‘Voorsitter van die spesiale hof’ word uitgelê as ’n verwysing na die ‘president van die spesiale hof’ en ’n verwysing in daardie artikel na die ‘Kommissaris’ as ’n verwysing na die ‘Minister’ of die betrokke ‘kurator’, na gelang van die geval.”

Kort titel

10. Hierdie Wet heet die Wysigingswet op Skadelike Sakepraktyke, 1993
Commission wants credit laws simplified

SA's complicated credit legislation should be simplified and include a measure of deregulation, the SA Law Commission said in a working paper released yesterday.

The Usury Act and Credit Agreements Act should be replaced by a single Credit Act, and lay-by regulations under the Price Control Act should be replaced by a Lay-By Sales Act, the paper said.

The commission said the Trade and Industry Ministry should be given "wide powers" including the authority to bar "certain classes of persons from entering into credit contracts as credit grantors."

The report is the result of a three-and-a-half year investigation by the commission into the Usury Act, the Credit Agreements Act and lay-by regulations under the Price Control Act.

"The research committee is of the opinion that the legislation protects the consumer and that it should not apply to persons and bodies that are not consumers," the paper said.
No government inrack is determinate on the
requirements where these accrodded cesors from becoming
imposed as 'thou shall have no
property' and the formal sector. Only the Cape is
imposed on the national government's power to
assert territorial sovereignty and the
rules. There is no competitor for these
token substitutions. The government's
determination is made in cases where any
resistance to these actions is not only
authority to enforce a restricted area any
Earth's surface.
Board to probe directorships

THE Competition Board is to investigate the practice of businessmen sitting on the boards of competing companies.

Competition Board chairman Pierre Brooks said yesterday "interlocking directorships" raised serious concerns, and he called into question whether directors risked breaching their duties under the Companies Act. The board would discuss proposals with major companies and industry groups over the next five months to curb the practice.

Brooks said the board was unlikely to recommend a ban, given the close links long forged between SA companies. But a form of "qualified prohibition" was an option, with cases judged on company size or whether a director held an executive or "downstream" position.

"It would be better if there weren't any interlocking directorships between competing companies. It is a question of marrying that to what is practical," Brooks said.

The board's findings would go to government early next year. If business chose to ignore the recommendations, the board would push government to legislate.

Limitations on interlocking directorships could hit groups such as Anglo American and De Beers.

Anglo American said it was waiting for the term "interlocking" to be defined, but welcomed the investigation.

"Much of the debate until now has been unformed," a spokesman said.

Whether government will act is moot. It has already backtracked on a proposal in the summary of Finance Minister Derek Kaya's normative economic model. The complete version of the model released immediately before the Budget excluded the proposal.

The main author of the model, central economic advisory services chief Jan Dreyer, said the model was not meant to be prescriptive but, to prompt debate - a view backed by Kaya's office. Dreyer added that banning interlocking directorships could damage SA's industry. "SA is very short of entrepreneurs. We should be careful not to chase people away."

The investigation drew a cautious welcome from the Institute of Directors, which counts directors from 90% of SA's 500 largest companies among its 1,000 members. Executive director Richard Wilkinson said the institute opposed interlocking directorships and the concentration of SA's board positions among a handful of directors. But the "incestuous" situation of shareholdings in SA meant such practices were inevitable.

According to McGregor Online, of SA's business leaders held 52% executive positions. The busiest, Online said, were Anglo American directors Michael King and Clive Sunter, who held 24 directorships.
MINISTER of Finance Dawie de Villiers has endorsed the Competition Board's recommendation that the proposed R350-million merger between Copalcor and Non-Ferrous Metals be blocked. A notice declaring the proposed merger unlawful will be published in the Government Gazette this week. The board opposed the merger on the grounds that it gave the two companies control of the copper scrap market.
Regulations in Liquor Act to be relaxed

By DINAH WHITE

RELAXATIONS to the Liquor Act could extend bottle-store hours and make licences easier to obtain, the deputy minister of trade and industry, Mr David Graaff, said this week.

Speaking at the Fedhasi regional congress in Caledon, he said the emphasis in changes proposed in the Liquor Amendment Bill would be on extended licensing hours for stores and possibly amending the prohibition of sales on public holidays.

The government would also review Sunday sales on wine farms, Mr Graaff said.

Cape Administrator Mr Kobus Meiring said he was looking to Fedhasi for guidance on the issue of no smoking in restaurants and whether this could be implemented by legislation.

Salour's director of standards, Mr Greg McManus, outlined a new voluntary national grading and classification scheme for all registered hotels.

The July 1 introduction of the new grading system would bring hotel standards in line with their European counterparts.

Salour will publish and distribute 150,000 copies of its guide to Southern African accommodation.

Mr McManus advised hotels, "not to chase stars, as it will be the providing of service that is so important".
Merger ban could cost R100m in alloy exports

COPPER-ALLOY processors Copecoil and Non-ferrous Metal Works (NMW) have protested at the Competition Board decision to disallow their merger.

The merger was backed by Public Enterprises Minister Dawda de Villiers.

Copecoil managing director Piet Malan says the decision is "not in the best interests of SA".

NMW director Bernard Lazarus says "it is likely to have serious consequences for the metallurgical-engineering industries".

Neither company will challenge the decision.

Mr Malan says the merger would have generated an extra R100-million in exports in the next two years because of improved competitiveness, productivity and economies of scale.

Both insist that the planned merger would not lead to a monopoly position.

Both have adopted other measures to improve competition and reduce costs.
Pressure on the barons of JSE rises

By CIHAN RYAN

The ANC plans to introduce tough anti-trust legislation which may force unbundling.

An ANC spokesman says: "Competition Board chairman Piers Groves says unbundling is the only way to ensure that companies are not able to exercise control over the investment policies of the operating arm. This can create a conflict of interest between the desire to maximize profits and the need to maintain a certain level of competition within the sector."

"We believe unbundling will make an important contribution to withdrawing financial power from the Sfaxen," Foreign Minister Dr Nelile Mbeki says. "It is an important step in the right direction.""

Tight

Analysts say Barros' cut asset value is underestimated because of large unlisted holdings.

A Barros spokesman says a board meeting on 15th July marked the beginning of a series of meetings to work out details of the unbundling plan. The meeting was attended by shareholders, management and members of the company's advisory committee.

The company's management team is expected to present the final unbundling proposal to shareholders at a general meeting in early August.

R500m to bring electricity for all

By KEVIN DAVID

The project is the first of its kind in South Africa and is expected to provide power to an estimated 250,000 households by 2010.

The ESKOM and the life assurance companies have signed a R500-million ground-breaking agreement to finance the project. The company said the agreement would provide an important source of revenue for the company.

The project will be financed by a combination of grants from government and the life assurance companies. The company said the agreement was significant for the development of the country's infrastructure.

The agreement will enable the company to make a significant contribution to the country's energy needs, the company said.

The project is expected to create over 3,000 jobs in the region, the company said.

Out of order while northern hemisphere investors

Finance Minister Derek Hanekom, who put unbundling on the corporate agenda when he was Finance chairperson, says: "The unbundling of Sfaxen's operations will be a significant step in the transformation of the company."

"The unbundling will be a significant step in the transformation of the company. It is an important step in the right direction.""
Street traders in Cape Town's St George's Mall have accepted a deal to limit them to 60 stalls after they initially threatened to rebel against the new restriction. Under regulations published last week by Cape Administrator Kobus Meiring, however, it seems that only craft traders will be allowed. Traders were due to meet city officials this week to resolve the issue.

Until last week there were often more than 100 traders in the mall. Most sold clothing and other factory-made goods.

The traders moved into the mall last year after the Business Act came into force and deregulated hawking and business licences. The city council and retailers in the area immediately objected and appealed for Meiring to take action. But a move to restrict street trading was found technically invalid (Business & Technology December 18).

The agreement to allow 60 craft traders is a compromise by the city council, which had earlier decided that no trading would be allowed in the mall, and the traders. The move is also in line with a Cape Town Chamber of Commerce recommendation that the authorities should allow a reasonable amount of informal trading in the downtown mall network.

The chamber recommended that preference should be given to traders selling arts and crafts that would "add interest to the mall and reduce conflict with formal traders."

The traders said at the time that they were not totally opposed to the regulation but wanted it negotiated and not simply imposed by authorities.
Scrap Protection of Professions

Doctors and lawyers should be treated like any other businessman, says Errol Price

OPINION
BUSINESS ENVIRONMENT

In the public interest

The Competition Board has a role — but does it have enough power?

The Competition Board is something of an enigma. Elements of big business fear it, small business revives it and government sometimes ignores it.

The board’s profile has been raised in recent months through its issue of a host of far-reaching recommendations — some of them hardly to do with private commercial transactions, the board’s perceived focus.

For instance, the health sector was shocked last year by the board’s finding that health care operates “restrictive practices that don’t serve the public interest.”

The resultant recommendations were even more disturbing to an industry that has been protected for years by a host of statutory regulations Condemning maximum, minimum and recommended fees as price-fixing, the board proposed an end to the guaranteed payments that medical aid schemes make on receipt of a claim. It also said schemes should be allowed to supply and finance health care services.

Most of the board’s recommendations became law in the Medical Schemes Amendment Act, passed in February.

