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Department:  
Trade, Industry and Competition  
REPUBLIC OF SOUTH AFRICA

## **THE NATIONAL ASSEMBLY**

### **QUESTION FOR WRITTEN REPLY**

#### **QUESTION NO. 296**

**Mr R W T Chance (DA) to ask the Minister of Trade, Industry and Competition:**

Whether he will furnish Mr R W T Chance with a copy of the investigative report/s of the investigation into the affairs of the Competition Commission that stemmed from the Competition Commission's rising expenditures in the period between the 2013-14 and the 2017-18 financial years, increasing deficits, adverse findings by the Auditor-General of irregular expenditure and resultant concerns by the National Treasury, which was completed and shared with the National Treasury in December 2020; if not, why not; if so, what are the relevant details? NW417E

#### **REPLY:**

An investigation was commissioned into the findings of, amongst others, irregular expenditure by the Competition Commission ("Commission") for the financial years 2015/2016 to 2017/2018. At the time when the investigation was commissioned, provisional allocation of funds had been made to the Commission by National Treasury and the investigation report was required to enable finalisation of a decision regarding the allocation during the 2019/2020 budget adjustment for purposes of the Medium-Term Expenditure Framework ("MTEF"). The investigation report has been submitted to National Treasury.

The investigation report is a confidential document as contemplated under Rule 189(1)(c) and 189(4) [and 108(1)(c) and 108(4) of the PJR]. The investigation report is of a highly confidential nature as it contains personal information of third parties sourced during the investigation and by virtue of section 34(1) of the Promotion of Access to Information Act,

2000 ("PAIA") which provides for the mandatory protection of privacy of a third party who is a natural person, such information cannot be disclosed. Furthermore, the investigation report, based on the personal information contained therein, is confidential in terms of the Protection of Personal Information Act, No 4 of 2013.

Disclosure of the report would consequently amount to an unreasonable disclosure of personal information about third parties.

In addition, section 44 of PAIA finds application and provides that the information officer of a public body may refuse a request for access to a record of the body if the record contains an opinion, advice, report or recommendation obtained or prepared for the purpose of assisting to formulate a policy or to take a decision in the exercise of a power or performance of a duty conferred or imposed by law. In the current circumstances, the investigation report was required in order to assist National Treasury with exercising its functions and powers in terms of section 6 of the PFMA and in particular, to enable this was to enable the finalisation of a decision regarding the allocation during the 2019/2020 budget adjustment for purposes of the MTEF.

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