

Unilateral Conduct Working Group Questionnaire

In case you have any questions on the questionnaire, please contact Elizabeth Kraus at the US FTC or Arno Rasek at the Bundeskartellamt. Please send the completed questionnaire by 31 October 2006 to ekraus@ftc.gov and arno.rasek@bundeskartellamt.bund.de, and provide a contact person who can answer possible questions on your response.

A. Objectives of unilateral conduct laws

1. *With regard to your jurisdiction's unilateral conduct rules – e.g., rules concerning the prohibition of abuse of dominance or monopolization - please state the objectives of these rules (e.g., consumer welfare, efficiency, protecting the competitive process), and identify the source from the following, as applicable:*

- a. *Constitution*
- b. *Statutes*
- c. *Regulations*
- d. *Agency enforcement policy (e.g., guidelines, speeches)*
- e. *Case law*
- f. *Other (please identify)*

The various prohibitions against abuse of a dominant position in South Africa are derived from Section 8 of the Competition Act, 89 of 1998 ("**the Act**"). Accordingly, the legislation has created statutory protections against the abuse of a dominant position. It should be emphasized that the statutory prohibition against abuses of dominance is designed to prevent "abuses" of dominance rather than dominance itself.

The primary purpose of the Act is stated as being "*to promote and maintain competition*" in South Africa. It is stated that the objectives of the Act underpinning the primary purpose are to:

- promote the efficiency, adaptability and development of the economy;
- provide consumers with competitive prices and product choices;
- ensure that small and medium enterprises have an equitable opportunity to participate in the economy;
- promote employment and advance the social and economic welfare of South Africans; and
- promote a greater spread of ownership, in particular to increase the ownership stakes of historically disadvantaged persons.

2. *Are non-competition influences (such as promotion of industrial policy or distributive welfare) incorporated in these objectives? Please describe any such influences.*

Alongside the primary purpose of ensuring vigorous competition within South Africa, the Act also aims to foster a number of socio-economic objectives such as employment and

social and economic welfare, opportunities to participate in world markets (and to recognise foreign competition in South Africa), equitable opportunities for Small and Medium Sized Enterprises to participate in the economy, and increasing the ownership stakes of historically disadvantaged persons. (See Section 2 of the Act).

3. *If there are multiple objectives, how are these balanced or reconciled?*

The objectives are used solely in the interpretation of the specific provisions of the Act. Accordingly, the competition authorities will, where appropriate have regard to the relevant objectives in seeking to interpret the provisions of the Act. The Competition Appeal Court has recognized in *Glaxo Wellcome (Pty) Ltd v Terblanche NO and other* (Case number 03/CAC/Oct00), that:

"The purposes of the Act as set out in section 2 are manifold and may not always be reconcilable in the short term. Thus to take a single example, section 2(b) emphasizes competitive prices and product choices while section 2(c) seeks to promote employment."

4. *How has your jurisdiction balanced the risks associated with over-deterrence (detering efficient, pro-competitive conduct as a result of excessive intervention) with the risks associated with under-deterrence (permitting anti-competitive conduct as a result of too little enforcement) in choosing its objectives for unilateral conduct rules? Is this choice affected by the nature of your economy?*

The Act seeks to achieve a balance between under and over deterrence on the following basis. The most egregious offences tend to be per se prohibited practices (for example, price fixing, market division, etc) whereas the other prohibitions tend to entail balancing the anti-competitive effect of the conduct against the efficiency, technological or pro-competitive gains associated with the conduct. Even in the case of unilateral conduct by dominant firms this distinction is maintained. In the case of excessive pricing or refusing to give a competitor access to an essential facility where it is economically feasible to do so, this conduct may not be justified. The other abuse provisions entail a measure of balancing. In addition, contraventions of the per se prohibitions may entail the imposition of an administrative penalty, where the contravention of the "rule of reason" provisions will only result in the imposition of an administrative penalty for a "second offence". The exception to this is section 8(d) which contains a number of specifically enumerated examples of exclusionary acts

5. *With regard to exemptions or exceptions to your laws specific to unilateral conduct (for example, for regulated sectors, government entities, purchasers, or exercise of intellectual property rights), please identify the exemption or exception and explain whether and how its goals differ from the objectives of your general unilateral conduct law and how the jurisdiction balances or reconciles these factors.*

The Act's system of prohibitions is balanced by a scheme for exemptions that incorporates policy considerations other than competition. The exemption provisions are, however, narrow in scope and accordingly, to date, very few exemptions have been granted under this system.