Another recent landmark report has been the one on the professions. The board has found — not unexpectedly — that a host of regulations restrict competition in each profession and guarantee professionals their (often exorbitant) fees.

And the board wasn’t short on suggestions of how to end what it regards as an abusive situation. Some of these include ending all restrictions on advertising and marketing; allowing fees to be completely negotiable; and allowing a person with a lesser, but appropriate, qualification to perform certain services at competitive prices.

The recommendations of this report, which amount to extensive deregulation, were submitted to Cabinet. They have had substantial influence on government attitudes.

The board’s recommendations on health care and the professions are particularly significant because they amount to deregulation rather than new regulation.

The recent strengthening of support from government gives the Competition Board — traditionally constituted to prohibit restrictive business practices and to sanction acquisitions — a new dimension.

Says board chairman Pierre Brooks. “The board is concerned with restrictive provisions in areas such as housing, health and education, where over-regulation could push up the cost of these services to the public.”

Brooks is also aware that other legally sanctioned practices restrict competition in the economy. “Tariff policy could be a particular hindrance to competition. If local firms aren’t competing with one another, they should at least be competing with international players.” He notes that as soon as local business becomes ineffective, it beats a trail to the Department of Trade & Tariffs, asking — in effect — for tariff protection against inefficiencies.

“This clearly isn’t in the public interest,” says Brooks. And he contests the traditional arguments from some businesses that, because of years of sanctions isolation, they simply can’t compete internationally.

“One can only accept these arguments to a limited extent,” maintains Brooks. “Otherwise this would mean an effective ban on all imports — a move that’s simply not going to happen as we move rapidly back into the international economy.” We need to accept that firms come and go. Protecting against...
competition can't secure a firm's existence forever. In the final analysis, market forces won't be denied. Firms that can't adapt will be swept away.

But do we need a Competition Board? Critics argue that market forces should remove the need for any formal competition policies and regulations. Wits University's Daniel Leach, a senior lecturer in business economics, is especially critical of competition policies and US-style anti-trust regulations.

Leach says: "Competitive forces are the only way to ensure that monopolies are kept in check. By constantly testing the market, they ensure that no single firm becomes too powerful."

To illustrate his point, Leach cites the IBM case in the US. IBM spent 13 years in court, from 1969 to 1982, fighting off a host of complaints from smaller competitors. The US Justice Department eventually dismissed the case (with IBM's bill at US$1 billion).

Brooks disagrees. He says that there will always be a need for a Competition Board or some equivalent institution to stop people distorting the market. "As soon as you kneel to fix prices, market share and tenders, you don't have a free market. Without strict enforcement, the competitive market can be eroded and subverted.

"There can also be a consolidation of industrial control in the hands of dominant firms and private and government power complexes. All countries whose economies are essentially market-driven have laws governing competition."

Brooks warns that countries which have interpreted 'laissez faire' to mean "whatever business does is to the benefit of the market" have all ended up enforcing heavy anti-trust legislation. "Competition policy should seek to ensure that market forces rather than government intervention remain the accepted norm," says Brooks. The ANC has already warned that it will investigate the possibility of introducing anti-monopoly and merger policies to curb what it sees as monopolies and to end continued domination of the economy by a minority within the white sector. There have also been rumblings that it would break up conglomerates.

The benefits of competition are at risk in markets which are concentrated. But he stresses the board accepts that some measure of corporate concentration is not only tolerable but desirable. "Monopolies are fine where they reach their position through competitiveness; they don't abuse this position."

The degree of economic concentration in SA is probably too high, says Brooks. There is a danger in having two or three major groups co-existing in parallel with companies within such groups confronting one another in numerous markets. This multi-market context induces them to compete rather than cooperate, since they recognise that strong competition in one market might see their rivals retaliate in other markets. This situation is exacerbated, argues Brooks, by substantial inter-group cross-shareholdings and interlocking directorates of competing companies.

Economists Brian Kantor and Joe Genser, however, argue that pyramids and conglomerates allow for effective control of the managers of operating companies, overcoming the familiar problem of separation of ownership from control. A feature that puzzles companies in the US, where pyramid structures are not allowed.

SA fared poorly in the recent World Competitiveness Report, coming only 10th out of 14 newly industrialised nations, behind Hungary, Brazil, Taiwan and Singapore. But even harsher is that SA was without a comprehensive competition policy until 1980. And even then, financial institutions were initially excluded from the provisions of the Act.

But the board, in its 13-year existence, has seldom interfered in the commercial transactions of big business. It has looked only at two mergers.

Copper giants Copalcor and Non-Ferrous Metals' proposed R600 million merger was stopped last year for not being in the public interest. The board found that a merger
Probes into parts, glass firms

The Competition Board will investigate leading companies in the motor spares and glass sectors.

A board spokesman said yesterday the investigation into the motor spares sector involved the FSI group and an acquisition by Varex in the motor engine parts market. Varex had been created by FSI subsidiary W & A last year through a series of mergers and acquisitions.

The board had to determine if the proposed transaction between Varex, Alert Engine Parts (Eastern Province) and Alert Engine Parts (Namibia) constituted an acquisition as defined in Section 1 of the Competition Act (relating to takeover acquisitions and effects on competition).

The spokesman said the investigation followed a warning to FSI last year of a formal board investigation into any further acquisitions in the wholesale engine parts market.

In November, the board had expressed concern about the concentration of control in the market, after FSI subsidiary Vekstra's purchase of Edies Stores and certain Spareco outlets.

Varex chairman Allan Schlesinger said the group held a relatively small share of the overall parts market. The proposed acquisition would not change that situation significantly, he said.

Probes

The investigation into the glass sector involved Plate Glass & Shatterprufe Industries (PGSI). The investigation — which was prompted by complaints to the board — would set out to determine whether one or more of the companies had a monopoly or was engaged in restrictive practices.

The board would also investigate acquisitions planned or made by PGSI in the past five years.

The Competition Board investigation follows January's announcement of a second investigation by the Board on Tariffs and Trade in just over a year into what PGSI claimed was the dumping of cheap clear flat glass imports in SA.

Rod Fehsen, MD of Glass SA (a division of PGSI), said it was inevitable that competitors would retaliate against Glass SA's recent application for protection against dumping of building glass in SA by Far East manufacturers.

"In addition to indignation about our dumping application, recent changes in our distribution policy have apparently contributed to complaints against us by our competitors," Fehsen said.
International norms favoured

Competition Board to get more teeth

GOVERNMENT has given in to demands that its policy on business competition be given muscle and that the Competition Board get extensive new powers.

Legislation is expected to be tabled next year giving the board powers to ban certain deals and mergers and impose fines of millions of rand

A spokesman for Public Enterprises Minister Dawie de Villiers confirmed at the weekend that recommendations were being framed to change legislation regarding the board and its operations Board chairman Pierre Brookes is holding talks which will lead to new legislation, pending Cabinet approval.

Brookes has previously argued that competition decision-making is too politicised. The board at present only makes recommendations to De Villiers, who has the final say.

Brookes wants undesirable business practices to be outlawed by legislation and not by government notice.

He has argued that maximum fines of R100,000 are woefully inadequate. In a recent discussion document, Brookes referred to Canadian competition laws which provide for fines of up to $10m.

On Friday, he added that EC competition rules made it possible for turnover-based fines to extract penalties running into millions of ecus.

Byrookes confirmed the board had been asked to draw up new recommendations. He has to come up with something, and if the basic principles are accepted by Cabinet, the recommendations will be published for comment.

PETER DELMAR

Brookes said the board would consult interested parties such as chambers of business and political parties before computing its recommendations.

Asked how many of his suggested changes were likely to be incorporated in the recommendations, Brookes said he did not want to speculate, but “the principles we have raised are sound and are based on substantial research. They also follow internationally accepted norms”.

Brookes said he could not speak for government on the independence of the board. However, international experience dictated that an effective competition policy had to be as depoliticised as possible.

He said he had not yet considered exactly how much maximum fines for anti-competitive actions should be, but believed there was considerable scope for raising the maximum. Parties injured as a result of anti-competitive practices should be enabled to institute private claims for damages arising from board rulings.

The Public Enterprises Ministry spokesman said the proposed changes were unlikely to come before Parliament during the current session. But Brookes was confident this would happen during the following session.

Brookes has also suggested the board be given the power to declare forms of anti-competitive behaviour unlawful as they arise. He believes all proposed business acquisitions of a pre-determined size should be comprehensively notified, while the board should be enabled to hire specialists or outside consultants for specific investigations.
The Competition Board 'needs remake'  

Matthew Curtin

The Competition Board has to be restructured if it is not to end up a paper tiger, hamstrung by red tape in spite of government plans to give it new powers.

Chairman Pierre Brooks said yesterday it was crucial to separate the board's investigative and decision-making functions. He had outlined his plans in a report - entitled Future Development on SA Competition Policy - distributed to government, the ANC, SAP and other interested parties in September last year.

Brooks said there was understandable concern that the panel which investigated restrictive business practices also recommended action to government on curbing them.

The new board, which will have the power to ban certain deals and mergers and impose multimillion-rand fines when legislation is tabled in Parliament next session, will consist of 'an office for competitive matters' and a tribunal.

Brooks said the board's investigations department would become the business practices office.

