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<h2>MEDIA RELEASE</h2>		
		<b>Date:</b> 10/11/2011
		<b>Investigation Ref:</b> INV 012
<h2>PRESS RELEASE</h2>		

The Competition Commission of Mauritius (“CCM”) today launched an investigation into potential breaches of the Competition Act 2007 (“Act”) in relation to the market of manhole covers for telecommunications infrastructure in private sector projects.

The concern is that restrictive business practices may be excluding some suppliers of manhole covers from the market, so that competition in the market of an important component of telecommunications infrastructure is being prevented, restricted or distorted.

At this early stage, the Executive Director has concluded that he has reasonable grounds to suspect that there are practices that may represent breaches of the Act, particularly Section 46 of the Act. This is merely the start of the process, and there is no presumption that a breach the Act has occurred. Only the Commissioners can decide that, following a full investigation led by the Executive Director. Alternatively, the investigation might find no infringement of any sections of the Act, in which case the investigation would be closed down without action. If other concerns related to the market of manhole covers for telecommunications infrastructure in private sector projects are identified during the course of the investigation, the parties will be notified in the Statement of Issues.

Dr Sean Ennis, the Executive Director of the CCM, said: “Private sector building projects are an important area of economic activity in Mauritius today, and the provision of telecommunications infrastructure is a vital component of any property development project. It is important that the developers of these projects have a choice of quality products on competitive terms. Any business practice that prevents purchasers choosing from the widest possible range of suitable products ultimately has a detrimental effect on consumers”.

## **Background 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.

'Anticompetitive foreclosure' is said to occur when the conduct of a monopoly enterprise restricts or eliminates the effective access of actual or potential competitors to customers or to supplies, to the detriment of consumers or the economy in general. 'Foreclosure' should be read to mean 'exclusion of competitors in a manner that damages consumers or the economy in general', not simply 'exclusion of competitors'.

Anticompetitive foreclosure may arise through exclusive dealing – preventing competitors from selling to customers through the use of exclusive purchasing obligations or rebates. Retrospective rebates, such as a rebate on all wholesale purchases over a year if the sales exceed a target threshold, may have foreclosure effects because they can result in very powerful incentives for a wholesale buyer just below the threshold to increase sales volumes.

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.