The Commission has the power to grant an exemption from the prohibitions against restrictive agreements or abuse of dominance (unilateral conduct) in terms of section 10 of the Act. An exemption may be for a particular agreement or practice or for a general category of them. An exemption must be limited to a specified term. Grounds for exemption include:

- the maintenance or promotion of exports,
- the promotion of small businesses or firms controlled by historically disadvantaged persons to become competitive,
- changing capacity to stop decline in an industry, and
- the “economic stability” of an industry designated by the Minister of Trade and Industry, after consultation with the minister responsible for that industry. (Section 10(3)(b) of the Act).

The process for granting or revoking exemptions calls for investigation and an opportunity for public notice and comment. The Commission’s decision concerning exemptions may be appealed to the Tribunal.

The grounds for exemption are largely in line with the overall objectives of the Act which recognizes that there are certain socio-economic and political objectives that must be protected in promoting the efficiency, adaptability and development of the economy.

6. If the objectives of, or exemptions or exceptions to, your unilateral conduct rules are influenced by the nature of your economy (e.g., small, transition, or recently-liberalized), please explain.

The promulgation of new competition legislation was designed to ensure more efficient protection and enforcement of competition law in the country whilst taking into account socio-economic issues previously neglected. There was a recognition that business conduct that prevents the efficient and competitive functioning of the domestic economy needs to be regulated and that competition legislation needed to promote market access and equality of opportunity in the national economy. To this end, provision was made in the Act for the protection of small to medium sized companies (including the promotion of their entry into and participation within various markets) the redistribution of labor and the promotion of a greater spread of ownership amongst the historically disadvantaged groups. These policy goals are reflected in list of exemptions set out in terms of section 10 of the Act. Furthermore, these broad policy goals can be found in relation to the general exemption, covering collective bargaining and labour agreements, contained in section 3(1)(a) and (b) of the Act. In addition, a related type of concerted action is also exempted from the application of the Act, namely “concerted conduct designed to achieve a non-commercial socio-economic objective or similar purpose.” (Sec 3(1)(e) of the Act).

7. If the objectives of, or exemptions or exceptions to, your unilateral conduct rules have been substantially reviewed or revised, please describe any change and the reason.

Section 10 of the Act (dealing with exemptions) has been amended, though not materially or substantially. Unlike the pre-amended subsection 10 (1) to (3), the amendment expressly and explicitly requires a practice or conduct in respect of which an application for exemption has been made to meet the requirements of subsection 10(3) before the Commission may grant the exemption. Subsection 10(4) regulating the exemption of practice or conduct relating to the exercise of intellectual property rights has also been amended. The pre-amended subsection 10(4) simply stated that the conduct or practice in respect of which an application for exemption is made in terms of the subsection must relate to the exercise of a right acquired or protected in terms of various pieces of legislation listed in the subsection. It did not expressly include a description of the nature of the conduct or practice, i.e. that the conduct or practice should "*relate to the exercise of intellectual property rights*".

The objectives of the Act have not been amended, reviewed or revised.

8. Are there institutional features (e.g., the possibility for a ministry to overrule competition agency decisions or the requirement the competition agency consult with other governmental agencies) that affect your agency's ability to achieve the objectives of the unilateral conduct rules? If so, please explain.

Although the three competition authorities (i.e. the Commission, Tribunal and the Appeal Court defined in paragraph 1 above) receive their funding from government, they enjoy independence from government. Section 20 and Section 26 of the Act states that they are subject only to the Constitution and the law. The Appeal Court is staffed by High Court Judges and has the status of a High Court. The only exceptions relate to exemption proceedings (where the Minister of Trade and Industry may designate an industry based on the economic stability of that industry), banking mergers and sectoral regulators which enjoy concurrent jurisdiction.

The Act establishes concurrent jurisdiction where it applies to "*an industry or sector of an industry that is subject to the jurisdiction of another regulatory authority which has jurisdiction in respect of conduct regulated in terms of chapter 2 of the Act*". It requires the Commission to enter into memoranda of understanding or agreements with sector-specific regulators to co-ordinate and harmonize the exercise of jurisdiction over competition matters, and to ensure a consistent application of the principles of the Act. The agreements are intended to set procedures, promote co-operation, and provide for the exchange of information and protection of confidential information. The agreements between the Commission and sector specific regulators are meant to achieve and provide an occasion for sharing views among the regulatory officials. These agreements do not, however, deprive the Tribunal of its statutory jurisdiction.