If the office found a business practice undesirable, the matter would be referred to the tribunal. The tribunal would consist of experts appointed by government.

It was vital to replicate the process of the civil courts in the board's workings to minimise bureaucratic restrictions, Brooks said. The board currently made recommendations to the Public Enterprises Department, and aggrieved parties could re-examine evidence and re-argue their cases, setting off the process again.

In future, aggrieved parties would be able to appeal through the courts. Efficiency would also be improved by ending the publication of reports in two languages. In future, a party would nominate a preferred language.

He said he was confident that the changes were supported by government and the business community.

An ANC spokesman said yesterday the organisation welcomed plans to give new powers to the board. Competition policy in SA was 'currently non-existent' and although change was necessary, it should not be done unilaterally without due discussion.
Haggie copper refinery may close

Ferrous Metals (NFM) said yesterday that the future of its Waderville refinery was now under review as part of a rationalisation plan forced on high volume business.

Haggie finance director Bill Smart added that the German-based refinery fell into this category. Its fate, and that of its 80 staff, would be determined by production changes currently being undertaken at Haggie's plant at Springs.

"Volumes are too marginal to keep this (Waderville) going," Smart said. "We're examining very carefully every area of our business."

Copalcor, which has already cut staff by nearly a quarter to 1,590 over the last 18 months, expected to lose a further 200 staff as a result of the contraction.

The announcement of the contraction follows less than a month after government backed the Competition Board's view that the merger should be barred.

Copalcor and NFM convert about 65,000 tons of scrap a year, producing R500m of semi-finished copper products, of which R100m was exported.
Trucking tycoon’s methods 'harmful'  

By Thabo Leshilo

Deputy Minister of Trade and Industry David Graaff has accepted the recommendations of the Business Practices Committee to have declared harmful "certain business practices" by millionaire trucking tycoon Raan Coetzee and several colleagues, committee chairman Professor Louise Tager said yesterday.

Coetzee’s practices were first exposed in a Star Line investigation.

They relate to agreements for transport contracts with Coetzee's trucking ventures Primex, Vragmotorhuur, Prime Truck Hire, Ace Hire, Five Star Comb-Hire, Five Star Taxis, Check Hire and Club Hire.

Involved in the schemes are Alet Muller, Annette Jacobs, Michel Adendorff and J Hofmeyr.

The businesses would appoint clients to carry out transport contracts as subcontractors on behalf of principals, said Tager.

Prospective clients were assured they would be helped to obtain financing for vehicles.

The clients had to make substantial advance payments in respect of goodwill.

"In terms of the contractual commitment between the client and the business, all advance payments would be forfeited in the event of the client not obtaining financing for the purchase of the vehicle."

The committee said no assistance was provided to obtain financing and no transport contracts for execution by clients were available.
**NEWS**

**Trucking tycoon Coetzee punts ‘lucrative scheme’**

By June Bearzi
Star Line

Unstoppable trucking tycoon Ruan Coetzee has again side-stepped Government moves, announced yesterday, to outlaw certain business practices in seven of his latest ventures.

He is now inviting the public to invest in a “lucrative tourist scheme”, Sun Tours.

Several prospective investors told Star Line that last month they had responded to advertisements offering “a chance to get a foothold in the luxury bus industry”.

After an initial visit to the Sun Tours offices in Main Road, Randburg, they said they were led to believe the company had a money-spinning contract with hotel giant Sun International to operate luxury tour buses.

Investors said they were told that for an initial R40 000 outlay they would secure the right to operate Sun Tours buses, which would earn them up to R20 000 a month.

Marsha Fourie of Vereadvertising and Willie Dekker of Segunda said they realised after discussing the deals with Alet Muller at Sun Tours that the scheme was similar to the Coetzee transport scams exposed by Star Line over the last two years.

When Fourie challenged Muller about her association with Coetzee, Muller finally admitted she was working with the tycoon but claimed that the Star was intent on “subotaging” their businesses.

Dekker said he was told by Muller that Sun Tours would be operating from offices in George in the southern Cape.

Muller said tourist buses were in great demand because of the influx of foreign visitors.

“The monthly income they promised sounded too good to be true. It also dawned on me that this was just another Coetzee scam,” Dekker said.

In a special Government Gazette published yesterday, it was announced that the Coetzee companies Prime Truck Hire, Ace Hire, Five Star Combi Hire, Five Star Taxis, Check Hire, Club Hire and Prima Vragsmotortuiste had been found to be involved in harmful business practices.

It was pointed out that Coetzee’s partners in these ventures were Muller, Annette Jacobs, Michael Adendorff and J Hepburn.

Star Line has, over the last few months, run several articles slating these seven ventures, which netted Coetzee more than R1 million.

The latest move followed by the Harmful Business Practices Committee, which had placed an order on Coetzee and his first group of companies - Truckkor, Comedyland SA Rebuild - at the beginning of last year.

The Government action in both cases followed extensive Star Line investigations into Coetzee’s business activities.

About 600 investors were snared by Coetzee and many were financially ruined after sinking tens of millions of rands into his schemes.
CAPE TOWN — The mushrooming of property syndication schemes poses serious risks for investors, says Professor Louise Tager, head of the Business Practices Committee.

She told the Sapoa convention that these schemes generally attracted smaller investors who did not always realise their money was locked into the scheme; that unlisted shares could not be traded in the same way as listed ones.

"We're not saying these schemes should be stopped, but people must be properly informed. Full disclosure is critical."

The committee welcomed steps taken by Sapoa to regulate property syndication. But it would not hesitate to take steps against misleading advertisements offering unrealistic profits.

Investors considering syndication schemes should know they did not entail property transactions, that investors did not own the property and that public companies were obliged to issue a prospectus before offering shares to the public.

One of the committee members said the public did not understand that being a shareholder in a share-block scheme did not mean owning the property. It was the company in which they held shares that owned the property.

Life-right schemes — "These are nothing more than leases for life. The term life rights conveys the impression that the holders have a form of title, which they do not."

Retirement villages — Elderly people were often attracted to these schemes by the promise of security and frail-care centres, but "security is often not provided and frail-care centres, if they are constructed at all, are more often than not used as recreation facilities."

Examples of possible abuse:

- Share-block schemes — "The public does not understand that being a shareholder in a share-block scheme does not mean owning the property. It is the company in which they hold shares that owns the property."

- Life-right schemes — "These are nothing more than leases for life. The term life rights conveys the impression that the holders have a form of title, which they do not."

- Retirement villages — Elderly people were often attracted to these schemes by the promise of security and frail-care centres, but "security is often not provided and frail-care centres, if they are constructed at all, are more often than not used as recreation facilities."

This would constitute a harmful business practice, she said. The legislation on retirement villages was under review.
Government help gives the system a flying start

EDI has been implemented successfully in several countries with strong financial backing from governments. The Taiwanese Government, for example, contributed US$250 million to getting the country EDI active over five years. The Government of the Netherlands has been helping countries to do something similar. Both governments want their economies to be economically competitive.

In South Africa the situation is a little more complex because of other priorities. However, the Government, through SITPROSA, has been involved in the simplification of trade for some time.

SITPROSA represents both public and private interests in trade simplification. With a limited budget, it plays the role of facilitator and adviser in the implementation of EDI. It runs courses, etc.

Standard

When EDI came to be recognised as a major way to simplify matters, the United Nations (through Economic Commission for Europe Working Party 4) was asked to develop international standards for EDI. Since then, 125 messages have been published, plus rules and guidelines.

The standards being adopted in South Africa are largely based on those recommended by the UN and known as the EDIFACT standard (EDI for administration, commerce and transport).

It is a standard that can be used by all industries, in all vertical markets and is not limited in terms of application.

SITPROSA's role is two-fold: to represent South Africa at deliberations on the UN recommendations and to publicise and promote them in this country.

SITPROSA chief executive Albert van Aardt has been elected to what is believed to be the highest appointment of a South African in the UN to date. He is the vice-rapporteur of the new UN board to standardise EDI in Africa.

His election indicates more widespread acceptance of SA by the international community.

Mr. van Aardt says, "This work is essential if South Africa wishes to keep abreast of other countries."

The subcommittee for EDI (EDES), which falls under the SABS Technical Committee for Information Technology, is made up of representatives from 12 countries. They range from mining, chemicals, health care, retailing and freighting to government bodies.

The SABS along with SITPROSA and SAANA (SA Article Numbering Association) have formed working groups to develop messages for specific industry sectors where no international messages exist or where UN standard messages are not suited to the local environment.

Once the working groups have standardised messages, they are approved by the sub-committee and eventually published as recommended practice.

The manager, electronic engineering and physics, standards, at the SABS, Wojtek Skowronski, says: "At this stage we are publishing them only as recommended standards because things are changing so fast that we must be able to review and update them."

Vanguard is out to break barriers

THE South African Vanguard Initiative is a nonprofit organisation devoted to promoting economic development, productivity and international competitiveness through the use of value-added services.

The first stage of the Vanguard Initiative was to identify the needs of value-added services, to quantify them and identify the funding.

Steering committee chairman Bob Peacock says: "In other countries similar initiatives have been largely government backed.

Role

"But in this country it is up to private industry to develop strategies to promote international product distribution and domestic productivity through the implementation of electronic trading."

