HEALTH MARKET INQUIRY
ORAL PRESENTATION: PUBLIC HEARINGS
Fair Competition
WHY A COMPETITION ACT?

- To promote and maintain competition in the market places:
- Promote the efficiency, adaptability and development of the economy;
- **Provide consumers with competitive price and product choices**;
- Promote employment and advance the social and economic welfare of SA;
- Expand opportunities for South African participation in world markets and recognize the role of foreign competition in SA;
- Ensure that SMEs have an equitable opportunity to participate in the economy;
- Promote a greater spread of ownership, in particular to increase ownership historically disadvantaged persons
PROHIBITED PRACTICES

- substantially prevents or lessens competition unless the agreement can be justified based on technology, efficiency or other pro-competitive gains
- substantial negative effect on a particular sector
- direct or indirect price fixing, allocation of markets between competitors,
- collusive tendering and setting or maintenance of minimum resale prices
SAOA: ORAL SUBMISSION

- Prevention of extended scope
- Designated Service Providers
- Advertising, Touting and Canvassing
- Mobile Practices
- Deregulation
HEALTH CARE/ EYE CARE

SPECIAL CONSIDERATION
“SIGHT – THE MOST DELIGHTFUL OF OUR SENSES”
WHO FACTS

• 258 million people world-wide are visually impaired
• 39 million – blind
• 90% visually impaired – developing countries
• 78% visually impaired - AVOIDABLE
WHO FACTS

- 153 million people world-wide are visually impaired due to refractive error
- 19 million children visually impaired (12 million RE)
- 65% visually impaired - Over 50 years
Background

The SA Optometric Association (SAOA)

- Profession of Optometry
- Non Profit Company (NPC)
- Private sector + Public sector
PROUDLY SOUTH AFRICAN

SA OPTOMETRY

AMONGST FINEST IN THE WORLD
Optometry

= healthcare profession:

- autonomous,
- educated,
- regulated
Optometry

HPCSA
Optometrists

= the primary healthcare practitioners of the eye and visual system
Optometry defined

Provide comprehensive eye and vision care, which includes refraction and dispensing, detection/diagnosis and management of disease in the eye, and the rehabilitation of conditions of the visual system.
Optometry in SA

- Eye Examination
- Spectacles
- Contact lenses
- Sunglasses
- Diagnostics
- Therapeutics
3200 registered optometrists
2300 practices
The SA Optometric Private Market

R2.5 billion

= 2% of the total healthcare market
The SA Optometric Market

- Frames: 46%
- Contact Lenses: 6%
- Consultations: 17%
- Lenses: 31%
Optometric Services - Dichotomy

Professional vs commercial
Optometric Services: Business Models

- Franchises
- Groups
- Independents
SA Optometry: Franchise Profile
Optometric Services: Locations

- Shopping malls,
- Medical centres
- Private homes
OPTOMETRY MARKET: KEY ROLE PLAYERS

- SAOA
- OSSA
- HPCSA
- PBODO
- CMS
- BHF
- PCNS
- FMU
- COMPETITION COMMISSION
Health Consumerism

Increase
Optometrists

= the primary healthcare practitioners of the eye and visual system
Optometry in SA

- Eye Examination
- Spectacles
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THE EYE CARE TEAM

- OPHTHALMOLOGIST
- OPTOMETRIST
- ORTHOPTIST
- OCULARIST
THERAPEUTICS: OPTOMETRY

- **EXTENSIVE, INTENSIVE TRAINING**
- **600 HOURS PRACTICAL**
- **SUPERVISION BY OPTHALMOLOGY**
THERAPEUTICS

- RED EYE
- REMOVAL OF FOREIGN BODIES
SA EYE CARE IN NUMBERS

- Optoms: 3100
- Practices: 2300
- Ophthalmologists: 500
- Orthoptists: 100
- Ocularists: 50
OSSA : OFFICIAL POSITION

- OPPOSE THE EXTENDED SCOPE FOR OPTOMETRY
- REJECT SUPERVISORY ROLE
OSSA POSITION

- TERRITORIAL PROTECTION
- PREVENTS COMPETITION
DSP’s: Key Concerns

- Abuse of dominance
- Inducement to participate with a competing entity
- Equitable opportunity to participate
- The health of patients uppermost;
- The autonomy and professional discretion respected
- The choice of the patient respected;
- Not exclusive
- Reasonable range of choice of product - clinical needs patients;
- Where fees exceed benefit, patient rights must prevail
Determination of Professional Fees

The medical scheme - single consumer of health care
The Medical Scheme Defined

Medical Scheme Act:

“Business of a medical scheme” means the business of undertaking liability in return for a premium or contribution-

- To make provision for the obtaining of any relevant health service
- To grant assistance in defraying expenditure incurred in connection with the rendering of any health service;
- Where applicable, to render a relevant health service, either by the medical scheme itself, or by any supplier or group of suppliers of a relevant health service or by any person, in association with or in terms of an agreement with a medical scheme
Medical Schemes: Facts and Figures (2013)

- Total benefits: R103.3 billion to **R112.5 billion** in 2013 - 8.9% increase
- The Total number of beneficiaries: 1.08% increase 2013 which now stands at **8,776,279**
- The average age beneficiary: **31, 9 years**
- The number of medical schemes decreased from (2012) to **87**
- Discovery Health is the largest medical scheme with 2, 52 million beneficiaries
DESIGNATED SERVICE PROVIDER (DSP)