9. Please describe any difficulties that your jurisdiction has experienced with its objectives for unilateral conduct rules. Based on your experience, what, if any,

suggestions (including selection of other objectives) would you have for your or other jurisdictions, and why?

The obvious difficulty with the objectives of the Act (and thus the unilateral conduct provisions) lies in the fact that they are manifold, require equal protection and promotion yet the Act does not provide a guideline on how to balance them against each other and/or against a particular anti-competitive conduct in question. The presence of these difficulties can be illustrated by the criticism leveled against the incorporation of socio-economic objectives in the Act by an economist, Professor Duncan Reekie of the University of Johannesburg, who stated that:

"The scope of the error, flexible interpretation, and subjectivity of judgment seems great... The socio-economic objectives incorporate redistribution, labour interests and black economic empowerment. Relying on the competition policy to achieve these objectives is inappropriate. There are more specific (and hence more effective) policies that can be used"

It is, therefore, the view of others that the inclusion of socio-economic objectives grants competition authorities too wide a 'subjective discretion' which leaves room a greater scope of error and a lack of uniformity in balancing these objectives against each other and against anti-competitive conduct complaint of.

B. Assessment of Dominance/Substantial Market Power

1. *Please provide a brief description of single-firm dominance/substantial market power as defined in the provisions of your jurisdiction's general competition law, relevant agency policy statements (e.g. guidelines, speeches) and/or case law that pertain to unilateral conduct. As appropriate, please also explain whether and how your agency categorizes different levels of dominance/substantial market power (e.g., "super dominance").*

The definition and assessment of dominance follows a two-step approach: the first step being to establish the ambit of the relevant market and then to determine whether either the party has market power (defined as the "power of a firm to control prices, or to exclude competition or to behave to an appreciable extent independently of its competitors, customers or suppliers"). Where a party has a market share of between 35% and 45% it is rebuttably presumed to be dominant. If the firm has a market share in excess of 45%, it is irrebuttably presumed to be dominant. Where a firm seeks to acquire a position of dominance by way of a merger, it may be precluded from doing so in terms of the merger proceedings.

2. *Under your general competition law governing unilateral conduct, at which stage(s) can your competition agency intervene against potentially abusive unilateral conduct?*

- *If dominance/substantial market power is present* yes/no
 - *Acquisition or creation of dominance/substantial market power* yes/no
 - *Attempt to acquire or create dominance/substantial market power* yes/no
 - *Other (please identify)*
- Why did your jurisdiction choose these stages?*

It is important to point out that the Act does not sanction a firm merely because it holds a dominant position in the market. What the Act sanctions and prohibits is the abuse by a firm of its dominant position or market power in the market.

3. *Does your law contain or do you use a market share threshold at which you presume single-firm dominance/substantial market power and/or as a “safe harbour”?* yes/no
- If so, please respond as applicable:*
- *What is the market share level of the dominance presumption?* _____
 - *Is the dominance presumption rebuttable?* DEPENDS
 - *What is the market share level of the safe harbour* _____
 - *Is the safe harbour absolute (i.e., dominance/substantial market power cannot be found below the specified percentage level)?* N/A
 - *What is the legal basis of the presumption /case law/guidelines* statute
 - *What is the legal basis for the safe harbor? law/guidelines* N/A

In terms of Section 7 of the Act a firm is dominant in a market if:

- it has at least 45% of that market;
- it has at least 35%, but less than 45%, of that market, unless it can show that it does not have market power; or
- it has less than 35% of that market, but has market power.

There is an general exemption, which is based on firm size and is dealt with in section 6 of the Act. The Minister of Trade and Industry ("**the Minister**") has the power to define a threshold below which the abuse of dominance prohibitions do not apply. This can be based on turnover or assets, and it can be defined either in general or for specific industries. Presently a general *de minimis* threshold (i.e. having little effect, if any, on competition in the market as a whole) has been set at R5 million in turnover or assets in South Africa.

4. *Does your competition law enable the competition agency to intervene against unilateral conduct at a level below the dominance/substantial market power threshold ?* yes/no
- If so, please explain why and in which circumstances.*

Other than in the case of restrictive vertical agreements.