Until now EDI communities have been evolving vertically with little cross-industry pollination. But eventually there has to be communication horizontally among different industries; it is our role to facilitate the breaking down of industry barriers."

The Vanguard Initiative is putting together a project plan which includes a promotional campaign, a training scheme and consultancy.

"Similar campaigns have worked overseas and with sufficient funding we plan to implement them here," says Mr. Peacock.
Competition Board takes up price row

THE Competition Board is to investigate complaints by a group of franchisees of a leading national music chain, who claim their parent company is charging them prices for stock that make it difficult for them to compete with their opposition.

The complaints were lodged by eight branches of the Top CD retail outlets who say the parent company has cut off their supplies, leaving them in dire straits because suppliers are contractually precluded from dealing directly with them.

The Competition Board investigation was gazetted in the Government Gazette on Friday.

The board's investigation will be in terms of section 10(1) of the Maintenance and Promotion of Competition Act.

The intention is to determine whether the franchise agreements between Top CD and parent company Dial-a-Movie (the franchisee), and agreements between the franchisers and the suppliers, constitute a restrictive practice.

Branches

The branches that have laid the complaint are in Bloemfontein, Sandton, Vereeniging, Musgrave Centre in Durban, Westgate in Johannesburg, East Rand, Mowbray, and the Waterfront and Cavendish Square in Cape Town.

Owners of the dissatisfied franchisees claim they are unable to compete with other retailers because Top CD — which is owned by Dial-a-Movie, a company listed on the JSE — absorbs the discounts and rebates granted by suppliers.

The franchisees believe the discounts should be passed on to them, which would allow them to immediately lower their prices.

The franchisees are also unhappy that suppliers will only deal directly with Top CD head office and not with individual franchise holders.

"We were told when we signed the contracts that we could buy stock from authorized suppliers. What we weren't told is that the suppliers were already tied to a contract with head office and this precludes them from dealing directly with the franchisees," a source said.

Discounts

Mr David Kahn, an attorney for Top CD, said last week that supplies had been cut off to all the eight franchisees because they were in arrears with either their payments for CDs supplied to them, or franchise and advertising fees and or establishment costs.

"This is disputed by the franchisees who claim that many of the discrepancies are a result of 'genuine disputes' which they say Top CD has refused to address.

"Mr Kahn confirmed that the company was not passing on discounts to franchisees.

"The only reason we are getting these discounts is because we are buying on behalf of about 20 stores who would anyway not be able to get individual discounts on bulk purchases.

"I am not aware of any written agreement that precludes them from dealing directly with a supplier, but the suppliers are refusing to deal with them as they are already dealing with us.

"However we have taken advice from counsel who have told us there has been no breach of contract on our part."

Attorneys Mohamed Husein and Mark Radomsky of Edward Nathan and Friedland, who are representing six of the franchisees, said they were confident that the Competition Board would come to their clients' assistance.

Yesterday a spokesman for the franchisees said they had received verbal undertakings from local CD suppliers who have indicated that they would be 'happy to deal with individual stores. The suppliers had also indicated that they would also be prepared to pass on substantial discounts to them.

Top CD's parent company, Dial-a-Movie, was a top performer on the Johannesburg Stock Exchange in the first quarter of this year when its share price rose 35%.

The chief Executive of Dial-A-Movie, Brian Cunningham, was recently quoted as saying that the CD business is expected to make up two-thirds of the company's profits in the current financial year, which ends this month.

Compact disc prices are a sensitive issue.

Earlier this year top groups Dire Straits and Simply Red accused their record companies of "greed" because they were overpricing CDs.

Managers of these groups and record companies were "manipulating the market"
Dial-a-Movie franchise row

PUBLIC Enterprises minister Dawie de Villiers was considering placing a restraint of trade order on Dial-a-Movie, the listed video and CD store franchise, under investigation by the Competition Board for restrictive trade practices, a government source said yesterday.

The board announced on Friday that it was conducting a wide-ranging investigation into Dial-a-Movie and its Top CD franchise. The investigation hinges on complaints by some franchisees that Dial-a-Movie is preventing them from setting their own prices and buying stock directly from record companies, which offer significant discounts to retailers. The franchisees have alleged Dial-a-Movie pockets the discounts without passing on the benefits. They say these practices are in breach of their franchise agreements, and are making their businesses uneconomic because they cannot compete with rival chains.

A restraint of trade order would prohibit the company from these activities, but a government source said de Villiers still had to evaluate a board recommendation on the issue. A Ministry spokesman said he could not comment yesterday.

Top CD franchisee committee spokesman Ron Hagger said he could not comment because of a confidentiality agreement struck between the eight franchise owners he represented and Dial-a-Movie management while negotiations continued. Talks started on Sunday and are expected to finish tomorrow. Dial-a-Movie executive chairman Brian Cunningham is abroad and operations director Gert Nel was not available for comment.

It was reported at the weekend that a Dial-a-Movie spokesman confirmed the company had cut off supplies to the eight franchisees which had registered the complaint. He confirmed Dial-a-Movie was not passing on discounts and said supplies had been cut to stores which were behind in their stock and advertising fee payments, a charge denied by the franchisees who claimed the company was behind in meeting their own pay to available discounts.

It is not the first time Dial-a-Movie has fallen foul of the management of its franchises. At least 20 disgruntled franchisees cancelled contracts with the company for the management of its video stores in February 1990, complaining that the company was overspending on video titles and was not delivering the benefits promised from its advertising campaign.
Dial-A-Movie to fight order

DIAL-A-MOVIE, the video and compact disc franchisor under investigation by the Competition Board, may apply for an amendment to a government restraint-of-trade order due to appear in tomorrow's Government Gazette.

Attorney David Kahn, representing the company in its dispute with a number of Top CD franchisees, said yesterday Dial-A-Movie was likely to make representations to the board to change the terms of the Public Enterprises Ministry directive.

The directive from Minister Dawie de Villiers was issued on a board recommendation after the launch of a probe into allegations of restrictive business practices carried out by the company.

Kahn said there was no question of the company being involved in price-fixing, a criminal offence under the Maintenance and Promotion of Competition Act. However, it was not possible to comment further on the dispute because of the sensitivity of negotiations with the franchisees.

A source close to the eight aggrieved Top CD franchise managers said tentative plans were being considered for new meetings with company management.
Minister calls tune in row over contracts to sell CDs

A DIRECTIVE from the Minister of Public Enterprises Dr Dawie de Villiers has overridden a contract between Top CD franchisees and their parent company that precludes franchisees from dealing directly with CD and cassette suppliers.

The directive, published in the Government Gazette on Friday, ordered that the parent company, Dial-a-Movie, should not “directly or indirectly compel or induce their franchisees from charging a particular, or particular minimum, selling price.”

This move follows a decision by the Competition Board to investigate complaints by eight branches of Top CD in the country — including two in Cape Town.

The branches complained that the parent company was not passing on large discounts from record companies that would have allowed them to drop their prices.

After the complaint was filed, the Competition Board instituted a two-point restraint of trade order on Dial-a-Movie under section 10 of the Maintenance and Promotion of Competition Act.

The Competition Board’s investigation into “restrictive business practices” would be completed in three months, a spokesperson for the Board said.

The attorney for the franchisees, Mr Mark Radomsky of Edward, Nathan and Friedland, said his clients wanted to be released from their contracts.
SABS issues warning on quality of SA products

Mziwakhe Hlangani

THE poor quality of SA products would make the country uncompetitive in international markets, SA Bureau of Standards president Jean du Plessis said in his 1992 report.

Du Plessis said the high costs of capital and labour placed limitations on industrial growth.

Growth was further limited by lack of capital investment, frequently outdated capital equipment, illiteracy and a shortage of trained workers and managers.

He expected the decline in growth rate to get worse in the year ahead.

The recession, the longest since the Second World War, had an adverse effect on overall business activity. As a result of SA's economic structural problems there was little prospect of an early turnaround in conditions.

Du Plessis attributed the limitations on industrial production to continuing harsh economic conditions.

He said the nature of SABS's activities had insulated it from the recession. But declining production activity and price resistance among customers would make 1993 more difficult than 1992, he said.

The subdued state of the trading partners' economies would exacerbate the situation, he said.

Investigations, tests and services had remained the backbone of SABS's income.

These had contributed a 15.4% increase to R39m (R33.5m) in income. Self-generated income had risen to R73m (R60.7m).

Other important revenue sources included levies for compulsory specification, permit fees for standardisation marks, listing schemes and assessment services.
 Govt delays move on drugs pricing policy

STRONG reaction to government’s decision to outlaw discriminatory pricing practices by drug manufacturers, due to come into effect today, has led Public Enterprises Minister Dawie de Villiers to amend and delay the prohibiting notice.

A revised notice, based on new representations to the Competition Board, was published in the Government Gazette on Friday and will take effect from August 18.

However, De Villiers said the recommended amendments “do not derogate from the principal purpose of the notice, which is to outlaw discriminatory practices which are distorting competition in the market without, on the evidence presented, yielding any substantial public interest benefit.”

Following an investigation, the board recommended last year that drug manufacturers should not discriminate in favour of dispensing doctors, who were found to be winning an increasing share of the R1.1bn drug market.

The pharmaceutical industry welcomed the ruling. Manufacturers were favouring trading doctors and private hospitals with special prices, which led to profit-taking by dispensing doctors with little benefit for patients.

