

**COMPETITION TRIBUNAL OF SOUTH AFRICA**

**Case No.: 53/AM/JUL11**

In the matter between:

**THE DEPARTMENT OF TRADE AND INDUSTRY**

Applicant

and

**KANSAI PAINT CO. LTD**

1<sup>st</sup> Respondent

**FREEWORLD COATINGS LTD**

2<sup>nd</sup> Respondent

**THE COMPETITION COMMISSION**

3<sup>rd</sup> Respondent

**CHEMICAL, ENERGY, PAPER, PRINTING,**

**WOOD AND ALLIED WORKERS UNION**

4<sup>th</sup> Respondent

**THE SOUTH AFRICAN CHEMICAL WORKERS UNION**

5<sup>th</sup> Respondent

**THE DEPARTMENT OF ECONOMIC DEVELOPMENT**

6<sup>th</sup> Respondent

*In re:*

**KANSAI PAINT CO. LTD**

Primary Acquiring Firm

And

**FREEWORLD COATINGS LTD**

Primary Target Firm

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Panel : N Manoim (Presiding Member), A Wessels (Tribunal Member) and M Mokuena (Tribunal Member)

Heard on : 30 August 2011

Decided on : 30 August 2011

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**ORDER**

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Having heard the parties to the applications for intervention, the Tribunal orders the following:

1. The applicant is granted leave to intervene in the proceedings relating to the consideration of the third respondent's conditional approval of the takeover of the second respondent by the first respondent ("**the consideration proceedings**").
2. The applicant is permitted to participate fully in the consideration proceedings in respect of the matters identified in section 12A(3)(a) and (d) of the Competition Act 89 of 1998 ("**the Act**") and, in that regard, to:
  - 2.1. attend pre-hearing conferences;
  - 2.2. adduce oral and documentary evidence;
  - 2.3. present argument;
  - 2.4. request the Tribunal to direct, summon and/or order any person to appear at the hearing;
  - 2.5. cross-examine any of the witnesses led by any other participant during the hearing;
  - 2.6. call for the discovery of documents from any other participant and inspect any documents filed by any other participant and that the applicant's legal representatives may inspect any confidential documents so filed, subject to appropriate confidentiality undertakings; and
  - 2.7. participate in any interlocutory proceedings in the consideration proceedings.
3. To the extent that the applicant wishes to raise any matter relating to the grounds in section 12A(3)(c) of the Act, it will give notice of that intention by no later than **16 September 2011**, in which event the parties shall indicate whether they have any objection thereto, by no later than **23 September 2011**.

4. The applicant shall be entitled to the rights referred to in paragraph 2 above regarding the matters identified in section 12A(2)(c) of the Act (to the extent that it relates to the level and trends of concentration) and (e), to the extent that it may demonstrate that such matters are relevant to the determination of its contentions in relation to the matters identified in section 12A(3)(a) and (d) of the Act.
5. The applicant shall comply *mutatis mutandis* with the pre-hearing directions of 3 August 2011, insofar as it deals with the periods from 16 September 2011. In addition, the applicant will make discovery by 9 September 2011.
6. The applicant's legal representatives and experts are granted access to the confidential version of the third respondent's record that has been, or will be, referred to the Tribunal, within two business days of the date of appropriate confidentiality undertakings being provided to the first and third respondents.
7. Each party to pay their own costs.



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Presiding Member  
N Manoin

**Concurring:** A Wessels and M Mokuena

## Tebogo Mputle

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**From:** Lerato Motaung  
**Sent:** Tuesday, August 30, 2011 3:25 PM  
**To:** Tebogo Mputle; Nandi Mokoena  
**Subject:** FW: Kansai Paint Co., Ltd/ Freeworld Coatings Limited: DTI Intervention Application  
**Attachments:** 20110830151751318.pdf

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**From:** Lerato Motaung  
**Sent:** 30 August 2011 03:23 PM  
**To:** 'Gomolemo Kekesi'; Mervin Dorasamy; Leanie Mouton; Brenda Sithole (BSithole@thedti.gov.za)  
**Cc:** Jean Meijer; Jessica Staples; Hannine Drake; Alicia Hlafane  
**Subject:** Kansai Paint Co., Ltd/ Freeworld Coatings Limited: DTI Intervention Application

Dear Sirs

Please see attached the order for the intervention application by the Department of Trade and Industry .

Kindly acknowledge receipt.

Regards

Lerato Motaung  
Competition Tribunal South Africa  
Tel: 012 394 3355  
Fax: 012 394 0169  
Email: [leratom@comptrib.co.za](mailto:leratom@comptrib.co.za)  
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