



**Media Statement  
For Immediate Release  
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## **NATIONAL HOSPITAL NETWORK GRANTED CONDITIONAL EXEMPTION**

The Competition Commission (“Commission”) has granted the National Hospital Network (“NHN”), a co-operative venture of medical enterprises, a five year exemption commencing from 01 November 2018 to 31 October 2023. The exemption covers collective bargaining, global fee negotiations and centralised procurement.

An exemption, effectively gives permission for applicants to contravene specific sections of the Competition Act 89 of 1998 as amended (“the Competition Act”).

The NHN is a non-profit company, a co-operative venture that is controlled by its members, a group of independent private hospitals who run medical establishments such as day clinics, sub-acute facilities and psychiatric facilities. These members are broadly competitors in the provision of private healthcare services.

For the last 12 years and 10 months, the Commission had granted the NHN exemption which allowed the network to engage in collective bargaining with medical schemes and medical scheme administrators on behalf of its members.

In August 2017, the NHN, in addition to the collective bargaining exemption, applied for another exemption to also engage in global fee negotiations with medical schemes, administrators, the state and healthcare providers (professional associations) and to undertake collective or centralised procurement on behalf of its members.

Ordinarily, this conduct constitutes price fixing prohibited under section 4 of the Competition Act. However, the Commission may grant an exemption in terms of subsection 10(3)(b) only if the agreement or practice concerned, or category of agreements or practices concerned, amongst others, contributes to the following objective: “(ii) *promotion of the ability of small businesses, or firms controlled or owned by historically disadvantaged persons, to become competitive.*”

On 17 September 2017 the Commission, through a notice in the Government Gazette, invited relevant stakeholders to make submissions in relation to the application.

In granting the exemption, the Commission took into account the fact that the market dynamics in the healthcare industry largely remain the same. The sector is characterised by high levels of concentration and high barriers to entry.

Overall, the Commission found that the pro-competitive gains that would arise from the exemption will enable NHN members to compete effectively in the market.

The Commission granted the exemption subject to the following conditions:

- i) The NHN when entering into global fee arrangements shall limit the use of carve-outs or exclusions from these agreements and that global fees be negotiated on the premise of full risk sharing between the medical aid schemes and administrators and the providers of healthcare services. Moreover, the negotiation of global fees agreements must also include transparent performance measures; and
- ii) NHN is required to submit information to the Commission on an annual basis as would be required to monitor the impact of the measures taken to meet the objective relied upon and to assess whether the NHN is meeting the objective on an on-going basis.

In addition to the above conditions, the Commission has imposed another condition requiring NHN members who do not meet the legislative criteria to be classified as either small businesses (“SMME”) or firms owned by historically disadvantaged persons (“HDP”) to transform their ownership structures within a period of 24 months in order to meet the legislative criteria as stipulated for firms owned or controlled by historically disadvantaged persons.

The conditions imposed are intended to enable the NHN to achieve fully the objectives in the exemption application and for the Commission to effectively monitor implementation.

**[ENDS]**

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