De Villiers said reaction to the original notice had been widespread.

It is understood that the pharmaceutical industry and the Medical Association of SA were concerned that the ruling appeared to outlaw the offer of medicine samples and gifts by wholesalers to their customers.

De Villiers said the prohibition was couched in general terms which the courts would interpret on a case-by-case basis. The prohibition did not “oblige manufacturers to sell medicine to all buyers at the same price” or affect their distribution policy.

Manufacturers were not prevented from registering or marketing the same drugs at different prices as long as all purchasers had “equal access to the differently priced medicines.”
Fasa monitors probe

THE Competition Board's probe into the dealings of Dial-a-Movie and Top CD could have huge ramifications for the franchising industry and as a result is being closely monitored by the Franchise Association of Southern Africa (Fasa).

Fasa, which wants to avoid government control of franchising, says if any feature of a member's activities is illegal or unethical, it would terminate their membership.

The Competition Board last week launched an official probe into claims by eight Top CD franchises that the holding company Dial-A-Move was involved in restrictive practices.

These include preventing stores from setting their own prices, forcing the franchises to buy stock through Dial-A-Move and failing to pass on discounts given by record companies.

Fasa says agreements where franchisors are required to purchase goods from the franchisor are not unusual and are perfectly legitimate provided the arrangement is not contrary to the public interest or otherwise unethical.

"It is however fundamental that the franchisor should not profit from his franchisees in a secret or underhand way. Mark-ups on goods supplied by a franchisor to a franchisee should be reasonable and the franchisor should ensure that franchisees are fully aware of such mark-ups and any bulk discounts which may accrue to the franchisor."

Franchisees would be dissatisfied if they found that their franchisors were taking secret profits.
Anger over longer liquor sales hours

By JACOB DLAMINI

ANGRY independent liquor store owners have rejected proposals to extend trading hours of retail stores and have accused the government of insensitivity.

The proposals are part of the Liquor Law Amendment Bill, which went through its second reading in Parliament recently. In terms of the new Bill bottle stores would be allowed to trade from 8 am to 8 pm during weekdays and 8 am to 5 pm on Saturdays. The bill does not make provisions for trading on Sundays.

Bottle store owners claim that only chain stores stand to benefit as they have the resources to make staff adjustments. They say that extended trading hours would lead to an increase in robberies.

Raul Teixeira, executive member of the South African Liquor Store Owners Association, said: "There is no sales advantage for small traders. The law will mean convenient shopping hours for the consumer, but huge security risks for us."

Mr Teixeira said only chain stores would benefit from the new law as most were situated in shopping centres which had extensive security arrangements.

"It is not fair that people who only form nine percent of the retail industry should be the ones to benefit from the law," he said.

Mr Teixeira said his Association made representations to the government which were ignored. "We sent them a letter but our views were not considered. Maybe if we march they will listen to us," Mr Teixeira said.

Major chain stores have welcomed the new proposals but countered allegations made by the Independent owners. They said the new bill would lead to staff and labour adjustments which could become costly.

"Small owners stand to benefit the most as they do not have unions to complain about overtime," said Rob Rutter, general manager of Benny Goldberg Liquor stores.

Mr Rutter said: "I will not be making any changes, so this will have no impact on my business."

The proposals were welcomed by Trevor Pearman, a director of Rebel Liquor Group. "We are in favour of the new bill. We want to provide the best possible service to our consumers," Mr Pearman said. He said his company would look at ways of making adjustments suit both the employees and the consumers.

Len Pfister, legal director for Western Province Cellars, also accepted the new bill saying, "The new bill does not prescribe to anybody. It merely provides maximum trading hours which can be ignored."
Demand buoys up De Beers

DE BEERS reached a 12-month high of R48.75 after the Central Selling Organization announced 42% higher diamond sales of $3.54 billion for the first six months of 1993.

The CSO warns that although demand for rough stones remains firm, it would be unwise to consider the first-half jump a reliable guide for the year's outcome. Sales were aided by seasonal factors, fewer Angolan and Zimbabwean roughs, the first-quarter shortage of Russian polished stones, buoyant demand from India and increased exports of polished stones to America.

India has 260,000 thousand cutters who bring in stones for polishing and export. Full convertibility of the rupee improved their fortunes, and they were able to handle more stones. The second-largest cutting centre is Israel with 9,000.

The dry season and political instability in Angola and Zaire have led to renewed supply of stones from these areas, but not in the large quantities of last year.

Russian polished supply dried up because of the introduction of a 20% export surcharge. Although this is thought to have been removed, bureaucracy is hampering the normal flow of diamonds.

Another new source of supply in the second half of the year is the American Government, which sold $77 million or roughs from its strategic stockpile and is believed to plan more sales.

The polished-stone market is weaker than that of roughs. The CSO predicts no dramatic improvement in retail sales until the world economy recovers.

Better sales allowed the CSO to lift average prices 15% in February, mainly on stones of three carats or greater, where demand is strongest.

In May, producers' delivery entitlements were raised 5% to 80%. This figure has now been lifted to 85%.

Terra tops unlisted probe

THE Business Practices Committee, chaired by Louise Tager, is to investigate Terra Exploration & Development.

The inquiry will be undertaken in terms of the Harmful Business Practices Act.

Terra has issued shares to the public either for cash or in exchange for shares in other non-listed public companies. It was refused a JSE listing last year.

Terra is a subsidiary of Falcon Development. In the past few years it has undertaken an elaborate paper chase, issuing shares to holders of various companies controlled by Milie de Pena.

The companies include Hemisphere, Redbank, New Era and Great African Resources. They companies all required qualified financial statements, generated little or no income and were largely dormant.

The committee will also investigate limited liability companies PCF Development Capital, Falcon Development, PCF Securities and La Roc, and proprietaries Falcon Corporate Finance, RRP Corporate Finance, Terra Holdings, Principal Securities, Principal Mining, Mantra Investments CC, all

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Anglo backs ANC call for competition probe

ANGLO American has thrown its weight behind the ANC's call for an independent inquiry into competition policy, saying the policy must be settled before real economic reform can go ahead.

In its 1993 annual statement, Anglo American chairman Julian Ogilvie Thompson said SA had to find a policy that would give it the 'right mix' of strategies pursued by Pacific Rim nations and those in Europe.

An independent inquiry "would increase the likelihood of arriving at a consensus based on economic, rather than political criteria, consistent with the sound macroeconomic framework the country is now developing".

The commission should be 'properly constituted', Ogilvie Thompson added, and chaired by an international expert, with representatives from government, trade unions, business and consumers.

The backing is the first olive branch publicly offered by big business to the ANC since the debate on anti-trust and competition policy heated up in December last year.

The ANC wants to implement anti-trust policies, which it argues would dilute ownership, boost competition and encourage foreign investment. The policy is in line with unbundling large conglomerates and the banning of cross-directorships, both of which could put the ANC at odds with Anglo.

Ogilvie Thompson said SA had to 'restart and sustain economic growth and broaden the participation of black South Africans in the economy. "Nothing should be done which thwarts these overarching goals," he said.

However, anti-trust legislation was not appropriate because SA was a developing country. "An acceptable trade-off has to be found," Ogilvie Thompson said. "SA cannot afford a purist competition policy that empowers the private sector's capacity to compete, internationally and create wealth."

Despite the overture to the ANC, Ogilvie Thompson still left himself at variance with the organisation, arguing that SA needed more large companies "if it is to hold its own in the 21st century".

Anglo's size and financial strength had allowed it to compete effectively at home and overseas, he added, and also take on large projects such as the R3,5bn Columbus stainless steel joint venture.

Ogilvie Thompson also reiterated opposition to unbundling.

Though Anglo did trade at an average discount to net asset value of around 21%, he said shareholder wealth was unlocked elsewhere in the premium at which the shares of Anglo's subsidiaries and associates traded.

Increased competition would not come from breaking up corporate masses, but exposing its companies to the full force of international trade.

Too much of the SA economy was dependent on the measures introduced during the apartheid years, Ogilvie Thompson said.

Competition at home and greater foreign investment hinging on tariff reform coinciding with the gradual lifting of exchange controls.
Stones fly in glass industry

INDEPENDENT glass distributors have thrown more stones for the Competition Board's current investigation into SA's leading producer, Plate Glass & Shatterprufe Industries.

Triangle Glass and other independent glass distributors made representations to the Competition Board concerning Glass SA's proposed acquisition of Hardglass Safety Manufacturers, Triangle MD Cyril Gebhardt said in a statement. This development in the R1bn a year glass industry added fuel to the Competition Board's recent decision to investigate the structure and conduct of Glass SA's listed parent Plate Glass & Shatterprufe Industries.

Glass SA subsidiary PFG Toughened Glass and Hardglass are SA's two major toughened architectural glass manufacturers. Gebhardt said the acquisition would allow Glass SA to further dominate the industry if it went ahead with the deal.

A Glass SA spokesman said the group had submitted a motivation to the Competition Board for the proposed acquisition and was awaiting its advice.

On a related front, Triangle and its allies were embroiled in a battle with PFG through the board on Tariffs and Trade (BTT) over anti-dumping duties. The BTT had postponed a final decision on this matter after refusing an application by PFG for renewal of provisional duties.

