



competition commission
south africa

Media Statement

For immediate release

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COVID-19 UPDATE: COMPETITION COMMISSION FLOODED WITH OVER 500 COMPLAINTS OF EXCESSIVE PRICING

Background

On 15 March 2020 President Cyril Ramaphosa declared a State of National Disaster, and further to that the President announced the enforcement of a nationwide lockdown for 21 days with effect from midnight on Thursday, 26 March 2020. Minister of Trade and Industry, Minister Ebrahim Patel, has subsequently gazetted several regulations to enable firms to cooperate lawfully and to tackle anti-competitive conduct aimed at profiteering during the State of National Disaster.

Complaints

The Competition Commission has, since the declaration of the State of National Disaster, received a total of 559 of complaints, an unprecedented number.

Approximately 250 of these relate to matters that fall outside the scope of the Competition Act as well as the applicable regulations, and shall therefore not be pursued further. The balance of the complaints are against retailers and suppliers for charging excessive prices for products related to COVID-19 essentials. The majority of the complaints related to hand sanitizers and face masks, followed by toilet paper, flu medication and other products. The Commission is prioritising those cases against national retailers and suppliers, and also those cases from complainants who are essential services professionals, such as doctors, dentists and policepersons.

The complaints are under expedited preliminary investigations, with respondent firms given 48 hours to confirm or rebut the allegations. The Commission has issued over 100 such letters to national retailers, suppliers and independent retailers. The responses received thus far vary, in some instances, the alleged price increases are explained as the difference between December/January promotional pricing and the pricing reverting back to normal in February, coinciding with the pandemic. There are however instances where price increases are not justified and the Commission will pursue enforcement.

Following its inquiries, the Commission has witnessed some of the large national retailers instituting pricing discipline across their branches, including Massmart, who recently announced a price freeze in all its stores (Makro, Cambridge Food, Game and Cash & Carry) for the duration of the nationwide lockdown.

As of this morning, Spar Group has started sharing with the Commission promotional prices for essential goods for the upcoming 3 weeks. The list covers all basic goods such as sugar, detergents, flour, chicken etc. The Spar Group is alerting the Commission so that when prices go back to normal (pre-promotion price) after the promotion, they are not deemed by customers as having increased.

Independent retailers have also been responsive, including the case of AJ Safety, a small independent retailer based in Secunda (Mpumalanga), who has taken a decision to refund the customers the balance that it overcharged for the masks following our engagements. AJ Safety had increased the price of dust masks from approximately R5 to R25. However, following our engagement, the owner of AJ Safety

submitted that he was not aware that the store manager has increased the price of dust masks. AJ Safety has since decreased the price and has started the process of refunding all those customers who bought the masks at an inflated price. AJ Safety submitted invoices to the Commission showing that it has credited some of the customers about R19.00, which is the amount that it overcharged them. The Team will request a list of all customers who were overcharged to ensure that they get their refunds.

The Commission is also working closely with the National Consumer Commission to streamline investigations in order to minimise duplication.

Spiralling prices of agricultural products

The Commission has also noted with concern the spiralling prices of agricultural products such as wheat, white maize, sunflower seeds, carrots, onions and tomatoes. There have been complaints streaming in the week in relation to these basic food products, whose spiralling prices hurt the poor the most. The Commission is monitoring these prices in consultation other stakeholders in the policy sphere and is also probing these price hikes with the traders and suppliers of these products. Appropriate steps and action will be determined after having considered all relevant factors that contribute to the costs of these products.

Measures on emergency procurement

During the State of National Disaster, procuring entities may be required to source supplies on an urgent basis following different procurement means. Where procurement is in the form of bidding (tenders), procuring entities should be weary of bids with identical prices and specifications, cross shareholding between bidders and suspiciously high bids without logical cost differences. Bid rigging leads not only to high prices but also excludes other businesses, particularly Small and Medium-sized Enterprises, from equitable participation in markets.

The Competition Act prohibits various acts of excessive pricing, price fixing, allocation of markets and market shares, and bid rigging. Any firm (including the holding firm) found to have engaged in such acts faces penalties of up to 10% of annual turnover for the first offence and up to 25% of annual turnover for a repeat offence. For price fixing, allocation of markets and market shares, and bid rigging, the directors or persons with management authority who engage in such acts or instigate these face imprisonment of a period not exceeding 10 years.

Conclusion

The Commission thanks the public for bringing forward the complaints and again urges businesses to comply with the published regulations, as non-compliance will be meted with maximum penalties and sanctions.

[ENDS]

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