5. *Does your jurisdiction's analysis of dominance/substantial market power first require that a relevant product and geographic market be defined?* yes/no

Yes.

6. *Which of the following criteria do you use for the assessment of single-firm dominance/substantial market power?¹*

- *Market share of the firm and its competitors* yes/no
- *Market position and market behavior of competitors* yes/no
- *Durability of market power* yes/no
- *Barriers to entry or expansion* yes/no
- *Economies of scale and scope/network effects* yes/no
- *Buyer power* yes/no
- *Access to upstream markets/vertical integration* yes/no
- *Access to essential facilities* yes/no
- *Market maturity/vitality* yes/no
- *Financial resources of the firm and its competitors* yes/no
- *Profits of the firm* yes/no
- *High prices (at absolute or comparative level)* yes/no

Please specify any other criteria that you use to assess single-firm dominance/substantial market power. _____

The authority would take into account all of these types of factors and others to determine whether a firm has market power (ie is able to control prices and exclude competition or behave to an appreciable extent independently of its customers or suppliers). Clearly market conduct of a firm in question will also be relevant in determining whether it has market power. One of the most powerful factors which is considered is empirical evidence of the exercise of market power. These factors are not specifically enumerated and the competition authorities are empowered to consider any factors which may indicate that a firm has market power.

7. *Of the criteria that you use to assess single-firm dominance/substantial market power, which are the most important criteria?*

To establish dominance in a particular market, a firm's market share is the most important criteria owing to the statutory presumptions.

8. *Please explain how your authority evaluates each of the criteria that you use, and also how it weighs the different factors.*

¹ The answer "yes" should be provided if you use this criterion (amongst other criteria) at least in some of your cases. Conversely, the answer "no" should be provided if in practice you have not ever used that criterion.

As set out above, the Competition Tribunal requires parties either to establish that the relevant market share thresholds have been exceeded or that a firm in question has market power on the basis of a proper market analysis. The Competition Tribunal is not constrained to take account of specific facts nor is there any statutory weight attached in making this assessment.

9. How do you evaluate the competitive significance, if any, of intellectual property rights (patents, trademarks, copyrights, etc.) in assessing dominance/substantial market power?

Is intellectual property presumed to create dominance/substantial market power in your jurisdiction? **yes/no**

Intellectual property rights provide a statutory framework of exclusivity that may constitute a barrier to entry. Where a dominant firm uses its patent rights in a manner that impedes or prevents a firm entering into or expanding within a market, the prohibition contained in section 8(c) of the Act may be used.

10. Does the assessment of dominance/substantial market power differ in a small or isolated economy from the assessment in a large or integrated economy? For example, might dominance in small markets be presumed at lower (or higher) levels of market share than in other jurisdictions? Do free trade agreements alter the assessment of dominance/substantial market power? If so, please explain why. [NB: Jurisdictions that do not consider themselves “small” economies are welcome to skip this question.]

Not applicable.

11. Please explain briefly the link between the definition and assessment of dominance/substantial market power in your jurisdiction and the objectives of your unilateral conduct laws.

The primary purpose of the Act is the promotion and maintenance of competition and a recognition that when market power exists it may distort the competitive structure of the market. The test postulated in the Act is sufficiently certain yet sufficiently flexible to adapt to and address situations in which market power may exist.

C. State-created Monopolies

Throughout this section of the questionnaire, the term “state-created monopolies” refers to firms that are dominant or that have substantial market power due to state-imposed restraints of competition. In most cases, these firms were (or are still) owned by the state and the state did not (or still does not) allow for any private competitor. In an effort to avoid duplication with the ICN’s previous work, this project does not address the interface with network access or price-cap regulation implemented by a sector-specific regulator. Accordingly, we request that you do not focus on sectors that are/were regarded as “natural monopolies” and that are now subject to such regulation. Therefore,

please answer the questions excluding references to the *telecoms, energy, water, and railways* sectors.

I. State-created Monopolies

1. What are the main sectors of your country in which state-created monopolies exist? Please describe important sector examples, including whether these monopolies are state-owned², state-controlled³, state-enabled or facilitated⁴, recently privatized and/or liberalized, regional monopolies,⁵ etc.