Adding to the furor was a complaint submitted to the Competition Board by car glass manufacturer Glasfit over PFG's refusal to continue to supply toughened glass to it at distributor prices, thus giving PFG Automotive Safety Glass, a company within the stable of Plate Glass & Shatterprufe Industries, an unfair advantage.

"Glass SA claims that the additional production capacity at Hardglass will allow it to expand its export portfolio without having to erect a new plant, but we believe the motive is to control the industry and its price structures," said Gebhardt.
"No evidence of collusion"

Competition Board chairman Dr Pierre Brooks, who is investigating the possibility of collusion between manufacturers over margarine price hikes, said in Cape Town yesterday that there is insufficient evidence to suggest collusion had taken place. The board launched its investigation last week after retailers announced price increases on margarine and low and medium fat spreads of up to 84 percent — Sapa
Board strained by work load

The Competition Board is straining under the heaviest workload in its history as it prepares for an increasingly high-profile role in shaping business in SA.

Investigations director Wouter Meyer said yesterday the board was "inundated with work" and had never been busier in the past 10 years.

Meyer said the board's attention was primarily focused on the new powers it was expected to gain later this year — due to government plans to pass legislation enabling the board to ban certain deals and mergers and impose fines — and its longstanding investigation into the deregulation of professional services.

The deregulation probe would be a time-consuming exercise. The board is investigating the ways in which statutory regulations could be eliminated in the legal, medical, veterinary, pharmaceutical and other professions that amounted to work reservation or restrictions on entry, marketing, price competition and association.

In addition, the board was dealing with eight key investigations and appeals:
- A preliminary investigation into price collusion in the sale of margarine sparked by last week's 34% price increase in some brands by the Shoprite/Checkers chain;
- An investigation into price-fixing and restrictive trade practices between listed franchisee Dial-a-Movie and its Top-CD outlets;
- A delayed notice outlawing discriminatory pricing practices by drug manufacturers, which is effective on August 10;
- The continuing probe into the structure and conduct of Plate-Glass and Shatter-prufe Industries;
- The retail rationalisation plan probe into the informal agreement between government and the oil industry, which critics say prevents the sale of cut-price petrol;
- The investigation into whether absentee corporation Abcor is a monopoly;
- A second investigation into the marketing of computer hardware and software by computer group IBM; and
- The appeal by Transnet against government's decision to back board recommendations that it make land owned by it in Richards Bay available to a developer.
Dial-A-Movie trade restraint lifted

The Public Enterprises Ministry has lifted the restraint on trade order placed on Dial-A-Movie in June after a dispute with its franchise arm, Top CD, over pricing and record procurement.

Competition Board chairman Pierre Brooks said the company and its franchisee operations had come to an agreement that obviated the need for the order.

Under the agreement, Dial-A-Movie will no longer require its franchisees to adhere to a particular price for stock, and will not use fees which Top CD refuses to pay as a basis for withholding supplies.

The grievance between the company and its franchisees came to a head in June, when Top CD complained to the Competition Board that the parent company was charging it prices which made it difficult to compete.

The board launched a wide-ranging investigation into Dial-A-Movie on the grounds of restrictive practices, which prompted Public Enterprises Minister Dawie de Villiers to place the interim trade restraint order.

Brooks says the investigation is still under way, with the board due to produce its report by October.

In a separate development, the board has put the spotlight on the proposed joint venture between Imperial Cold Storage and Nel's Bliss.

The two groups announced last month they planned to merge their milk and fruit juice interests into a venture with a R250m turnover.

The board said it was not consulted on the merger, being informed of the transaction only the day before the announcement, and had requested additional information from the organisations in order to determine whether it would institute a formal investigation.
**Medicine price regulation delayed**

EXCEPTIONS of an early introduction of a single "exit price" for medicines were dashed last week when pharmaceutical manufacturers lodged objections to planned regulation.

A single exit price has been seen as an aid to stabilising medicine costs.

Competition Board chairman Pierre Brooks said the appeal against a single exit price — the price at which medicines leave the factory — would result in a second inquiry which could take up to two years to complete.

At present, manufacturers charge different prices for their products, depending on the client.

On the basis of recommendations that followed a year-long inquiry by the Competition Board, Trade and Industry Minister Dawie de Villiers in May declared the differential pricing of medicines unlawful.

But in terms of the Maintenance and Promotion of Competition Act, the manufacturers had until last Tuesday to lodge an appeal against the introduction of a single price.

Brooks said last week a "court" with a judge and two assessors would soon be constituted to hear submissions. It was still to be decided whether the hearing would be held from the beginning, he said, adding that with so many interested parties the inquiry could take two years to complete.

The National Association of Pharmaceutical Wholesale said many manufacturers had courted private clinics and dispensing doctors, promoting their products by offering discounts that were not available to wholesalers.

This had led to a two-tier pricing system, with wholesalers being charged inflated prices to "balance the books".

The discount offered to doctors was rarely passed on to patients, the association claimed.

Brooks said the Competition Board report found the practice had also resulted in many doctors trading in pharmaceuticals.

The case of a large wholesale group, which found it cheaper to buy supplies from a certain doctor rather than from manufacturers, was an example of the distortion brought about by the policy.

Manufacturers, on the other hand, opposed the introduction of a uniform price because it interfered with their marketing strategies, he said.
Firms get weighty responsibility

Pretoria - The weighing and measuring of products was increasingly becoming the responsibility of suppliers and industry, the SA Bureau of Standards (SABS) said at the weekend.

Deputy Trade and Industry Minister David Graaff said the opening of a new R1.5m metrology building earlier this month signified a "decided shift from pure policing funded by the taxpayer, to facilitation and control partly funded by industry."

Industry would also take over the calibration and certification of in-service measuring equipment with organisations receiving accreditation once they had demonstrated their competence.

The move towards self-regulation, which included the earlier transfer of the trade metrology division from the department to the SABS, was a significant step toward improved consumer protection, Graaff said.

An SABS statement said consumers had been short-changed on several occasions recently.

The transfer of responsibility to industry would serve to prevent this in future, it said.

The bureau's trade metrology arm had been "sensitising" industry to its new role and responsibilities.

"This has resulted in greater awareness in industry of how important it is for consumers to be correctly informed about the mass or volume of products."

...
Should your doctor be a pill-pusher?

Drug manufacturers like to sell pills and capsules through doctors because they create demand for the product every time they write a prescription. Some doctors like to sell drugs directly to patients because of the huge profits — they buy drugs at a big discount and sell at close to the price any pharmacy would charge. A few even supply wholesalers and pharmacies.

The Competition Board doesn’t like this setup. It claims that consumers are the losers because they’re forced to pay exorbitant prices in pharmacies so the drug companies can make up the discounts they hand out to doctors. — discounts that doctors rarely pass on to patients. So in December the board recommended that the practice must be stopped by forcing manufacturers to end the special deals for doctors and charge the same prices to everyone — wholesalers, hospitals, and doctors — adjusted only for volume and other factors.

In June, government agreed and the prohibition was to take effect last month. But at the last moment five of the big multinational drug companies appealed. The appeal could take two years — it probably will be six months before the Supreme Court even hears the case — so a debate that has raged for the past decade will continue for some time.

From a strictly free-market standpoint, the board has erred. Critics say that if drug companies want to offer big discounts to people who can push their products, that should be their right. If someone is making excessive profits, then there must be some government regulation or other intervention that’s restricting competition and should be eliminated.

Government certainly has a massive role in the drug market. State hospitals buy 70% of the drug companies’ output but use their clout to win big discounts so they supply only 30% of the companies’ revenue. Then there are generic drugs government still has not approved the sale of cheaper, generic equivalents of most drugs. Finally, there’s the overregulation at the retail level. The corner pharmacies are still protected against competition from large chains such as Clicks and Pick ‘n Pay.

The Representative Association of Medical Schemes (Rams), whose members foot the bills for the ever-more costly drugs, says addressing these issues will do much more to reduce drug prices than any difficult-to-enforce ban on discounts to doctors. Says Rams executive director Reg Magennis “Rams does not believe that the introduction of this single measure will, in isolation, contribute significantly to reducing the medicine-cost spiral. This objective can be achieved only in the context of a comprehensive and well-structured strategy involving all players in the health-care system.”

The dispute over the so-called dispensing doctors goes back to 1984. With drug prices escalating, government gave pharmacists the go-ahead to substitute generic equivalents for expensive branded drugs. So the manufacturers, angered by the reform, began encouraging more doctors to buy their branded drugs directly from them, sweetening deals with prices that undercut wholesalers by as much as 50%.

Eventually, pharmacists were barred from suggesting a generic substitute — the doctor or patient has to ask for it — but the cosy relationship between the doctors and manufacturers continued. Doctors now dispense about 30% of all private-sector prescription medicines, five years ago the figure was only 10%.

Medical schemes report that last year some individual doctors dispensed more than R800 000 worth of medicine. Some earn more from dispensing than they do from their practices.

The mushrooming sales by doctors have raised ethical as well as legal questions. Is it right for doctors, who stand to make a lot of money, to be pushing drugs through the prescription pen?

The Medical Act clearly prohibits doctors from trading but the Medical & Dental Council has found it difficult to enforce these rules in all but a few cases.