PREFERRED PROVIDERS

NETWORKS
Designated Service Provider

DSP

OPTOMETRISTS

MEDICAL AID
DSP’s

HPCSA - no objection

• All practitioners in the area(s) concerned were informed that they could apply to be preferred providers for the scheme.
• No practitioner was unreasonably excluded from being a preferred provider for that scheme.
• The patient was not deprived of his or her right of freedom of choice of a practitioner, although it may cost the patient more (e.g. by the scheme requiring a co-payment)
HPCSA Rules and Regulations: Credentialing and Accreditation

- Transparency
- Professional qualifications
- Competence of the providers
- Experience of the Providers
- Equitable opportunity to participate.
- Not exclusive
Medical Schemes Act

Designated Service Providers- Prescribed Minimum Benefits (PMB’s)
The Designated Service Provider

Legal + Ethical
Concerns over the exploitation of Health Care Practitioners

HPCSA Media Release: 24 March
THE DSP

- Anti-competitive
- Abuse of dominance
- Inducement
- Right of Choice
MANAGED EYE CARE EXAMPLE

GEMS

OPTOMETRIST

MEDSCHEME

METROPOLITAN
Dominance

- Firms with annual turnover or assets in excess of R5 million and are dominant in a market are prohibited by the Act from abusing their dominance or market power.

- In term of the Act, a dominant firm has market share of:
  - at least 45%; or
  - at least 35%, but less than 45%, unless it can show that it does not have *market power; or
  - 35% with market power
Market power

= the ability of a firm to control prices or act independently of its competitors, customers and suppliers
Abuse of dominance

- Section 8 (c) or Section 8(d) (i) of the Competition Act
- significantly impairs competition,
- no pro-competitive consequences
Inducement

Section 8(d) (i) - prohibited for a dominant firm to require or induce a supplier or customer to not deal with a competitor unless the dominant firm can show that the effects are outweighed by pro-competitive benefits
KFML – Dominant Firm

- KFML - sole shareholder
- Specsavers Pty Ltd and PPN
DOMINANCE

PPN - largest optometric Provider Network in South Africa with some 2000 members

PPN owns in excess of 80% (eighty per cent) of the independent preferred provider managed care market
PPN

- contracted with 22 (twenty-two) medical schemes representing approximately 2.5 million beneficiaries
Dominance

(Section 7 of Act)

- Market share exceeds 80% (eighty per cent) of managed care market. PPN thus has the market power to act independently of its customers, competitors and/or its suppliers.
- KFML is dominant firm - dominance of PPN and optometric groupings.
- Turnovers exceeds the thresholds promulgated under Section 6 of the Competition Act and in turn, so would the consolidated turnover of KFML.
Dominance

Practicing optometrists are forced to become PPN providers and thus are compelled to provide professional services and spectacles at prices determined by PPN to the beneficiaries of those medical schemes contracted with PPN.

Should practitioners not participate in PPN contracts with medicals schemes which have relevance to those practitioners, there are deleterious consequences in that patients may be forced to seek services from alternative practices which are contracted to PPN.
DOMINANT FIRMS

MAY NOT:

• Charge excessive prices;
• Refuse access to an essentially facility;
• Engage in exclusionary acts,
• Engage in price discrimination
• Discrimination between customers in terms of price, discounts, allowances, rebates, credit, the payment for and provision of goods and services
The Platinum Health Model

Closed medical scheme: Membership - employees and dependants:

- Anglo American Limited
- Anglo American EMEA Shared Services Unit (Pty) Limited
- Anglo Platinum Limited
- Anooraq Resources
- Bafokeng-Rasimone Platinum Mine JV
- Bokoni Platinum Mine JV
- Modikwa Platinum Mine JV
- Mototolo JV
Platinum Health

- Employ optometrists
- Centre of Rustenburg
- Members not allowed to consult non PH practitioners
Exclusionary Conduct

- Affinity Heath
- Agility
Split Billing  Versus Balance Billing

Role of the Medical Scheme?

Patient choice?

Split Billing illegal??
DSP’s: CONCLUSIONS

- DOMINANCE
- INDUCEMENT
- EXCLUSIVITY
- DENIED CHOICE
- VIOLATION OF PATIENT RIGHTS
- VIOLATION OF PRACTITIONER RIGHTS
- EXTORTION
Advertising, Touting and Canvassing

Responsible communication – informed choice by consumers of health care
Free market Economy

Consumers have to be sufficiently informed to make intelligent choices. Properly informed - advertising
ADVERTISING

May not:

- be misleading
- use fear to entice patients
- give guarantees of service
- bring the profession into disrepute
- Be vague
Touting

Enticement of members of the public to practices by using items or services that fall outside the scope of practice as incentives
Canvassing

Enticement of public on basis attributes and/or qualities of the practices
Regulatory Framework:

Vagueness
- discounts,
- ‘prices ranging from’
- ‘terms conditions apply’
MOBILE PRACTICES

Standards of Practice
Ethical Rules relating to Vision Screening, Itinerant Practices and Mobile Clinics:

"The ever increasing numbers of practitioners competing for 'businesses within the urban areas has resulted in them experiencing the constraints of over-serviced markets. This has resulted in numerous attempts being made to increase the individual share of the diminishing market and hence sees the introduction of mobile practices and corporate vision screening..."

PBODO/HPCSA
"It has been noted that mobile units are conducting services in areas that has adequate numbers of practices and hence servicing of already over-serviced areas, exacerbating the neglect of under-serviced areas in the country......"

HPCSA
MOBILE PRACTICES: GUIDELINES

Practitioners should at least comply with the following basic rules:

1. be registered for operations within a defined underserviced area only.” ......

NB. No official 'yard stick'
Deregulation of Practice Ownership

Unsuccessful attempt: Buchanan vs HPCSA
DEREGULATION

NO commercial influence over professional discretion!
Deregulation: SAOA Position

OPPOSED
Thank You Very Much!

Presented by Harry Rosen