Many state-created monopolies or companies have undergone major restructuring and have become public companies competing in their respective sectors. Those that still exist fall outside the scope of this paper, i.e Telkom (in the telecommunications sector), Eskom (in the energy sector), Trans-Caledon Tunnel Authority (in the water sector) and Spoornet, a division of Transnet (in the railway sector). For the rest, one is really dealing with dominant firms that were previously state-created monopolies and these are:

- Transnet, wholly owned by the South African government and reports to the Department Public Department and is therefore state-owned. It operates and controls the major transport infrastructures within South Africa. Its responsibilities include servicing the South African port (National Ports Authority and South African Port Operations), pipeline (Petronet) and rail (Protekon) business units;
- South African Airways (Pty) Ltd ("SAA"), owned by Transnet and currently in the process of transferring its shares and loan accounts from Transnet to the state with the purpose of converting it into a public company. SAA is Africa's dominant airline and South Africa's dominant local and international airline;

South African Broadcasting Corporation Limited, wholly owned by the South African government. It is the leading broadcaster in the commercial television, the commercial radio and public television broadcasting services

2. Please discuss the objectives behind the creation and/or perpetuation of state-created monopolies by providing specific examples from your jurisdiction. If the rationale for retaining the state-created monopoly was challenged (for example as a condition of membership in an international organization or to join an economic alliance or regional trade agreement) or has changed over time, please explain.⁶

It is important to note that the Act applies to the State itself, and thus government-owned entities are fully subject to it.

² Those undertakings that are 100% owned by the State.

³ The control belongs to the State, without taking into consideration the amount of the % of the State share.

⁴ E.g. where a monopoly exists due to exclusive rights granted by the state or due to state-imposed restraints of competition.

⁵ Includes public/private undertakings that are granted exclusive rights within a certain region.

⁶ The relevant information for answering questions 2, 5 and 6 may not readily be available within your agency. In this case, it is not necessary for you to conduct a research effort.

South Africa has undergone a massive market expansion and "economic transition" from an economy previously perpetuated by state-owned monopolies in the provision of basic goods and services to a more open market. These state-owned monopolies were subsidized through the fiscus, which was, accordingly, strained over time. The quality of service from state-owned monopolies was also seen to be quite poor. This strain on the fiscus and poor quality of service resulted in a move towards a model of ownership whereby they are owned by the treasury but excluded from the fiscal subsidy, or in which both the state and private investors share ownership or they have been fully privatized⁷.

3. Are there any legal or practical restrictions or difficulties faced by your competition agency in antitrust enforcement against state-created monopolies? If yes, please provide details and/or sample cases, for example:

- ***Legal restrictions/scope of application: Is there a "state action defense" (i.e. competition law does not apply to state entities or state acts) or any special exemptions/exceptions for the state-created monopolies from the general antitrust law in your jurisdiction?***
- ***Practical restrictions/difficulties: Please describe any practical restrictions that you have faced or may face in antitrust enforcement against state-created monopolies, such as instructions that your agency may receive from the government, political pressure, or overcoming vested interests.***

As stated above, the Act applies to all economic activity within, or having an effect within South Africa (section 1 of the Act). Except where specifically provided for in the Act, no individual, entity or juristic person is exempt from the application of the Act, including state-owned companies.

4. How does the assessment of dominance/substantial market power of state-created monopolies differ from other dominance/substantial market power cases?

There is no difference between the assessment and definition of dominance and abuse of dominance in respect of a state-owned monopoly and that of other types of firms.

II. Privatization and Liberalization Process and the Advocacy Role of Competition Agencies

5. Please briefly describe the ongoing or past privatization and liberalization process in your country. Is there a specific legal framework for the privatization in your country (e.g. a specific privatization law) ?

There is not a single uniform privatization framework applicable to all sectors as certain sectors have been earmarked for greater liberalization than others.

⁷ *Natural Monopolies – the role of competition authorities*, D Lewis, April 2004.

6. *What are the objectives of your government in the privatization and liberalization of state-created monopolies (for example, raising competition/consumer welfare, maximizing revenue from the sale, etc.)?*

The objectives of privatization is to promote economic efficiency by subjecting former state owned enterprises to market forces, in the belief that, should this work, the end result is lower prices to consumers due to increased competition and shareholder accountability.

