



# competition commission south africa

## Notice CC 11 (2)

### About this Notice

- This notice is issued in terms of Schedule 1 of the Competition Act
- You, or any other person with a substantial material interest affected by this decision, may appeal this decision to the Competition Tribunal within 20 business days after it has been published in the Gazette
- You must use form CT7 to lodge an appeal. Please refer to Competition Tribunal Rule 35.

### Contacting the Commission

The Competition Commission  
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Lynnwood Ridge  
Pretoria 0040  
Republic of South Africa  
Tel: +27 (12) 394 3200  
Fax: +27 012 394 0166  
e-mail: [ccsa@compcom.co.za](mailto:ccsa@compcom.co.za)

## Rejection of Application (Schedule 1)

**Date:** 10 February 2016

**To:**

(Name of applicant and file number :)  
Mr. Sipho Madonsela  
The Chief Executive Officer  
The Engineering Council of South Africa ("ECSA")  
(Case Number:2014JAN0026)

You applied to the Competition Commission on **27 January 2014** for an exemption in terms of Schedule 1 of the Act, for your Association's Professional Rules

After reviewing the information you provided, and consulting as required by the Act, the Competition Commission has concluded that the rules of your association fail to meet the requirements set out in item 2 of Schedule 1 of the Act, and therefore rejects your application for the reasons set out in the attached Reasons for Decision.

**Name and Title of person authorised to sign on behalf of the Competition Commission:**

**Nompucuko Nontombana (Divisional Manager: Enforcement and Exemptions)**

Authorised Signature:



**competitioncommission**  
south africa

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**Enquiries: Shadrack Rambau/ Mbongiseni Ndlovu**

**Our Reference: 2014JAN0026**

10 February 2016

Mr. Siphon Madonsela  
The Chief Executive Officer  
The Engineering Council of South Africa ("ECSA")  
Private Bag x691  
Bruma  
2026

**By email: lerato@ecsa.co.za**


Dear Mr. Madonsela

**EXEMPTION APPLICATIONS IN RESPECT OF THE FEE GUIDELINES DRAFT POLICIES ("FEE GUIDELINES") OF THE BUILT ENVIRONMENT PROFESSIONAL COUNCILS (2014JAN0026)**

1. We refer to the exemption application filed by the Engineering Council of South African ("ECSA") on 27 January 2014. The exemption application relates to the publication of the fee guideline, which ECSA sought to be exempted in terms of Schedule 1 from the provisions of Chapter 2 of the Competition Act, No. 89 of 1998, as amended ("the Act").
2. Kindly be advised that the Competition Commission ("the Commission") has finalised its evaluation of the abovementioned exemption application. As such, the Commission has decided not to grant ECSA an exemption, in terms of Item 4(a) to (c) of Schedule 1 of the Act.

3. In refusing to grant an exemption, the Commission concluded that ECSA's fee guideline in their current form are likely to harm competition in the following ways:
  - 3.1. The publication of the fee guideline by ECSA amounts to indirect price-fixing in contravention of section 4(1)(b)(i) of the Act. The Commission concluded that registered persons offering their services within the built environment will use ECSA's fee guideline as benchmark when negotiating fees with consumers. This reduces price competition and could also results in prices within the built environment being set above competitive level to the detriment of consumers.
  - 3.2. Further the publication of the fee guideline by ECSA is not in line with international best practice. A review of international best practice conducted by the Commission revealed that building industries in other jurisdictions are moving away from the practice of publishing the fee guidelines. This is an attempt by building industries in those countries to increase price competition.
4. In the circumstances, please find attached hereto a Form CC 11(2), which is a Notice of Rejection of the exemption applications.
5. In accordance with the provisions of Item 8 of Part A of Schedule 1 of the Act, kindly note that should the ECSA or any other person with a substantial interest affected by the decision of the Commission, disagree with the decision they may appeal against that decision to the Competition Tribunal ("the Tribunal") in the prescribed manner.

Yours faithfully

  
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**NOMPUCUKO NONTOMBANA**  
**MANAGER: ENFORCEMENT AND EXEMPTIONS**  
**TEL: (012) 394 3465**