MRC 045

Media Release

ICCC welcomes new entrant into Elk-Antelope gas project

The Independent Consumer and Competition Commission welcomed the announcement by InterOil Corporation in the last few days that it had agreed to sell a substantial interest in petroleum retention licence 15 which encompasses the Elk-Antelope fields to Total Oil, a new entrant to the gas extraction sector in PNG.

A previous proposal by a subsidiary of Esso Highlands to acquire a 50% interest in PRL 15 raised serious competition concerns and the Commission issued a media release on 27 June, 2013, informing the parties that, if that transaction were to be completed without an authorisation or clearance from the Commission, the Commission reserved its rights, including to bring legal proceedings against the acquisition.

The Commissioner and Chief Executive Officer of the Commission, Dr. Billy Manoka, said: “We met with Officers of Esso Highlands at that time and subsequently obtained legal advice from Queens Counsel with extensive competition expertise on the matter. Following that, our views about the anti-competitive effect of that proposal were formed and we conveyed clearly to both InterOil and Esso Highlands that if the transaction were to be completed between them, the Commission intended to take legal action.”

He added: “This acquisition avoids the necessity of taking the former matter to court. Development of natural gas resources in PNG is gaining pace and it is a key enabler of economic development, including for power generation, but also for various other industrial uses which will create employment, enhance economic growth and raise the living standards of our people. It is essential that competition in this market is not harmed by acquisitions or anti-competitive agreements and that supply is not constrained in any way. The Commission will monitor developments in this sector closely to ensure that competition is preserved, protected and promoted.”
Backgrounder

The ICCC is responsible for administering the ICCC Act as well as a variety of other legislation. The law is designed to enhance the welfare of the people of PNG by encouraging competition, fair trading and efficiency in business as well as punishing anti-competitive behaviour.

Section 69 of the ICCC Act prohibits acquisition of assets or shares of a business that would have, or would be likely to have, the effect of substantially lessen competition in a market.

However, parties may seek exemption from the application of Section 69 of the ICCC Act by seeking a Clearance under Section 81 or applying for an Authorization under Section 82. In the case of a clearance notice, the Commission will assess the competition effects of the proposed acquisition and if it is satisfied that the acquisition will not have, or will not be likely to have, the effect of substantially lessening competition in a market, give clearance for the proposed acquisition to proceed. For an authorization application, the Commission will focus its assessment on the public benefit aspects of the proposed acquisition to see if the benefit to the community (including the parties to the proposed acquisition, the Government, citizens and other relevant stakeholders) would outweigh any detriments resulting from lessening of competition in a market.

Clearance and authorization are public and transparent processes under the ICCC Act and the Commission is required by law to make a decision with 20 days and 72 days, respectively, from the date of registration of the matter.