

Agreements between Competition Commission, regulators concluded



By [Leana Engelbrecht](#)

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The Competition Commission has concluded cooperation agreements with the Auditor General of South Africa (AGSA) and the North West Gambling Board (NWGB), respectively.

The Commission, as one of its statutory functions, may conclude agreements with any regulatory authority to co-ordinate and harmonise the exercise of jurisdiction over competition matters within a relevant industry or sector and to ensure the consistent application of the principles of the Competition Act, 89 of 1998.

The NWGB, in terms of its empowering provincial and national legislation, must consider the competition when considering an application for a licence or an application for the transfer of a licence. Consequently, the NWGB and the Commission have concurrent jurisdiction over these matters of competition (as the Commission is generally tasked with assessing competition in markets in respect of which it is investigating a complaint of prohibited practices or an abuse of dominance, considering an exemption application, or considering whether to approve a proposed merger).

Exchange information

It is specifically in respect of these issues which the NWGB and the Commission will cooperate and exchange information, subject to the processes and restrictions agreed upon in terms of the Memorandum of Agreement concluded between the parties. A similar agreement was concluded between the Commission and the National Gambling Board in 2011.

The Memorandum of Understanding between the Commission and AGSA also aims at enhancing cooperation between the parties, but is aimed at 'clarifying the specific mechanisms through which the oversight role of AGSA can find concrete expression in the fight against fraud and corruption'.

To that extent the parties indicate that the agreement lays the basis for complementing each of their respective legal mandates and to share technical information and expertise. It appears that the Commission and AGSA aim to collaborate in respect of collusive tendering in public procurement to the extent that such conduct may constitute fraud and corruption.

This marks a different slant to cooperation agreements with the Commission, which have previously predominantly been concluded with regulators that exercise concurrent jurisdiction in respect of assessing competition when making decisions in respect of its statutory functions - such as in the instance of the cooperation agreement concluded with the NWGB.

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