



competition commission
south africa

PRESS RELEASE

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FACE MASKS SUPPLIER FOUND GUILTY OF EXCESSIVE PRICING

The Competition Commission welcomes the decision by the Competition Tribunal (Tribunal) in which it found Babelegi Workwear and Industrial Supplies CC (Babelegi) guilty of excessive pricing, in contravention of section 8(1)(a) of the Competition Act, read with Regulation 4 of the Consumer Protection Regulations.

On April 15, the Commission referred Babelegi to the Tribunal on charges of inflating prices of facial masks following the advent of the COVID-19 national disaster. This was the first case referred for prosecution following a complaint laid on 24 March 2020 and the matter was heard a month later on 24 April 2020.

The Commission has received about 1500 complaints from consumers and customers about prices of certain essential goods and other basic food items that have suddenly sky-rocketed since the declaration of the disaster in mid-March.

The Commission investigated the complaint expeditiously and found that during the period 31 January 2020 to 5 March 2020 Babelegi had increased its prices of facial masks from R41 per box up to the highest price of R500 per box, earning during this period mark-ups in excess of 500%.

The Commission further found that Babelegi's prices for facial masks increased by at least 888% when comparing the prices charged on 9 December 2019 to the prices charged on 5 March 2020.

The Tribunal judgement finds that Babelegi effected several price increases before the actual increase in its supplier costs on 18 March 2020. The first significant price increase occurred on 31 January 2020, a day after the World Health Organization declared Covid-19 a public health emergency of international concern. The Tribunal further found that Babelegi's price increases became progressively bolder wherein on 10 February 2020, Babelegi again significantly increased its price; and subsequently on 5 March 2020 when South Africa announced its first Covid-19 case.

The Tribunal concluded that: “Babelegi has not put up a rational and valid explanation for its successive and massive price increases... [that are] not substantiated by any corresponding increase in cost.” It further stated that from an economics perspective, conditions for exploitation of the crisis situation and market power existed from the end of January 2020 due to the Covid-19 health crisis: “As is clear from its pricing conduct, Babelegi exploited this crisis situation, when it successively and massively increases both its prices and mark-ups for masks during the complaint period...”

Based on the evidence of its own conduct, and considering the context of Covid-19, the Tribunal found that “... one can reasonably infer that Babelegi had market power during the Complaint Period since it behaved to an appreciable extent independently of its competitors, customers or suppliers. Babelegi is therefore a dominant firm during the Complaint Period in terms of section 7(c) of the Act.”

Further, the Tribunal concluded that the Commission established a prima facie case of an abuse of dominance because Babelegi charged excessive prices for FFP1 masks during the complaint period in breach of section 8(1)(a) of the Act.

The Tribunal found Babelegi’s price increases and mark-ups were unreasonable in that they “... bear no reasonable relation to the prices charged and mark-ups prior the Complaint Period as the appropriate and sensible benchmark of what competitive prices and mark-ups would be under conditions of normal and effective competition”.

The Tribunal also found that Babelegi’s prices were of an exploitative nature: “Babelegi knew full well that there was a significant increase in demand for masks ... and took advantage of customers and consumers amid the international Covid-19 health crisis. This leads us to conclude that Babelegi’s prices charged during the Complaint Period were to the detriment of consumers and customers” said the Tribunal.

[ENDS]

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