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Department:
Trade, Industry and Competition
REPUBLIC OF SOUTH AFRICA

THE NATIONAL ASSEMBLY

QUESTION FOR WRITTEN REPLY

QUESTION NO. 2898

Ms S Mosikatsi (ANC) to ask the Minister of Trade, Industry and Competition:

In view of the emerging antitrust scholarship in the United States and the European Union that claims that common ownership by large diversified institutional investors may harm competition and lead to higher product prices, (a) what are the reasons that his department, through the Competition Commission, has not responded to large diversified institutional investors, particularly the Public Investment Corporation (PIC) and the Government Employees Pension Fund (GEPF), which have adopted an investment strategy of owning controlling stakes in horizontal rivals in the concentrated product markets of the Republic, including the banking, telecommunications and retail grocery sectors and (b) by what date will his department play a regulatory catch-up with evolving industry practices to address the concentration of product markets through large diversified institutional investors as the major competition challenge without causing disruptions to capital markets and industry? NO2156E

REPLY:

I have been advised by the Competition Commission (CC) as follows.

(a)&(b)

The Competition Act, 1998 (Act. No. 89 of 1998), was amended in 2019 to include common shareholding and cross-directorships, as one of the elements the Competition Commission ("Commission") must consider when assessing the impact of a merger on competition. In this regard, the Commission will evaluate whether any merger, including a merger by a

large diversified institutional investor, creates structural links through cross-directorships or cross-shareholding in competing firms.

In cases where this raises substantial competition concerns, the Commission may recommend that conditions be imposed to remove common directors or implement so-called 'Chinese Walls' to prevent the exchange of competitively sensitive information.

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