7. *Is competition law applicable to privatization transactions (e.g. approval of interested bidders or the successful bidder under its merger control powers)?*

Yes, it is. The Act also regulates mergers under chapter 3 and sets out thresholds determining whether or not a particular merger is notifiable. It empowers the Commission to investigate whether or not a particular merger transaction will substantially lessen or prevent competition.

8. *Please summarize the advocacy role of your agency in the privatization and liberalization of state-created monopolies, including as applicable:*

- ***What are the legal instruments used by your agency for that purpose? To what extent are other government entities obliged or encouraged to seek the competition agency's opinion on or approval of privatization and/or liberalization proposals?***
- ***To what extent does the advocacy role of your agency have impact on privatization and liberalization? Please provide examples of successes or failures if available.***

The Act applies to all matters pertaining to competition matters, including the privatization of state-owned monopolies. In terms of Section 21 of the Act, the Commission may review legislation and report to the Minister any terms which permit of anti-competitive behaviour and may also formulate reports to the Minister which makes necessary suggestions or recommendations.

The role of our competition authorities can best be illustrated by way of the following statement made by the Tribunal member, Davis Lewis in his article, *Natural Monopolies – the role of competition authorities*:

"...the precise timing and mode of a privatization will have a major impact on the post-privatization state of competition. The competition authorities should be sensitive to this and should be advocating competition-friendly modes of privatization. What this means is that, while, as competition authorities, we should constantly point out that the old model for providing basic goods and services, the monopoly of state-owned enterprises, is an unlikely long-term solution, we should equally reject ideologically-driven pro-privatization approaches that refuse to acknowledge the complexities of a large privatization exercise and the profound damage that an ill-timed and poorly executed privatization may do, not least to the competitive structure of key markets. Hence, in South Africa we have an electricity utility that provides a relatively efficient and inexpensive service. While the utility has been corporatised and is primarily motivated

by profit, it has had imposed on it a reasonably public sector mandate regarding the roll out of electrification to under-provided rural and urban areas. The utility has managed to meet its public sector mandate, while simultaneously providing an inexpensive and relatively efficient service within commercially acceptable norms. It also has a reasonable relationship with its regulator, a body only established some 8 years ago. But strains are beginning to emerge. Arguably, over the past several years the utility has been able to draw on a cushion provided by excess investment in generating capacity in the relatively distant past. However, this is being quickly absorbed and new investment is now urgently required. This inevitably means a re-examination of the ownership model including vertical disintegration...while caution and conservatism should govern the approach of sophisticated competition advocates to large privatization initiatives, they should be uncompromising in their efforts to ensure that licensed monopolies do not successfully leverage their dominance into markets in which they do not enjoy the protection of their license...the fact is that most of the large utilities are vertically integrated behemoths whose activities extend deep into the markets of their suppliers and customers and, if unchecked, may do a great deal of damage to a series of important ancillary markets while the world focused only on their core market. One small example but there are literally thousands: our state-owned television broadcaster began to insist that private filmmakers contracted to make programmes for viewing on its various stations had, in their production, to utilize the studio facilities of the state broadcaster. This injunction brought forth howls of protest from private film making facility owners who insisted, quite correctly, that while the SABC's license conditions allowed it to dominate the airwaves, it accorded them no such right in the market for film making facilities. The competition authorities put a stop to this leveraging of monopoly power.

D. General

- 1. From among the following, how would you characterize your jurisdiction: developed / developing / transitioning?**

Developing

- 2. Please provide English-language citations to or summaries or excerpts of legislative history, leading judicial or agency decisions, or articles that explain your jurisdiction's choice of its unilateral conduct law objectives, its definition and assessment of dominance/substantial market power and/or its approach to state-created monopolies and privatization.**

The Competition Commission v South African Airways, case number 18/CR/Mar01.

The Competition Commission and Patensie Sitrus Beherend Beperk v Jakobus Johannes Petrus Bezuidenhout, Jan Daniel de Preex and Patensie Sitrus Beherend Beperk, Case Number 37/CR/Jun01

National Association of Pharmaceutical Wholesalers etc. v Glaxo Wellcome (Proprietary) Limited Case Number 68/IR/Jun00

Nuco Chrome (Pty) Ltd v Xstrata South Africa (Pty) Ltd and Rand York Minerals (Pty) Ltd, Case Number 31/IR/Apr04

Glaxo Wellcome (Pty) Ltd v Terblanche NO and other (Case number 03/CAC/Oct00)