It’s not fine points of ethics, however, that concern the wholesalers and retailers, the issue for them is lost sales and profits. The manufacturers have to recoup these discounts from somewhere, says one wholesaler.

But the manufacturers apparently don’t feel as strongly. Only five — SmithKline Beecham, Pfizer, Wellcome, Rhône-Poulenc Rorer and Glaxo — joined the appeal SA Pharmaceutical Manufacturers’ Association president Hugo Snickers stresses that the manufacturers have supported the principle of charging the same price to everyone — called single-unit pricing — for some time. He says their complaint is over the vague and confusing wording of the ban on discounts.

Instead of doctors, however, the manufacturers may be contemplating an entirely different market. The Medical Schemes Amendment Act, which takes effect next year, allows medical schemes and group practices to run their own dispensaries, which will give them the bargaining power to negotiate for discounts from manufacturers. Says Snickers “We don’t want to walk in the lawyers or end up in court every time we want to strike a deal. One needs scope to negotiate.”

Indeed, giving medical schemes more bargaining power, along with other reforms in the pipeline or under discussion — such as allowing large retail chains to run pharmacies, clearing the way for greater use of generics and dropping restrictions on the imports of some drugs — may make the whole issue of discounts to doctors moot by the time the appeal is finally heard.
STEEl TRADE STILL UNDER THE MICROSCOPE

The long-awaited Competition Board report on alleged restrictive practices in the steel trade, which was reportedly ready to be turned over to Public Enterprises Minister Dawie de Villiers earlier this year, will be delayed for at least a few more months.

"Hopefully, the report will be ready by the end of the year," says a board staff member. "Work pressures flowing from other priority investigations prevented its earlier completion, as expected."

The investigation is focused on steel traders, which buy steel from producers such as Iscor and sell it to users, but Iscor also will be looked at because customers are able to buy directly from it in certain circumstances.

"We are also investigating alleged collusion between Corusal and Non-Ferrous Metals in the purchasing of non-ferrous scrap," the staff member says. "But, while sales collusion is illegal, there is as yet no blanket ban on co-operative purchasing. However, if our investigation shows such behaviour to be against the public interest, it might also be outlawed."
Food proposals 'will protect consumer'

THE ANC's proposals to drop the agriculture control boards in favour of deregulated food trade were in line with the country moving from an era of producer protection to one of consumer protection.

This was the view of Stellenbosch University's Prof Ecker Kassier, who welcomed the proposals yesterday. Kassier published a report on control boards earlier this year. (2406)

The ANC produced a policy document at the weekend calling for the scrapping of more than 30 control boards and all restrictions on marketing and moving agricultural products. Only minimum health and hygiene regulations would remain.

The ANC's report went further than the Kassier report, which recommended the boards remain in place but that their legislative powers be removed. Kassier proposed that farmers participate in control boards on a voluntary basis and be allowed to use other marketing channels.

The ANC's land and agriculture policy centre recommended that single regulatory and legislative system be set up to market agricultural products. However, Kassier warned yesterday that small farmers would need access to some form of marketing channel in place of the boards.
BY ROY COKAYNE

The JSE listing of video and compact disc franchiser Dial-A-Movie, among the Financial Mail’s Top 300 industrial companies, has been suspended following its provisional liquidation in the Pretoria Supreme Court.

A spokesman for attorneys David Kahn & Associates in Johannesburg confirmed yesterday that Dial-A-Movie had been placed in provisional liquidation on Monday.

The spokesman said the application was brought by a creditor.

Staff at Dial-A-Movie’s head office at Verwoerdburgstad were told last Thursday that an application was to be brought to liquidate the company.

Chief executive Brian Cunningham was unavailable for comment as he is currently overseas.

The Dial-A-Movie liquidation application followed a Ministry of Public Enterprise restraint of trade directive slapped on the company on June 18.

On the same day, a notice was published in the Government Gazette announcing a Competition Board investigation into the maintenance of Competition Act to determine whether any franchise agreements between Top CD (Pty) and Dial-A-Movie (Pty) and the company’s franchisees constituted a restrictive practice.

The restraint of trade directive was withdrawn in August after Dial-A-Movie gave certain undertakings to the Competition Board.

Prior to these two announcements, Dial-A-Movie was involved in a dispute with a number of its Top CD outlets.

These disputes have not yet been resolved but the franchised outlets are still operating.

Competition Board chairman Pierre Brooks said the board’s investigation had not yet been concluded.

He added that an extension had been granted to allow the Franchising Association to make a submission on the whole question of franchising in South Africa.

Brooks said apart from issuing a report on Dial-A-Movie, the idea was for the board to issue a specific document providing general background on franchising.
Board will probe SAA

Announcing the investigation yesterday, Competition Board chairman De-Pierre Brooks said Flyestar had alleged the
dominant State-controlled SAA was guilty of restrictive practices.

"Issues of concern are SAA's frequent-flyer programme, exclusive corporate discount arrangements, overriding commissions to agents and the improper use of its computer reservation system."

In terms of the Government's domestic air transport policy, SAA was required to shed capacity and operate as a commercial airline.

Compliance with the policy necessarily entailed SAA reducing its staff — Sapa
'Restrictive' SAA under scrutiny

By 18 November

STEFANO BROTHER

The Competition Board is to investigate alleged restrictive practices by SAA for the second time in less than a year.

Board chairman Pierre Brooks said yesterday this followed a request from the privately owned domestic airline Flitestar, which claimed that state-controlled SAA was guilty of restrictive practices.

Critical to be examined by the board were SAA's frequent-flyer programme, allegations of improper use of its computer reservations system, exclusive corporate discount arrangements and overriding commissions on agents. Brooks said.

Flitestar MD Jan Blanke said the use of such incentive schemes was not necessarily anti-competitive, but the manner in which they were implemented could be.

The board was also asked to look into the possibility of a code of conduct regarding computer reservation systems. Flitestar director, Jackie Vermosten said.

The investigation follows government's appointment of a committee chaired by Civil Aviation Commissioner Japie Smit to investigate the state of SA's deregulated domestic air transport market. The committee's brief included making recommendations on the possible restructuring of the deregulation policy.

After January's investigation into SAA's operations, the board accused SAA of anti-competitive behaviour and recommended that it raise domestic fares and reduce capacity on primary domestic routes. This was linked to government policy and was, to an extent, implemented.

Brooks said "Flitestar is not convinced that the measures adopted so far are adequate to ensure effective competition over the medium and long term." An SAA spokesman said "We have been notified of the new investigation and will in due course give our input to the board."
No crackdown on grey imports

PRETORIA — The Harmful Business Practices Committee said yesterday that regulating the parallel import market would not be in the economy's interests. Committee chairman Louise Tager said licensed distributors of branded goods had complained that imports of grey goods — goods imported and sold without a guarantee from the manufacturer or authorized agent — undermined their businesses and reputations.

One distributor claimed smuggled or illegally imported electronic products worth more than R100m were brought into SA every year.

The committee recommended introducing a consumer code on warranty slips and sales receipts rather than a crackdown on the industry.

"The trend is to move away from regulated markets and protectionism," Tager said. "Protecting licensed importers could ultimately do the economy more harm than the importation of products that do not match local conditions."

According to submissions received by the committee, grey products were frequently intended for other countries and did not meet local specifications.

Grey marketeers were also able to undercut licensed distributors as they did not have to spend money on product promotion, staff training and maintenance and often avoided import tariffs and duties. They did not offer technical back-up, servicing, compatible accessories or approved retail infrastructures.

Tager said many grey importers ran legitimate businesses. It was false to argue that prohibiting or restricting parallel importation would protect investment in the distribution systems of licensed dealers.

"The only sustainable protection for this investment is competitive and productive superiority. If parallel importation threatens the local industry that industry would by definition be uncompetitive." Consumers had the right to buy goods for which there was no warranty or back-up service, provided they were "fully aware thereof."

While it was impractical to oblige retailers and dealers to tell customers whether or not they belonged to authorized distribution networks, it should be possible for dealers to do so in consumer codes on warranty-related literature and on sales receipts.

A consumer code should inform customers whether products were guaranteed or supported by the manufacturer, the seller and/or any organization not related to the manufacturer or licensed distributor, or not at all.

While dealers should refrain from misrepresenting the licensed distributors' support for any product, consumers also had a duty to obtain relevant warranty information, Tager said.

If dealers, grey or licensed, were found to have reneged on agreed after-sales services, steps would be taken in terms of the Harmful Business Practices Act.

Tager appealed to interest groups to submit proposals and comments on the proposed consumer code. She expected the code would be gazetted by early next year.
FLITESTAR vs SA AIRWAYS

Upset in the making

SA is not following the script when it comes to airline deregulation. When other countries open up the industry and let competition reign, it's usually the government-owned or heavily cosetted private airlines that rapidly lose altitude. Having grown fat on protection, they're no match for more imaginative and aggressive rivals. The now-defunct Pan Am and Eastern in the US, and the money- losing Luftansa and other State-owned European airlines are prime examples.

Just the opposite has happened locally since deregulation. The privately owned Flitestar was expected to make a quick meal out of SA Airways. Instead the upstart is bleeding red ink while the government-owned airline has trimmed its fat and learnt to adapt to competition. SA turned a R70m loss in fiscal 1992 into a R87m profit in fiscal 1993, while the much smaller Flitestar has dropped R70m in the two years since it started.

