

**DEREK LÖTTER**

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**Overview**

Derek Lötter is the head of our Competition Practice.

Derek specialises in competition law. He has been involved in prominent competition matters before the competition authorities in South Africa and advised on competition law in various other African countries. His expertise extends to pharmaceutical law and regulation, consumer law and franchising.

Derek has extensive experience in a variety of sectors, allowing him to advise on the competition law implications of conduct in a number of affected areas of businesses.

He has B.Com and LLB degrees from the University of KwaZulu-Natal, an MBL from the University of South Africa and Certificates in Advanced Company Law and Banking and Financial Markets Law from the University of the Witwatersrand.

**Experience**

Derek advises on the competition law implications of activities in a number of other African countries and participated in the COMESA Competition Commission's validation conference in Addis Ababa. Derek is also advising the Namibian Competition Commission in the complaint proceedings involving medical aids funds in Namibia, and formed part of the first Special Committee to hear oral representations under the Namibia Competition Act.

Derek has done detailed competition review and compliance audits on behalf of a number of listed and other South African corporations, including with respect to the firms' international operations (especially with activities in sub-Saharan Africa).

In particular, Derek has advised as competition counsel in respect of the following matters:

- **I. DuPont de Nemours and Company (DuPont)**, the science and engineering multi-national, in relation to the international merger of equals between DuPont and The Dow Chemical Company (Dow) – in relation to the notification and clearance approvals for the transaction to the COMESA, Kenyan and South African competition regulators.
- **SABMiller plc** in relation to the acquisition by Anheuser-Busch InBev SA/NV (AB InBev) of the entire issued and to be issued share capital of SABMiller for a transaction value of USD102 billion. In Africa, merger notifications were submitted in South Africa, Botswana, Ethiopia, Kenya, Namibia, Swaziland, Tanzania, Malawi, Zambia and Zimbabwe, the majority of which have already obtained approval.
- **Anheuser-Busch InBev NV** in relation to its disposal of a 54.5 percent stake in Coca-Cola Beverages Africa Pty Ltd, an African joint venture company, to the Coca-Cola Company in a transaction valued at USD3.15 billion.
- **SABMiller plc** in relation to the consolidation of the non-alcoholic beverage bottling operations of SABMiller, The Coca-Cola Company (TCCC) and Gutsche Family Investments (majority shareholder in Coca-Cola Sabco) to create Coca-Cola Beverages Africa, the biggest bottler of soft drinks in Africa and the 10th largest in the world, with annual revenue of USD2.9 billion. Competition filings were lodged and

approved in South Africa, the Common Market for Eastern and Southern Africa (COMESA), Kenya, Tanzania, Namibia and Botswana.

