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<b>MEDIA RELEASE</b>		
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<b>DECISION OF COMMISSIONERS ON INVESTIGATION ON IMPORTATION OF SLAUGHTER CATTLE IN MAURITIUS.</b>		

Following the hearing held on 2<sup>nd</sup> December 2011 concerning the investigation on importation of slaughter cattle in Mauritius, the Commissioners of the Competition Commission of Mauritius (CCM) have produced their decision on 21<sup>st</sup> December 2011.

The investigation was launched on 21<sup>st</sup> December 2009 and focused on the collaboration between Socovia Belle Vue Ltée (Socovia) and four other companies to pool their resources in order to import slaughter cattle into Mauritius. The final report of the Executive Director was issued on 20<sup>th</sup> June 2011.

The findings of the Executive Director, as laid down in his report, are that the collaboration between Socovia and the other importers is likely to be a non-collusive horizontal agreement in terms of s44 of the Competition Act 2007 (the Act) and it resulted in Socovia being in a monopoly situation in terms of s46 of the Act. The Executive Director further found that conduct of Socovia might potentially be an abuse of its monopoly position, given that it was likely to be refusing to potential competitors and even non-competitors access to the cattle carrier it charters to import slaughter cattle to Mauritius. This refusal to allow is exclusionary and the limitation of access to a restricted facility is coined as the Essential Facilities Doctrine.

The Commissioners upholding the market definition of the Executive Director, the relevant market being that for the supply of slaughter cattle in Mauritius, however found that:

- the parties operating at different levels of the distribution chain makes the agreement vertical in nature and consequently reviewable under s45 of the Act; and
- the conditions to sustain the Essential Facilities Doctrine were not met.

The Commissioners found that the allegations against Socovia and the other four parties have not been proved.

The decision will be made available on the CCM's website, at [www.ccm.mu](http://www.ccm.mu) .

## **Notes for editors:**

### *The Competition Act*

The Competition Act 2007 came fully into effect on November 25th 2009, and is enforced by the Competition Commission of Mauritius, the CCM. Sub-parts II and III of Part III of the Competition Act 2007, cover restrictive practices described under 'Other restrictive agreements' and 'Monopoly situations'.

To take action, the CCM must find that the conduct of an enterprise in a monopoly situation restricts, prevents or distorts competition or otherwise exploits the monopoly situation. We refer to such conduct as 'abuse of monopoly'. Where the Executive Director has reasonable grounds to believe that abuse is occurring, or will occur, he may launch an investigation.

### *Monopoly abuse:*

It is not in itself any breach of the law for an enterprise to be in a monopoly situation. However, as per Section 46(2) of the Competition Act, enterprises which hold monopoly positions may be in breach of the abuse or exploit any market power this position confers upon them. The question for the CCM is whether such enterprises are engaged in conduct which restricts, prevents or distorts competition (such as using their market position to exclude rival enterprises) or otherwise exploiting the monopoly situation.

The CCM takes the view that, in most markets, free competition is an effective guarantor of the interests of consumers and is likely best to promote the efficiency, adaptability and competitiveness of the economy of Mauritius. Significant weakening of competition will therefore have adverse effects.

Consequently, if the CCM finds evidence of behaviour that is preventing, restricting or distorting competition, on the part of an enterprise with market power, in a monopoly situation, it will normally expect that such behaviour will have adverse effects on consumers or the economy as a whole.

Following an Investigation, the CCM has the power to force changes in company behaviour and will consider behavioural undertakings offered by the investigated party or parties.

### *Further information:*

For further information see the CCM's website at [www.ccm.mu](http://www.ccm.mu), and the CCM's Procedural Rules and Guidelines: 'CCM 1 - Procedural Rules', 'CCM 4 - Monopoly situations and non-collusive agreements' and 'CCM 6 - Remedies and Penalties', all available on the web site.