Instead of the stodgy veteran asking for government help, it's the brash newcomer that's calling for a lifeline. Last month, Flitestar convinced the Competition Board to investigate whether SA is competing fairly.

The first investigation ended in January with a recommendation that SA should reduce its capacity and increase its fares on domestic flights, which it did. The second investigation, expected to be completed in two months, could result in much more stringent recommendations.

But if the result doesn't go Flitestar's way, the airline might not be able to survive. It has captured a respectable 22.5% of the market on the domestic routes it shares with SA.A, but there's no end in sight to the losses. The three owners - Rentmeester Beleggins, which holds 46%; Safren Ren nes Holdings, 37.5%; and Prentia's De Meulenaar family, which holds the balance - are not willing to pump more capital into the operation. Money is so tight that advertising has been cut.

Critics point to Comair, which is making money by offering cut-rate flights from Johannesburg to Cape Town and Durban, and conclude that Flitestar's losses must be caused by management. But Flitestar denies this, quoting a study of Flitestar by international airline consultants SHK that found that for our size, our cost structures and distances covered compare favourably with other airlines.

Flitestar claims that it entered the market after undertakings by government that SA

would be run as a commercial enterprise and that its capacity would be constrained, at least during a transitional period. If Flitestar can establish that these promises were specific enough to show that a breach has occurred, it may have a case for some accommodation.

If Flitestar folds, the shareholders will lose their entire R500m investment because the airline has no assets to sell. Its aircraft are leased; its offices rented. SA. maintains its air- craft and S Aar does ground handling.

But if Flitestar can hold on for another year, it may get help from an unexpected source, the ANC. An ANC government might reverse the NP policy of commercialisation that has made SA and other State-owned companies leaner and more competitive than ever. If it uses SA and the other companies as job-creation programmes and patronage pools as the Nats once did, Flitestar would get a second lease on life.

The Competition Board probe is looking at possible malpractices by SA (resulting from its dominant position in the domestic air transport market). These possible malpractices could stem from how it handles its frequent-flyer programmes, corporate discount arrangements, payment of sometimes more than minimum commissions to travel agents, and its computer-reservation system.

Board chairman Pierre Brooks says this investigation will be more formal than the last one. If the finding goes against SA, Public Enterprises Minister Dawwe de Villiers, "may have to declare certain SA conduct unlawful.

SA's CEO Mike Myburgh's feeling is that Flitestar is using its position as the underdog to "get the board to carve pieces off SA. I agree that government's attitude should be to help the weaker airline stand on its own two feet, but not at the expense of the stronger one. Flitestar hasn't benefited from the help it was given by our reduction in capacity and increases in fares."

He says Flitestar's complaints about how SA operates amount to objections against normal business practices. "Flitestar also operates a frequent-flyer programme. Corporate discounts can be equated with volume discounts, and paying higher commissions to travel agents is probably the oldest way of doing business."

He demeans that SA's use of its computer reservation system puts Flitestar at a disadvantage. The airlines and local travel agents are linked by a computer system devised by SA, but there are no specific allegations that SA has manipulated this system to the other airlines' detriment.

Flitestar says it objects to SA's frequent-flyer programmes because SA has a much larger domestic route system, allowing customers to earn bonus miles on more flights and cash them in to more destinations. This puts Flitestar at a disadvantage, so it wants bonus miles earned on either airline to be good for flights on the other airline. But Myburgh says this would defeat the purpose of the programme, which is to reward customer loyalty.

Flitestar's complaint about corporate discounts is based on its fear that SA is sewn up all the big corporate customers, such as Anglo American and Barlows. Finally, Flitestar's objection to higher commissions appears to be a red herring, for it gives a 9% commission on all tickets sold, one point more than the minimum, while SA grants the higher commission only in certain cases.

SA must be given time to show an adequate return on capital. But Flitestar's own capital inadequacy is not an argument against SA's practice. Where Flitestar may have an argument is if government is in breach of specific undertakings, especially if it has welched on bringing SA to full and final privatisation.
Committee finding on interest overcharging

THE Business Practices Committee yesterday found that overcharging of interest rates on current accounts was mainly a result of poor communication between clients and banks, as well as human error resulting in incorrect rates being loaded into computers (2.45).

The committee had held discussions with the Council of Southern African Banks (Cosab), which had agreed to discuss the formulation of a Code of Good Banking Practice. This would provide for information on dates, amounts and the nature of any charges, on interest debited or credited and on the interest rates applied, committee chairman Louise Tager said.
Going after the bad guys

The Business Practices Committee was not greeted warmly when it began back in July 1988. Critics argued that its far-reaching powers would lead to price controls and wage freezes at a time when government was supposedly committed to deregulating the economy. The Free Market Foundation described the Act setting it up as "the type of legislation one would expect to find in the worst banana republic."

But with a host of public rip-offs amounting to hundreds of millions of rand's being uncovered regularly — the milk culture saga was probably the final straw — government decided that consumers needed additional protection over and above the expensive and often inaccessible court system, protection that was already available in the US, UK, Australia and elsewhere.

The new committee was given the power to investigate any agreement, practice, scheme, operation or understanding that it believes is a harmful or potentially harmful business practice. Its brief also included the right to search premises, seize documents and to recommend to the Minister of Trade & Industry that a business practice be stopped. Contravention of the Minister's order carries a maximum penalty of R200,000 and five years in prison.

More than five years later, much of the furor has died down. Says Ken Warren, the SA Chamber of Business's director of legal affairs: "We support the work done by the committee and we believe its success has been largely due to the calibre of its seven members and the fact that it has had a strong private-sector representation. All the complaints we have referred to them have been dealt with promptly."

However, Free Market Foundation executive director Leon Louw remains wary of the committee's wide authority. "The committee's only saving grace is that it is chaired by Louise Tager. He is concerned that someone less learned, ethical and pro-free market could use the committee to shut down any business on a whim. He would prefer to see the committee prosecute an offender through the court system and make use of interdicts to stop any existing or potential harm. "We need laws that are more transparent and less dependent on the benevolence of power."

Tager insists that the committee's powers don't detract from any other legal remedies. "The consumer can still institute a civil action for damages against a party that has defrauded him or caused him loss. A criminal charge can also be laid."

But she points out that even if the defrauder is brought to book, there is little satisfaction for the consumer when the court fines or imprisons the wrongdoer. "The consumer's loss is simply not compensated." She stresses that the committee won't undertake an investigation unless there is a possibility of harm to the consumer. The party under investigation has the benefit of a full hearing, and the committee's findings, with reasons, are made available. "Anybody who acts any differently would be exceeding the parameters of the Act."

But while speculation about the committee's future — as with the rest of the legal system — continues, it's clear there's a demand for its services now. By the end of last year, the committee had received 527 complaints and instituted 28 full investigations. Many of the complaints are sorted out simply through an informal discussion.

Tager agrees that she's understaffed but says there's simply no point in asking for greater resources when the State can't afford more. Still, in recent months the committee's business was stopped. Another amendment allows the Minister to seek a temporary order to stop a business practice for six months while the committee investigates. Previously, activity could only be halted for three months.

The most far-reaching amendment, though, is one that allows the committee to proceed with a preliminary investigation — seizing documents — without giving notice in the Government Gazette. Says Tager: "The notice had the effect of prejudicing the business in the public eye before investigations had started. In any event, a preliminary investigation often ends there and doesn't lead to a final investigation." Look back on the committee's work, Tager says the area of greatest exploitation appears to be taking place through the sale of shares and debentures in public unlisted companies. "Thousands of small investors are persuaded to invest their life savings in shares that will in all probability never amount to anything." The problem is that shares in a public unlisted company are usually sold without a prospectus. The promoters argue that the sale is a private placement, therefore no prospectus is required.

"It is our view that the sale of shares to the public without adequate disclosure of information on the financial position of the company could constitute a harmful practice. Similarly, the sale of debentures in unlisted companies without a prospectus, in the case of Supreme Bond and others, constituted a harmful practice, particularly since they were sold to repay old debentures that were due, a purpose not disclosed to the public."

Tager says an increasing number of complaints have been received against people who liquidate their companies and immediately resume business under a new name.

Tager also says she's warned the public to beware of investing without adequate financial information about the company, but that a major problem is the abuse of the Companies Act. "The public perception is that statutory protection comes automatically with a public company. But statutory protection is a myth — who polices the statute?"

She favours a dramatic revision of the Act.

On the other hand, Tager is happy about the committee's success in encouraging self-regulatory bodies in several industries to have their internal codes of conduct approved by the committee. Codes already are approved for the furniture, motor, advertising, timeshare and vehicle-recovery services industries. Codes for the building, travel and beauty sectors are being prepared.

Says Tager: "Codes contain norms and standards by which the particular sector has chosen to discipline itself. A code is, therefore, not a regulation imposed by government; it consists of the standards identified by fellow businessmen."
Fuel industry faces new business rules

Source: The Competition Board expects

The Competition Board is expected to recommend measures to improve competition in the fuel industry. The measures could include

1. Increased transparency in pricing
2. Removal of excessive barriers to entry
3. Strengthening enforcement of antitrust laws

By: Gianni Ryan

(Original text等内容)