- **AT&T Inc. of Time Warner Inc** on instruction from Arnold & Porter, in relation to South African competition law filings and advice relating to the global transaction involving the acquisition by AT&T Inc. of Time Warner Inc. for approximately USD85.4 billion. This was the largest M&A transaction globally in 2016.
- **Rockwood Private Equity** in relation to the disposal by it and other minority shareholders of 100% of the shares and claims held by them in Tsebo Holdings Proprietary Limited to Wendel SE for an enterprise value of R5.25 billion (EUR 331 million). This transaction was shortlisted as Private Equity Deal of the Year 2016.
- **General Electric** in relation to the large merger between General Electric and Thermal Power, Renewable Power and Grid As Business of Alstom.
- **General Electric** in relation to its acquisition of Baker Hughes International, in particular in respect of the merger notifications required in South Africa and in Kenya.
- **Barloworld South Africa Pty Ltd** in relation to its proposed joint venture with BayWa Aktiengesellschaft.
- **Pfizer Inc.** in relation to its acquisition of Allergan Plc. This merger was subsequently abandoned.
- Kenyan local counsel to the acquirer and the target company in relation to the acquisition of 49.99% of the share capital and voting rights in **La Compagnie d'Exploitation des Services Auxiliaires Aériens S.A** by HNA Aviation Group Co., Ltd. We acted for both the acquirer and the target to make the requisite merger filings and obtain Competition Authority of Kenya approval. In addition, **HNA Group Co. Ltd (HNA)**, a Hainan-based Fortune Global 500 enterprise group, in respect of a merger filing in South Africa as a result of the acquisition by HNA of Ingram Micro Inc. valued at USD6 billion.
- **Namib Mills** in relation to the first alleged abuse of dominance case by the Namibian Competition Commission. The Commission's investigation was initiated following the submission of a complaint by Bokomo, a competing supplier of wheat flour to Namib Mills.
- **The Namibian Competition Commission** in respect of complaint proceedings against the Namibian Association of Medical Aid Funds (NAMAf) and its member medical aid funds. Judgment in the High Court of Namibia was handed down in March 2016, dismissing the application by the various member medical aid funds to have the complaint proceedings dismissed and confirming that the Competition Act applies to them and to NAMAf. The Respondents have appealed the matter to the Supreme Court.
- **The Namibian Competition Commission** in respect of the settlement reached between the Commission and four companies under investigation by the Commission in relation to alleged price fixing, namely Sanlam Namibia Limited, Sanlam Life Namibia Limited, the Professional Providence Society Company Insurance Limited (South Africa) and the Professional Providence Society Insurance Company Namibia Limited. Bowmans advised the Commission in respect of the discussions, negotiations and settlement that were concluded.
- Ranked by *Legal 500* in 2018 as a leading lawyer for Competition.
- *Chambers and Partners 2018* ranked Derek in Band 1 for Competition/ Antitrust.
- *IFLR1000's 2018 Financial and Corporate Guide* rated Derek as a Highly Regarded Lawyer for Competition Law.
- Listed in the *Global Competition Review 2018* in the Partners category.
- Recognised by *Who's Who Legal 2018* for Competition law.
- Recognised by *Best Lawyers 2017* for Competition/ Antitrust Law, Regulatory Practice and Trade Law.
- Derek is rated in Band 1 by Chambers and Partners, among the Who's Who of Competition Lawyers in South Africa by *Global Competition Review* and as a leading competition lawyer by *IFLR 1000*, *Legal 500* and *Best Lawyers*.
- Advised on the Microsoft/LinkedIn matter which has been nominated for the *Global Competition Review (GCR) Awards 2017 Merger control matter of the year – Europe*: Creative, strategic and innovative competition work for a client on a landmark merger control matter in Europe.
- Advised on the Dell/EMC matter which has been nominated for the *Global Competition Review (GCR) Awards 2017 Matter of the year: Merger control, cartel, unilateral conduct, litigation or any other competition matter worldwide*. Creative, strategic and innovative work by teams of in-house and external lawyers and economists.
- Advised on the AB InBev/SABMiller matter which has been nominated for the *Global Competition Review (GCR) Awards 2017 Matter of the year: Merger control, cartel, unilateral conduct, litigation or any other competition matter worldwide*. Creative, strategic and innovative work by teams of in-house and external lawyers and economists.
- Recognised in *Who's Who Legal: Competition 2017*- The guide to the world's competition law experts

*Interviewees regard competition head Derek Lötter highly, describing him as an “excellent lawyer” whose “work ethic and practicality suit the commercial industry.” He acts for a number of the group’s most prestigious clients on high-value transactions; sources further comment on his wealth of knowledge of competition law and his ability to “understand us and the business.” – Chambers and Partners 2018*

*“Derek is an excellent lawyer – he provides very good practical advice in relation to his concerted efforts to understand the business, and provide advice that meets the expectations of the in-house lawyer and business.” – IFLR1000, 2018*

*Head of competition Derek Lötter is widely applauded for his expertise in this field. Clients appreciate his “very practical and commercial advice,” also noting that “his accessibility is very impressive, and he’s very clear in his communication.” In addition to his work in South Africa, he is frequently mandated on matters across the continent – for example, leading the firm’s representation of the Namibian Competition Commission following a complaint filed by the Namibian Association of Medical Aid Funds. – Chambers and Partners 2017*

*“Sources say that head of practice Derek Lötter “provides a consistent approach with consistent quality. He’s always incredibly responsive, very comprehensive and provides pragmatic and commercial advice.” He represented KPMG in defending Netcare’s application to prevent the accountancy firm from assisting with the Commission’s inquiry into the private health sector.” – Chambers and Partners 2016*

*“Derek Lotter, who ‘understands the transaction and what is required to get it through’” – Legal 500 2016*

## **Publications & Insights**

- Chambers Legal Practice Guides – Cartels 2015 South Africa chapter
- Getting the Deal Through: Intellectual Property & Antitrust 2017
- Getting The Deal Through: Intellectual Property & Antitrust 2018